City of Leavenworth
Planning Commission Special Meeting Location
November 2, 2016 (Wednesday)
7:00 PM
Chelan County Fire District 3 auditorium located at 228 Chumstick Hwy, Leavenworth, WA 98826

AGENDA

NOTE: VENUE CHANGE (see above)

1. Call Meeting to Order
2. Roll Call
3. PC Minutes (DRAFT): ~~July 6, 2016,~~ August 3, 2016 and October 5, 2016~~, October 19, 2016~~
4. **Planning Commission Hearings:**
    a. Amendments to the Leavenworth Municipal Code regarding the strengthening of the existing LMC for vacation / overnight / short-term rental in the residential neighborhoods. There are three separate sections to this amendment, and are as follows:
        i. Amendments to Chapter 18.52 – Bed and Breakfast Conditional Use Permits.
        ii. Amendments to clarify Duplex and new ADU regulations and other miscellaneous updates within LMC Chapters 18.20, 18.21, 18.22, and 18.23
        iii. Amendments to varied sections and chapters of the LMC to consolidate land use and development definitions into a single title.
5. Upcoming Meetings (**agenda items to be determined**)
    a. **December 7, 2016** – Tentative presentation and discussion with Kendra Breiland - Chelan County. Chelan County is updating the Transportation Element of its Comprehensive Plan. This Transportation Element aims to provide a 20-year vision for the County's transportation system, which respects the county's history and character, supports anticipated growth in the region, and builds on Chelan County's momentum as an attractive place in which to live, work, and play by supporting safe and comfortable travel by all modes through 2037. Over the next nine months, Chelan County will be updating the Transportation Element with the goal of being complete by early 2017. Chelan County want to hear from Leavenworth!

City of Leavenworth

Development Services Department

Staff Report –Amendments to LMC Chapter 18.52

To:	**Leavenworth Planning Commission**
From:	City of Leavenworth Development Services Department
Date of Report:	October 20, 2016
Subject:	Amendments to clarify and update the Bed and Breakfast (short-term / vacation / overnight rentals in residential neighborhoods) regulations, criteria, and standards within LMC Chapter 18.52.

OVERVIEW

As included within the Planning Commission 2016 Amendment Docket, the Planning Commission has been asked to review and study:

> " 1. LMC - Residential uses review and update.
>
> A. Review and study Overnight / Vacation Rentals in the residential neighborhoods.
>
> Vacation / overnight rentals are not allowed in residential districts except by CUP. The "black market / underground" conversions exist, and the Council desires to address this topic."

The purpose of this public hearing is to take action on the final amendment and acceptance of written evidence (materials such as studies, white papers, articles and/or general comments for the record) regarding an update which strengthens and clarifies the existing LMC on short-term / vacation / overnight rentals in residential neighborhoods.

From time to time, updates and edits to the LMC may be necessary to ensure the code is clear and functions as intended. Attachment A (text amendment) has been reviewed and deliberated upon by the Planning Commission on February 3, 2016, March 2, 2016, April 6, 2016, May 4, 2016, July 6, 2016, August 3, 2016, September 7, 2016, October 5, 2016, and October 19, 2016.

PROPOSAL:

The proposed amendments clarify and update the Bed & Breakfast (short-term / vacation / overnight rentals in residential neighborhoods) regulations, criteria, and standards within LMC Chapter 18.52 (Conditional Uses). Amendments are necessary to clarify and strengthen the current code language for ease of understanding and for ease of enforcement.

STATE ENVIRONMENTAL POLICY ACT REVIEW (SEPA)

A Non-Project SEPA Checklist, DNS, and draft LMC amendments were submitted to reviewing agencies on October 21, 2016.

PUBLIC HEARING NOTICE COMPLIANCE

Agency review:	Transmittal: October 21, 2016 Comment period: October 21, 2016 – December 21, 2016
Notice of Planning Commission Public Hearing:	Transmittal - October 21, 2016 (Echo - October 26, 2016)
Planning Commission Public Hearing:	November 2, 2016
City Council Public Hearing:	Tentatively Scheduled January 10, 2017

PUBLIC/AGENCY COMMENTS

Agency Comments

None at the time of this report

Public Comments

The Planning Commission admits into the record the following:

Studies and White Papers

1. "Analysis of the impact of short-term rentals on housing" dated May 13, 2015 commission by City and County Of San Francisco Board of Supervisors Budget and Legislative Analyst and prepared by Budget and Legislative Analyst's Office
2. "Short Changing New York City - The impact of Airbnb on New York City's housing market" dated June 2016 commission by Housing Conservation Coordinators Inc. - MFY Legal Services Inc. and prepared by BJH Advisors LLC
3. "Short-Term Rental Housing Restrictions" (white paper) dated September 2011 commissioned by National Association of Realtors and prepared by Robinson & Cole LLP
4. "Economic Impact of Transient Vacation Rentals (TVRs) on Maui County" dated January 8, 2008 commissioned by the Realtors Association of Maui prepared by Dr. Thomas Loudat, President, TAL Associates, Honolulu, HI and Dr. Prahlad Kasturi, Professor, Economics Department Radford University, VA
5. "Short-Term Vacation Home Rentals Impacts on Workforce Housing in Breckenridge" (white paper) dated June 2016 commissioned by the Town of Breckenridge and prepared by Rees Consulting, Inc./WSW Consulting
6. "The Impact of Vacation Rentals on Affordable and Workforce Housing in Sonoma County" dated July 7, 2015 commissioned by the Sonoma County Community Development Commission and prepared by Economic & Planning Systems, Inc

7. “Housing Affordability Impacts of Homeaway in Seattle” dated July 2016 commissioned by HomeAway, Inc. and prepared by ECONorthwest
8. “Brief: Dramatic Growth of Short-Term Rentals in Seattle Could Reduce Apartment Supply” dated June 2016 commissioned and prepared by Puget Sound Sage.

Memorandums

1. Memorandum - “Use and Occupancy Classification for Short Term Rental Buildings” dated September 30, 2016 commissioned by Tony Ostoja, Teton County Building Official and prepared by Keith Gingery, Teton County Deputy Civil Attorney with the Office of the County and Prosecuting Attorney Teton County, Wyoming.
2. Memorandum - “Important Information Concerning Short Term Rentals” dated July 11, 2016 commissioned by the City of Leavenworth and prepared by Thom Graafstra, City Attorney

Articles

1. “Local Government Catching Up with Airbnb and Other Short-Term Transient Rental Businesses” dated February 19, 2016 and authored by Steve Butler
2. “Seattle may slap new rules on Airbnb to ease the rental crunch” originally published May 31, 2016 and updated June 1, 2016 and authored by Vernal Coleman
3. “The Bundy battle continues, the Airbnb squeeze, and an unusual gun sale” dated August 22, 2016 and authored by Betsy Marston.
4. “All short-term rentals banned in Anaheim by City Council” dated June 29, 2016 and authored by Joseph Pimentel.
5. “10 Real People on the Cost of Living in a Mountain Town” dated Jul 18, 2016 and authored by Megan Michelson
6. “Airbnb: Innovation and Its Externalities” dated November 2014 and authored by Erich Eiselt
7. “Why Quashing Short-Term Rentals Is a Zero-Sum Game for Housing Affordability” dated June 15, 2016 and authored by Dan Bertolet.

Presentation Materials

1. presentations from representatives of the primary and organized groups actively working to speak to the topic of overnight / short-term / vacation rentals
    i. Mr. Daniel Eby, Mr. Greg Morisoli, and Mr. Randy Sexauer with Come Stay in Our Village Coalition (15 Min)
    ii. Mr. Zeke Reister and Mr. Matt Fields with Leavenworth Neighbors Unite

Petition signed by 290 individuals

“Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

At this time the City of Leavenworth has an existing code written in 1989 that allows Bed & Breakfasts and 30-day rentals BUT prohibits all overnight rentals in the residential zone.

Overnight rentals:

- eliminate affordable housing for people who work and want to live here
- bring loud parties, parking congestion, garbage issues, the tourist trade into our residential neighborhoods
- disrupt and destroy the neighborhood culture and lifestyle that we now enjoy and which promotes safety for children
- make it difficult for Seniors on fixed incomes to remain in their neighborhood homes due to rising property taxes

At this time, there is significant pressure to change the existing code to allow overnight rentals in our neighborhoods.

By signing this petition you are telling the City Council to leave the existing code in place-which prohibits overnight rentals in our neighborhoods. You will be promoting affordable housing, maintaining the solitude and safety of our neighborhoods, and allowing seniors to remain in their homes."

Written Public Comments

4/6/2016 public comment summary from PC meeting / forum

4/7/2016 Becki Subido

6/7/2016 Bruce Long

11/24/2015 Tom Keziah

1/4/2016 Tim Seaman

4/6/2010 Tim Seaman

5/18/2016 Colin Forsyth

3/16/2016 David Ryan

4/4/2016 Michelle Logan via Mia Bretz

4/27/2016 Rebeca Wadkins Bagwell

4/6/2016 Skip Claeson

6/3/2016 Skip Claeson

7/28/2016 Barb Kelly Ringel

7/28/2016 Eric Bartanen

7/30/2016 Sharon Waters

8/1/2016 Sharon Waters

7/29/2016 Stephen Hufman

8/1/2016 Stephen Hufman

5/9/2016 Stephen Hufman

4/28/2016 Stephen Hufman

7/5/2016 Stephen Hufman

7/8/2016 Joy L. Juelson

5/26/2016 Mary Morse

9/15/2016 Matt Fields

3/15/16 David Ryan

9/19/2016 Bob Fallon

4/5/2016 Zeke Reister

7/28/2016 Lester / Lorena Nunn

4/6/2016 Heidi Paul

4/8/2016 Paula Meyer

5/27/2016 Anna Dougherty

4/6/2016 Momi Palmieri

4/6/2016 James Leifheit

4/6/2016 Skip Claeson
4/5/2016 Zeke Reister
4/6/2016 Lee Walker
7/26/2016 Barb Kelly Ringel
9/6/2016 Shari Campbell
7/29/2016 Stephen Hufman
6/10/16 JoAnn Zugel
7/23/2016 Denise Darling
7/27/2016 Sylvia Nicholas
6/27/2016 Sharon Waters
3/11/2016 No Name
8/12/2016 Dan McIalwain
0/00/2016 Momi Palmieri
8/9/2016 Kristina Seaman
9/13/2016 Mike West

NOTE: Studies and other materials are available at City Hall, or contacting Development Services Department, City of Leavenworth, PO Box 287, 700 Highway 2, Leavenworth, WA 98826, 509-548-5275, www.cityofleavenworth.com

RESPONSE TO COMMENTS

The Planning Commission considered comments, testimony, and written materials. As determined necessary, the Planning Commission will incorporate comments, testimony, and written materials into the proposed amendments.

RECOMMENDATIONS AND FINDINGS

Staff recommends approval of the attached document with changes noted in redline Exhibit A. Staff recommends adopting the following findings of fact and conclusions of law:

1. **The amendment is necessary to resolve inconsistencies in the provisions of the comprehensive plan and/or development regulations or to address state or federal mandates.** This amendment is necessary to clarify and strengthen the current code language for ease of understanding and for ease of enforcement. Every county and city in the state is required to conduct a periodic update of its comprehensive plan and development regulations, though the obligation varies depending on whether the jurisdiction is fully or partially planning (RCW 36.70A.130(1)). This amendment has been developed in accordance and compliance with RCW 36.70A.130 (WAC 365-196-610 and RCW 36.70A.130) which states "On or before June 30, 2017, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties" "shall update their respective Comprehensive Plans." Finally, minor clarifications are within the amendment to strengthen existing standards, criteria and requirements.

   According to the Leavenworth Municipal Code purpose statement for residential districts Section 18.20.010, this is a restricted residential district of low density in which the principal use of land is for single-family dwellings, together with recreational, religious, and educational facilities required to serve the community. The regulations for this district are designed and intended to establish, maintain and protect the essential characteristics of the district, to develop and sustain a suitable environment for family life where children are members of most families, and *to prohibit*

all activities of a commercial nature and those which would tend to be inharmonious with or injurious to the preservation of a residential environment. The "commercial nature" in this instance is residences functioning similar to hotels or other lodging establishments.

2. **The amendment is consistent with the overall intent of the existing comprehensive plan and the other documents incorporated therein.** The proposed amendment is consistent with the City of Leavenworth Comprehensive Plan. Specifically:

   Housing Element Goal 1: Encourage the availability of affordable housing to all economic segments of the population, promote a variety of residential densities, and housing types, and encourage preservation of existing housing stock.

   Encourage a more efficient use of existing housing inventories in order to assist in providing affordable housing is necessary.

   The low and moderate-income segments of the population need additional help in acquiring affordable housing. Reducing such stock is contrary to the housing goals.

   The intent of the GMA is to encourage population growth in urban areas, reduce urban sprawl and thereby lessen the burden on counties to provide urban type infrastructure and services to large population centers.

   Policy 9: Evaluate existing land use designations and regulations which may be presenting barriers to the development of an adequate supply of affordable housing for all economic segments of the population.

   Policy 10: Reassess and amend as necessary the locations, densities and ratio of distribution of the residential land use designations to more proactively promote the development of affordable housing within the City and the UGA.

   Land Use Element – General - Goal 8: Maintain development regulations to promote compatibility between uses; *retain desired neighborhood character*; ensure adequate light, air and open space; protect and improve environmental quality; and manage potential impacts on public facilities and services. Through these regulations address features including, but not limited to: impervious surface area and lot coverage; building height, bulk, placement and separation; development intensity; access and connections; and landscaping/ open space.

   Zoning ordinances are a valid exercise of the police power of the City, and provide for the public health, safety, morals, or general welfare of a community.

   Residential - Goal 2: Provide for a variety of residential opportunities that meet the needs of a full range of lifestyles and income levels. Designate allowed residential densities and housing types to provide for a housing stock that includes a range of choices to meet all economic segments and household types, including those with special needs related to age, health or disability.

   Goal 3: Allow some compatible nonresidential uses in Residential zones, such as appropriately scaled schools, religious facilities, home occupations, parks, open spaces, senior centers and day care centers. Maintain standards in the Leavenworth Municipal Code for locating and designing these uses in a manner that respects the character and scale of the neighborhood.

   Many residents treasure their neighborhoods. Each neighborhood has characteristics that are unique and make it special. There are also qualities that are valued, including safety, quiet

enjoyment, friendliness, and attractiveness. Goal 6: Promote attractive, friendly, safe, quiet and diverse residential neighborhoods throughout the city, including low- and moderate-density single-family to high-density residential neighborhoods.

The supply of long-term community based residential housing would be reduced without the amendment and/or allowance of short-term rentals in residential zones. Such is contrary and inconsistent with the Comprehensive Plan.

3. **The amendment is consistent with the assumptions and/or other factors such as population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan.**

   The proposed amendment does not alter population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan.

   The Planning Commission finds that the proposed code amendments strike a necessary balance between the benefits and burdens associated with short-term rentals in residential zones.

   The record shows that short-term rentals in residential zones can increase the cost of housing. Other communities have experienced a contraction in the availability of homes for long-term rental due to the greater profit available from short-term rental. With fewer available long-term rentals, the cost of long-term rentals increases. In addition, the profitability of short-term rentals increases the demand for potential rental properties, increasing the cost of buying a home.

   The supply of long-term community based residential housing would be reduced without the amendment and/or allowance of short-term rentals in residential zones. Such is contrary and inconsistent with the Comprehensive Plan.

   The record shows that short-term rentals in residential zones can have a negative effect on residents and neighborhoods. Many residents testified about noise and parking problems from short-term rentals. Residents also testified about loss of community when neighbors are a stream of transient guests rather than a member of the community. Among specific concerns raised was the safety of children when the neighbors are transient guests who no one knows.

   The high cost of housing in the City is well documented. The record shows that short-term rentals have the potential to exacerbate that problem, but they can also provide a means for some property owners to afford to buy or rent a home in the City. Renting out a room as a short-term rental can provide additional, needed income to pay a mortgage or rent.

4. **The amendments are consistent with the requirements of the Growth Management Act and the county-wide planning policies.**

   The amendment is consistent with Planning goals of RCW 36.70A.020:

   (4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

   The proposed amendment has been developed in accordance with the Growth Management Act (see above) and do not conflict with the City's Comprehensive Plan. The amendment process followed for this adoption process is compliant with specific Leavenworth Municipal Code and State regulatory requirements for notification and circulation.

5. **The amendment is consistent with and does not adversely affect the supply of land for**

various purposes which are available to accommodate projected growth over a twenty-year period.

The Planning Commission finds that the proposed code amendments strike a necessary balance between the benefits and burdens associated with short-term rentals in residential zones.

The record shows that short-term rentals in residential zones can increase the cost of housing. Other communities have experienced a contraction in the availability of homes for long-term rental due to the greater profit available from short-term rental. With fewer available long-term rentals, the cost of long-term rentals increases. In addition, the profitability of short-term rentals increases the demand for potential rental properties, increasing the cost of buying a home.

The supply of long-term community based residential housing would be reduced without the amendment and/or allowance of short-term rentals in residential zones. Such is contrary and inconsistent with the Comprehensive Plan.

The record shows that short-term rentals in residential zones can have a negative effect on residents and neighborhoods. Many residents testified about noise and parking problems from short-term rentals. Residents also testified about loss of community when neighbors are a stream of transient guests rather than a member of the community. Among specific concerns raised was the safety of children when the neighbors are transient guests who no one knows.

The high cost of housing in the City is well documented. The record shows that short-term rentals have the potential to exacerbate that problem, but they can also provide a means for some property owners to afford to buy or rent a home in the City. Renting out a room as a short-term rental can provide additional, needed income to pay a mortgage or rent.

The proposed amendment will not modify the supply of land.

The proposed amendment does not modify the urban growth boundary in any way. With the amendment, no adverse effect to land supply is expected.

6. **Where applicable, conditions have changed such that assumptions and/or other factors such as population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan have been revised and/or enhanced to reflect said conditions;**

There has been tremendous growth in the number and usage of online platforms (such as Airbnb, HomeAway, VRBO, etc.) that make it easy to offer and easy to find homes or rooms for short-term rental.

The City has allowed short-term rentals in residential zones with a conditional use permit. These conditionally permitted uses were classified as "bed and breakfast" uses and required the property owner to live on the property and to be present when short-term rental guests were present.

The City received comments to relax the restrictions on short-term rentals in residential zones. The Planning Commission considered testimony of numerous individuals and groups and reviewed and considered a large amount of written material, including individual opinions, economic studies and reports, news articles, professional journal articles, and other documents.

The record shows that short-term rentals can provide greater income to property owners than long-term rentals. Because short-term rentals are subject to lodging taxes, and long-term rentals are not, short-term rentals can also provide revenue for the City.

The record shows that short-term rentals in residential zones can increase the cost of housing. Other communities have experienced a contraction in the availability of homes for long-term rental due to the greater profit available from short-term rental. With fewer available long-term rentals, the cost of long-term rentals increases. In addition, the profitability of short-term rentals increases the demand for potential rental properties, increasing the cost of buying a home.

Although one study determined that HomeAway properties had no impact on the sales price of homes in Seattle. It is not clear if the same factors that apply to Seattle apply in the City of Leavenworth. There are significant differences in overall size of the residential areas and in the distribution of housing stock within the different areas.

The record shows that short-term rentals in residential zones can have a negative effect on residents and neighborhoods. Many residents testified about noise and parking problems from short-term rentals. Residents also testified about loss of community when neighbors are a stream of transient guests rather than a member of the community. Among specific concerns raised was the safety of children when the neighbors are transient guests who no one knows.

The high cost of housing in the City is well documented. The record shows that short-term rentals have the potential to exacerbate that problem, but they can also provide a means for some property owners to afford to buy or rent a home in the City. Renting out a room as a short-term rental can provide additional, needed income to pay a mortgage or rent.

The record shows that the transient lodging and short-term rentals are typically defined as stays of 30 days or less. The International Building Code mandates additional safety features in buildings used for stays of 30 days or less. For health and safety reasons, it is appropriate that the City follow the 30-day timeframe adopted in the International Building Code.

The Planning Commission finds that existing code language related to bed and breakfast uses may be subject to confusion and may be inconsistent. Amendments are necessary to clarify and strengthen the current code language for ease of understanding and for ease of enforcement.

The Planning Commission finds that short-term rentals can provide significant private benefits in the form of rental profits and, in some cases, financial assistance with buying or renting a home. However, these private benefits come with public costs borne by the entire community in the form of increased housing costs, noise and parking conflicts, and the loss of community that results when residences are occupied by a series of transients rather than by long-term neighbors. Requiring the property owner, or their representative, to be present on the property when short-term rental guests are visiting will mitigate some of the public costs.

The Planning Commission finds that the proposed code amendments strike a necessary balance between the benefits and burdens associated with short-term rentals in residential zones.

The Planning Commission recognizes that this national trend and growth in short-term rentals will likely continue. There may be industry innovation and the development of new regulatory strategies to minimize community impacts. Therefore, it is imperative that the City monitors the evolution of short-term rental issues, including successes and failures in other jurisdictions.

7. **Amendments to the comprehensive plan land use designation map(s) are either consistent and/or compatible with, or do not adversely affect, adjacent land uses and surrounding environment;** Not applicable

8. **The proposed amendment is consistent with and does not negatively impact public facilities,**

utilities and infrastructure, including transportation systems, and any adopted levels of service. The proposed amendment does not negatively impact public facilities, utilities and infrastructure, including transportation systems, and any adopted levels of service. The need for life safety

9. **The proposed amendment does not adversely affect lands designated resource lands of long term commercial significance or critical areas.** This amendment does not adversely affect lands designated resource lands of long term commercial significance or critical areas.

Chelan County Development Regulation Text Amendments (CCC 14.13.040):

Any amendment of a revision to development regulation(s) shall be consistent with and implement the comprehensive plan (RCW36.70A.130(3)(d).

The approval, modification or denial of a development regulation amendment application shall be evaluated on, but not limited to, the following criteria:

(1) The amendment is necessary to resolve a public land use issue or problem.

Every county and city in the state is required to conduct a periodic update of its comprehensive plan and development regulations, though the obligation varies depending on whether the jurisdiction is fully or partially planning (RCW 36.70A.130(1)). This amendment has been developed in accordance and compliance with RCW 36.70A.130 (WAC 365-196-610 and RCW 36.70A.130) which states "On or before June 30, 2017, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties" "shall update their respective Comprehensive Plans."

(2) The amendment is consistent with goals of the Growth Management Act, Chapter 36.70A RCW.

The amendment is consistent with Planning goals of RCW 36.70A.020,

(4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

The proposed amendments have been developed in accordance with the Growth Management Act and do not conflict with the City's Comprehensive Plan. The amendment process followed for this adoption process is compliant with specific Leavenworth Municipal Code and State regulatory requirements for notification and circulation

(3) The amendment complies with or supports comprehensive plan goals and policies and/or county-wide planning policies.

The proposed amendment is consistent with the City of Leavenworth Comprehensive Plan and county-wide planning policies

(4) The proposed amendment does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.

This amendment does not adversely affect lands designated resource lands of long term commercial significance or critical areas.

(5) The amendment is based on sound land use planning practices and would further the general public health, safety and welfare.

The proposed amendment is based on sound land use planning practices and would further the general public health, safety and welfare

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Attachments:

Attachment A – LMC Amendment

Chapter 18.52

CONDITIONAL USES

Sections:

18.52.010 Application – Requirements.

18.52.030 Hearing – Recess – Decision – Final action notice.

18.52.040 Application – Postponement or withdrawal.

18.52.050 Approval or denial – Authority.

18.52.060 Additional requirements and conditions.

18.52.070 Use change – Conformance required.

18.52.080 Bond – Authority to require.

18.52.090 Approval – Term – Permanent.

18.52.100 Notice of violation – Hearing.

18.52.110 Conditional use permit – Mini-day care or day care center.

18.52.120 Conditional use permit – Bed and breakfast.

18.52.125 Reserved.

18.52.130 Conditional use permit – Two-family dwelling units (duplexes).

18.52.135 Conditional use permit – Underground parking facility in the multifamily zone district to provide parking for a commercial zone district.

18.52.140 Conditional use permit – Coffee roasting.

18.52.150 Conditional use permit – Pet care centers.

Previous Sections Remain Unchanged

18.52.120 Conditional use permit – Bed and breakfast.

In granting a conditional use permit for a~~n~~ bed and breakfast in addition to the criteria in 18.52.050 and .060 where applicable, the hearing examiner shall impose the following minimum conditions to allow a Bed and Breakfast as a conditional use:

A. The ~~in~~bed and breakfast facility shall be the principal residence of the owner. A host must live on-site throughout the visitor's stay.

B. Detached units with rooms are allowed. Accessory dwelling units may be allowed to be a part of the bed and breakfast.

~~A.~~C. A bed and breakfast may only be offered in a space intended for human habitation. For example, a host may not rent a space in an accessory structure that is a storage shed or garage.~~;~~ ~~Proof of Residency shall be required.~~

~~B.~~D. The maximum number of occupants permitted to stay overnight shall be two people for each bedroom~~ plus two additional persons~~, excluding children under the age of six.

E. Bed and breakfast facilities shall meet all applicable health, fire safety, and building codes. New, converted, or annexed bed and breakfast facilities shall be inspected by the City of Leavenworth prior to operations. Thereafter~~From thence forth~~ with renewal of annual permits, inspections shall be conducted by the owner via the "Annual Building, Fire & Life Safety Occupancy Permit Application" provided by the City with the annual permit renewal process. All bed and breakfasts shall receive an annual permit from January 1st to December 31st, under limited administrative review, documenting conformance with City code and agreement to conform to all permits, licenses and permits.

F. ~~In home short-term, vacation or overnight rental facilities and shall be operated so as to not give the appearance of being a business.~~ Bed and breakfasts shall be residential in appearance.

G. Bed and breakfast ~~, and t~~~~T~~~~hose~~ facilities in or adjacent to residential districts shall not infringe upon the right of neighboring residents to reasonable peaceful occupancy of their homes. Bed and breakfasts shall obtain a City business license and separate annual permits provided by the City~~;~~. In any advertisement of the bed and breakfast, a host must include the Business License number issued by the City

~~C.~~H. A written management plan shall be submitted for approval as a part of the conditional use permit process. It shall include, at a minimum, the proposed management structure, providing guests with information related to emergency exit routes, twenty-four hours a day seven days a week contact information, required guest ~~proposed~~ rules and regulations, including for litter control, ~~including~~ quiet hours, parking and proposed methods to enforce occupancy limitations and other requirements. In addition to providing the plan to the City of Leavenworth, contact information shall be provided to the adjacent properties, District 3 fire chief, and Chelan County Sheriff. A legible sign shall be placed~~Placement of,~~ adjacent to the front door (outside), ~~a legible sign~~ clearly visible to the general public listing the maximum number of occupants permitted to stay overnight, the maximum number of vehicles allowed to be parked on site, and the name and contact information of the contact person. Quiet hours shall, at a minimum, be from 10:00 p.m. to 7:00 a.m., or as otherwise provided by City or State regulations, whichever is more stringent. The management plan may be modified with amendment to the conditional use permit.

I. One non-illuminated sign, not to exceed four square feet, on the exterior of the Bed and breakfast shall be permitted subject to the review process appropriate to the zoning district.~~;~~

~~D.~~J. A host must clearly advertise the bed and breakfast as owner occupied.~~ The bed and breakfast may not be advertised as an "entire home" or "entire unit"~~ This applies even in cases in which the bed and breakfast takes place in an accessory dwelling unit.

DRAFT

~~E.~~K. Driveways accessing a bed and breakfast which are more than 100 feet in length shall have an improved width of at least 12 feet with appropriately spaced cutouts to facilitate the passage of two vehicles traveling in opposite directions~~;~~

A. One off-street patron parking space, not located within a required yard area, shall be provided for each room rented. All parking must be accommodated on site.~~; and~~

B. The hearing examiner may impose other conditions, such as additional parking, improved access, landscaping, or screening, if found necessary to protect the best interests of the surrounding properties of the neighborhood due to the nature of the site or the facility.

C. An affidavit certifying that the host will comply with all of the provisions of the bed and breakfast regulations, Conditional Use Permit, Business License Conditions for operating a bed and breakfast, and all relevant laws shall be required.

D. Violation of the conditions of approval, as determined by the City, shall result in ~~immediate~~ revocation of the bed and breakfast and a potential monetary penalty of $2,000 enforced in accordance with Chapter 21.13 LMC. Re-establishment shall be allowed administratively with compliance and remittance of the monetary penalty, and any other fees necessary for permit issuance.

E. Within the annual permits provided by the City, the owner shall report to the City, the following minimum information:

   a. The address of the residence; and the contact name(s) of the person(s) responsible for the bed and breakfast.
   b. The total number of nights that the bed and breakfast was occupied for transient accommodation or lodging~~tourist or transient use~~.
   c. The host shall both have legal responsibility for the collection of all applicable taxes and remittance of the collected tax.
   d. The Host must provide its clients or potential clients the following disclosure:

      "On _____, 2016, the Leavenworth City Council adopted the new Bed and Breakfast Ordinance reiterating its ban on the rental of entire dwellings as vacation rentals. The new Bed and Breakfast Ordinance also legalized the short term rental of a portion of a person's home when the host lives on-site throughout the visitor's stay and when the host obtains appropriate permits, including a business license. Hosts are also required to collect and remit necessary taxes."

F. The city of Leavenworth hereby adopts a fire and life safety self-inspection program for bed and breakfast facilities operating within the city limits of Leavenworth. After the initial inspections with permitting, the bed and breakfast owner~~s~~ from that time forward, shall conduct a self-inspection of their property annually and submit a self-inspection form to the city no later than 30 days after receipt from the city. The inspection is to be conducted by the owner, or their designee.

G. A standard letter from the city will be mailed to bed and breakfast owners requiring the self-inspection. A partial list of fire and building inspection review elements will be included with the inspection form. The City supplied self-inspection form shall be completed and signed by the property owner and returned to the city. A copy of the Certificate of Occupancy or Change of Use permit application must accompany the self-

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inspection form together with the applicable application fee as established by resolution of the city of Leavenworth.

H. In the event an owner fails to timely file the self-inspection form with the city of Leavenworth, the city may order an on-site inspection by the city building and/or fire official or designee and the owner shall be billed the applicable fee for said on-site inspection. The inspection fee shall be established by resolution of the city council.

~~B.~~I. Any person, partnership, association, firm or corporation who violates or fails to comply with this chapter is guilty of a civil infraction and is subject to the civil penalties and remedies and corrective actions as set forth in LMC Chapter 21.13.

~~18.52.130 Conditional use permit – Two-family dwelling units (duplexes).~~

~~In granting a conditional use permit for a two-family dwelling unit/ duplex in the residential low density zone, the hearing examiner shall impose the following minimum conditions:~~

- ~~The minimum lot area shall be 12,000 square feet for a duplex;~~
- ~~There shall be no more than one two-family dwelling unit / duplex per building lot or home site;~~
- ~~Parking shall be pursuant to 14.12;~~
- ~~Two-family dwelling unit / duplex shall conform to all other provisions of the LMC. Conversions of existing structures to a duplex shall be allowed in conformance with Chapter 18.68 LMC, Nonconforming Provisions, excepting setbacks whereby the legally established structure may receive an administrative deviation to encroach no more than 20 percent;~~
- ~~The structure shall meet the minimum requirements of the International Building Code, International Fire Code, health district and all other local, state and federal agencies; and~~
- ~~Separate water and sewer utilities shall be required.~~

Subsequent Sections Remain Unchanged

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Excerpts of applicable definitions (from the definitions amendment)

"Accessory or secondary use or structure" means a use or structure on the same lot with and incidental or subordinate to the primary use or structure, and which may exist only when a primary use is existing on the same lot. The floor area of a secondary use must be less than that devoted to the primary use.

"Bed and breakfast" means an activity whereby the resident(s) host visitors in their homes, up to three rooms for compensation, for periods of 30 consecutive days or less, while at least one of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the visitors' stay.

"Boardinghouse," "lodginghouse" or "roominghouse" means a building where lodging, with or without meals, is provided by members occupying such building. This term shall not be construed to include buildings which fit the definition of the term "motel."

"Conditional use" means a use allowed in one or more zones as defined by the zoning code, but which because of characteristics peculiar to such use, the size, technological processes or equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a special permit in order to provide a particular degree of control to make such uses consistent and compatible with other existing or permissible uses in the same zone and mitigate adverse impacts of the use.

"Dwelling, multifamily" or "multifamily dwelling" means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided for owner occupancy, rent, or lease on a monthly or longer basis.

"Dwelling, single-family" or "single family dwelling" means a detached residential dwelling unit, which is site-built, manufactured, modular, or other type of similar construction not including recreation vehicles, travel trailers, or similar structures, designed for and occupied on a monthly or longer basis by one family.

"Dwelling/Duplex, two-family" or "two family dwelling/duplex" means a detached residential building containing two dwelling units, designed for occupancy on a monthly or longer basis by not more than two families. Each unit shall be designed for and occupied on a monthly or longer basis.

"Dwelling unit" means one or more rooms designed, occupied or intended for occupancy as separate living quarters. A dwelling unit includes a single-family dwelling, a unit in a two family dwelling/duplex, an apartment or other leased premises leased on a monthly or longer basis, or residential condominium unit. A dwelling unit shall include a detached Accessory Dwelling Unit that is intended for human habitation (i.e. living quarters). Dwelling unit does not include individual hotel/motel guest rooms, condominium timeshare units, cabins, transient accommodations or similar guest accommodations rented to transient guests in a motel, hotel, inn, or similar transient lodging establishment

"Family" means an individual, or two or more persons related by blood or marriage, or a group of not more than five persons who are not all related by blood or marriage, living together in a dwelling unit.

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“Guest or visitor” means a person who rents a unit within a bed and breakfast, motel, hotel, or lodging room.

“Home occupation, Group B” means a home occupation that meets all of the home occupation minimum standards of Chapter 18.20 LMC, as amended, and has a maximum of one nonresident worker. In addition, customers visit the business. Group B home occupation allows more flexibility, including the potential of impacting the neighbors; therefore, a full administrative review of applications is required. Examples of Group B home occupation include, but are not limited to: hairdressers, music teachers, and a consultant’s office with customer and/or client visits (more frequent than two per month). Transient accommodations and/or lodging are not considered a home occupation and are prohibited within residential zones.

“Host” means a person engaged in providing a bed and breakfast rental.

“Hotel” means a building or portion thereof designed or used for transient rental of more than five units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.

“Lives on-site” means being present in the dwelling unit where the bed and breakfast rental is being offered, which includes but is not limited to sleeping overnight, preparing and eating meals, entertaining, and engaging in other activities in the dwelling unit that are typically enjoyed by a person in their home.

"Lodging unit" means an individual room or group of interconnected rooms, intended for sleeping, that are for rent or use by a guest, and is individually designated by number, letter, or other means of identification. A lodging unit may or may not include areas for cooking and eating.

“Month” means a calendar month.

“Owner” means any person who, alone or jointly or severally with others, has title or interest in any building and/or structure with or without accompanying actual possession thereof, and includes any person who as agent, executor, administrator, trustee, or guardian of an estate has charge, care, or control of any building and/or structure.

“Person” means any individual, firm, corporation, association, partnership, or public entity and their agents or assigns.

“Transient accommodation and/or lodging” means the rental of any building or portion thereof used for the purpose of providing lodging for periods of less than 30 days.

“Nontransient lodging” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

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CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST
1390 Market Street, Suite 1150, San Francisco, CA 94102
(415) 552-9292 FAX (415) 252-0461

Policy Analysis Report

To: Supervisor Campos
From: Budget and Legislative Analyst's Office
Date: May 13, 2015
Re: Analysis of the impact of short-term rentals on housing

Summary of Requested Action

Your office requested that the Budget and Legislative Analyst conduct an analysis on how short-term rentals affect the housing market in San Francisco, and how these effects might change given different limitations on the number of allowed nights housing units can be rented on a short-term basis. You also requested an overview of the Planning Department's short-term rental enforcement efforts and how they might be made more effective along with an assessment of how additional data on the short-term rental market might enhance their enforcement mandate.

For further information about this report, contact Fred Brousseau at the Budget and Legislative Analyst's Office.

Executive Summary

- Short-term rentals in recent years have become a new form of visitor lodging in San Francisco and throughout the world. While an informal market may have existed in the past, hosts can now make a spare room or an entire apartment or house available to potential visitors through websites such as Airbnb, Homeaway, Flipkey and others.

- Unlike a hotel or bed and breakfast inn, making one's personal residential space available for short-term rentals can be a low-cost and flexible undertaking for a host. It can also substitute for having a roommate for hosts who would otherwise need to share their space to cover their rent or mortgage.

- Guests can select from a variety of housing options and have the experience of staying in a home in a neighborhood not traditionally geared to tourism. The host can earn income by renting their space for as few or as many nights as they wish and that the market will bear. The platform companies have different arrangements but generally earn fees when bookings occur and/or when listings are posted by hosts.

- Though short-term rentals (defined as 30 days or fewer) were illegal in San Francisco until February 2015, between 5,249 and 6,113 of Airbnb listings in San Francisco were identified between November 2013 and February 2015 in Airbnb website webscrapes conducted by three individuals and made publically available. Comparable information for other hosting

platform companies was not available and is not included in the estimates prepared for this report, understating the estimated impacts reported.

- While specific locations are not disclosed, neighborhood locations can be identified from the Airbnb webscrapes. There are listings in almost all neighborhoods in San Francisco but concentrations of listings were found in the Inner Mission, Haight-Ashbury/Western Addition, Castro/Eureka Valley and Russian Hill/Polk Gulch.

- Numerous studies and assertions about the benefits and costs of the short-term rental market have been made. On the positive side, claims have been made that the short-term rental market increases tourism and its economic benefits, provides additional income for hosts, particularly those who would not otherwise rent out their housing unit or rooms, and benefits neighborhoods that tourists traditionally do not visit.

- On the negative side, some assert that short-term rentals take away already scarce housing for long-term rentals, may encourage tenant evictions if a landlord concludes that they can earn more from short-term rentals than from a long-term tenant, violates local zoning and other ordinances and negatively affects the quality of life in residential areas.

- To assess the impact of the 6,113 Airbnb listings identified as of December 2014 on the housing market in San Francisco, the Budget and Legislative Analyst developed a model to estimate bookings for those listings and to classify hosts as either casual or commercial.

- Casual hosts are defined by the Budget and Legislative Analyst as those who occasionally make their residences available for short-term rentals for supplemental income. For example, hosts who rent their entire unit on a short-term basis when they are away for a weekend, on vacation or otherwise travelling and would not otherwise rent the unit on a long-term basis are classified as casual. In the case of renting a room in their residences, casual hosts would not usually need or choose to have a roommate. Casual hosts are assumed not to be affecting the housing market since they would continue to occupy their housing unit in the absence of the short-term rental market.

- Commercial hosts for entire units are defined by the Budget and Legislative Analyst as those who probably do not live or could not live in their short-term rental unit and therefore rent it out as a means of generating income. For commercial hosts renting out rooms on a short-term basis, the motivation would be to cover rent or mortgage payments that would otherwise require having a roommate. The next best uses of the housing units for such hosts in the absence of the short-term rental market would be living in the unit themselves, placing the unit on the long-term rental market, or getting roommates. Commercial hosts are thus assumed to be removing housing units that would otherwise be available for the long-term rental market.

- The Budget and Legislative Analyst prepared estimates of the impact of short-term rentals on San Francisco's housing market using various assumptions and calculations about the number of bookings per listing and the threshold number of booked nights that distinguish casual and commercial Airbnb hosts. Three scenarios were developed with variations in assumptions, resulting in the distribution of host classifications shown in Exhibit A. The medium pact scenario, referred to as the primary scenario and presented in the main body

of this analysis, applied a threshold of 59 nights or more for commercial hosts of entire units. For private and shared rooms, the threshold was 89 or more booked nights.

Exhibit A: Number of Hosts by Type under 3 BLA Scenarios

Host Type	Lower Impact Scenario	Medium Impact Scenario *(primary scenario used in this report)*	Higher Impact Scenario
Number of Casual Hosts	4,517	4,191	3,107
Number of Commercial Hosts	1,596	1,922	3,006
Total	6,113	6,113	6,113

- Assessing only the impact of commercial hosts that rent entire housing units for short-term rentals, the Budget and Legislative Analyst estimates that between 925 and 1,960 units citywide have been removed from the housing market from just Airbnb listings. At between 0.4 and 0.8 percent, this number of units is a small percentage of the 244,012 housing units that comprised the rental market in 2013 (the latest number available from the U.S. Census Bureau's American Community Survey). However, when compared to the 8,438 units reported as vacant by the American Community Survey in 2013, the percentage is estimated to be between 11.0 and 23.2 percent, as follows.

Exhibit B: Estimated Number of Commercial Entire Unit Listings as % of Vacant Units Citywide

	Lower Impact Scenario	Medium Impact *(primary scenario used in this report)*	Higher Impact Scenario
Number of Commercial Entire Unit Airbnb Listings, 2014	925	1,251	1,960
Percent of 8,438 vacant units, 2013	11.0%	14.8%	23.2%

Sources: American Community Survey 2013, Budget and Legislative Analyst Utilization Model

- The impact of short-term rentals on the housing market varies by neighborhood. When adding the number of entire unit commercial listings to the number of vacant units in each neighborhood as of 2013, and calculating the percentage of total units potentially for rent, the impacts are highest in the Inner Mission, the Haight-Ashbury/Western Addition, the Castro/Eureka Valley, and Potrero Hill/South Beach, as follows. The primary scenario assumptions were used for these estimates. On the low side, the impact in nine neighborhoods was under 5 percent.

Exhibit C: Primary Scenario: Impact on Vacant For Rent Housing of Commercial Short-term Rentals for Entire Housing Unit, by Neighborhood						
Zip Code	**Neighborhood**	**Rental Market Size (2013)**	**Vacancy For Rent (2013)**	**Number of Commercial Entire Unit Listings**	**Total Potential Units for Rent**	**Airbnb Commercial Unit Listings as % of Total Potential for Rent**
94117	Haight-Ashbury/Western Addition	14,686	260	122	382	31.9%
94110	Inner Mission	19,194	483	199	682	29.2%
94107	Potrero Hill/South Beach	9,121	246	85	331	25.7%
94114	Castro/Eureka Valley	9,921	358	117	475	24.6%
Source Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model, American Community Survey 2013						

- The Budget and Legislative Analyst's analysis of commercial host earnings from the short-term rental market compared to 2013 median gross rent earned for their neighborhoods found that, on average, hosts earned more in the short-term rental market than they would in the long-term rental market as of December 2014. Applying the hosts' December rates to the full year, an estimated 508 listings would have earned more than the 2014 median market rental rate of $3,750 per month. There were another approximately 200 listings generating slightly less than $3,750 per month but could have exceeded the median market rate with higher rates charged at peak months of the year. Some hosts probably earn less than the market rent but may not be offering housing comparable to what commands the median market rate.

- A number of the neighborhoods with the most commercial hosts also had high numbers of evictions in 2014 according to the City's Rent Board data. Exhibit D presents number of commercial hosts and number of evictions for the five neighborhoods with the highest number of evictions. While there are many reasons for evictions, and evictions for the purpose of conversion into a short-term rental is not tracked by the Rent Board, some landlords could be motivated to evict a tenant for the financial benefits of entering the short-term rental market.

Exhibit D: Neighborhoods with Most 2014 Commercial Hosts Compared to Evictions					
Zip Code	**Neighborhood**	**Number of Commercial hosts**	**Number of Evictions**	**Neighborhood Evictions, as % of Total Evictions in San Francisco**	**Neighborhood Evictions, Ranked**
94110	Inner Mission	315	323	12%	1st
94117	Haight-Ashbury/Western Addition	193	212	8%	3rd
94114	Castro/Eureka Valley	188	130	5%	10th
94109	Russian Hill/Polk Gulch	130	269	10%	2nd
94107	Potrero Hill/South Beach	126	51	2%	19th

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model; San Francisco Rent Board

- Enforcement of the City's laws pertaining to short-term rentals that went in to effect in February 2015 has been hampered by the lack of information about the location and number of bookings per listing. Since short-term rentals operate in private residences and cannot be publically viewed and platform companies do not disclose addresses or booking information about their hosts, the City has limited information for enforcement.

- Hosts are required to pay hotel taxes for every booking and register with the City's Planning Department. The Treasurer and Tax Collector reports that hotel taxes are being paid by short-term rental hosts but cannot disclose information about the total number of hosts with business licenses. The Planning Department reports that, as of May 1, 2015, only 579 hosts had applied for now required registration and 282 certificates have been issues. Given the 6,113 listings identified for just Airbnb in December 2014, compliance with the registration requirement has been low.

Policy Options

The Board of Supervisors should consider the following actions:

1. Enact legislation requiring hosting platforms to provide host address information and booking information on a quarterly basis for enforcement purposes.
2. Enact legislation requiring hosting platforms to only list units and hosts that are registered with the City.
3. Enact legislation limiting the number of un-hosted nights allowed per year.
4. Amend the Planning Code to allow the Planning Department to levy fines on platforms that list unregistered hosts.

Project staff: Fred Brousseau, Julian Metcalf and Mina Yu.

Background

Short-term Rental Market

The short-term rental market has three key players: the host, the guest, and the rental platform. The host is the property owner, lease holder, or a third party management company who supplies entire apartments, private rooms, or shared rooms. The guests rent out the apartments or rooms, and the rental platform facilitates the exchange between the hosts and guests.

Some municipalities, including the City and County of San Francisco, limit the number of days a short-term rental can be rented out and prohibit using residences solely for commercial purposes. Short-term rentals may provide a close substitute to hotel rooms or may offer a new type of lodging product by providing additional amenities such as full kitchens, easy access to different neighborhoods, and a more local and familiar experience of an area.

In San Francisco and in other cities, Airbnb is the predominant rental platform in the short-term rental market and generates revenue by taking a fee from both the host and guest for each booking completed (a pay-per-booking model). Other rental platforms such as HomeAway and FlipKey will offer a pay-per-booking option and also a subscription model, which charges hosts for advertising rentals.

Airbnb

This report focuses on Airbnb due to its predominance in the short-term rental market and the availability of public data on its activities. Airbnb originated in 2008. Airbnb has since expanded to over 34,000 cities and 190 countries and has over 1 million listings worldwide.[1] As of April 2014, Airbnb has raised nearly $800 million from investments firms including Andreessen Horowitz, Sequoia Capital, T. Rowe Price, and SherpaVentures. Airbnb has been valued at $20 billion,[2] which is higher than major hotel chains such as Hyatt Hotels Corporation ($8.4 billion).[3]

The Airbnb website allows for three types of rentals: 1) entire homes where the guest has access to the entire unit and the host is generally not present, 2) private rooms where the host is often present in the home, and 3) shared rooms, where hosts or others guests may sleep in the same room.

As detailed further below, using publically available webscrapes of Airbnb's San Francisco website, the Budget and Legislative Analyst identified 6,113 total listings in San Francisco from December 2014, consisting of entire units, private rooms and shared rooms. Details about these listings and their impacts on the housing market are provided below.

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[1] Airbnb. "About Us." *About*. Airbnb. Website. https://www.Airbnb.com/about/about-us. Accessed March 23, 2015

[2] Saitto, Serena. "Airbnb Said to Be Raising Funding at $20 Billion Valuation." Bloomberg Business. Bloomberg, February 28, 2015. Website. April 27, 2015. http://www.bloomberg.com/news/articles/2015-03-01/Airbnb-said-to-be-raising-funding-at-20-billion-valuation

[3] Samaan, Roy. LAANE. "Airbnb, Rising Rent, and the Housing Crisis in Los Angeles." March 2015

Report estimates are Conservative
The Airbnb listings are only part of the short-term rental market so all conclusions and estimated short-term rental impacts presented in this report understate the full short-term rental market by an unknown amount although Airbnb is considered to have the largest number of short-term rental listings by many analysts. Neither company nor other public data was available for the other short-term rental platforms.

Besides excluding estimates of part of the short-term rental market, estimates in this report are conservative because housing stock and vacancy data was obtained from the American Community Survey conducted by the U.S. Census Bureau. The latest data from that source was from 2013 and based on five year averages ending that year.

Three Scenarios of Housing Impact were Developed for this Report
Since no single source of data was available to identify the exact number of short-term rental listings and bookings in San Francisco, estimates were prepared using different assumptions about bookings and the thresholds that distinguish casual from "commercial" short-term rental hosts. Details about the three scenarios are explained below. While all show an impact on the rental housing market, particularly in certain neighborhoods, the impacts vary from lower to medium to higher. For ease of reading, the medium impact scenario, referred to as the primary scenario, is presented in the main body of the text; the other two scenarios are presented as alternative scenarios at the end of the report. While all of the scenarios have strengths and limitations, the primary scenario is considered to be the most reasonable, with the most realistic assumptions by the Budget and Legislative Analyst.

Current Regulation in San Francisco
In the fall of 2014, San Francisco legalized short-term rentals. Previously illegal, the new law allowed permanent residents -- a person who occupies a unit for at least 60 consecutive days with the intent to make it their home -- to offer short-term rentals. There are some caveats: Hosts are required to register with the City's Planning Department; they must pay the City's hotel tax; un-hosted rentals, which are usually entire homes, are limited to 90 days per year; and each listing is required to carry liability insurance.

Short-term rentals are subject to the same 14 percent transient occupancy tax that hotels in the City pay. The Treasurer and Tax Collector of the City and County of San Francisco issued a ruling in 2012 that the City's Transient Occupancy Tax applied to short-term rental hosts and website companies. Airbnb has publicly stated that they have paid back taxes owed to the City and County, but the Treasurer is unable to confirm this due to taxpayer confidentiality laws. Airbnb reports that it has been collecting and remitting transient occupancy taxes on behalf of its hosts in San Francisco and remitting them monthly to the City. In a 2014 letter to its hosts in the City, Airbnb stated it is remitting "nearly $1 million" per month.

Positive Impacts and Claims Pertaining to Short-term Rentals

Strong Tourism Demand

Short-term rentals may provide many benefits to the City and its residents. Beyond the tax revenue that Airbnb reports, and the Treasurer and Tax Collector confirms, that it routinely collects and remits to the City, some studies report that short-term rentals can contribute to tourism, bringing additional customers to local businesses. In some cases, hosting may help individuals afford housing cost and other expenses.

Based on a study by the San Francisco Travel Association[4], short-term rentals accounted for an estimated 1.9 percent of all overnight tourists stays in the City in 2014. While, this is a relatively small proportion, it is significant when considering the City received an estimated 16.9 million visitors in 2013[5]. Applying the 2014 rate to the 2013 number of tourists means that 321,100 tourists stayed in short-term rentals that year.

The current hotel market in the City is reported to be one of the strongest in the country, with an occupancy rate of 84.1 percent in 2013[6], well above the national rate of 62.2 percent.[7] With the demand for hotel accommodations so strong, short-term rentals may present a unique option to accommodate tourist demand, especially during peak tourist seasons and large events. To this point, the San Francisco Travel Association recently partnered with Airbnb to be a provider of accommodations that the Association can sell to conferences as blocks for large events.[8]

The theory that short-term rentals contribute to increased tourism, rather than simply replace hotel stays outright, is supported by a 2014 study conducted by researchers at Boston University. The Boston University study analyzed short-term rentals across the state of Texas. The study found that every "1% increase in Airbnb listings in Texas results in a 0.05 percent decrease in quarterly hotel revenues." It also concluded that this loss to hotels and replacement mainly occurred on less expensive, lower-end hotels.[9] Assuming the same ratio applies to San Francisco, with its currently booming, often heavily booked hotel market, a potential loss of 0.05 percent would be exceeded by the average 2.0 percent year-over-year growth[10] or non-existent given the strong tourism demand. However, in the future if the market is declining, the substitution of short-term rentals compared to hotels

[4] San Francisco Travel Association: Visitor Industry Economic Impact Summary, 2014
[5] San Francisco Travel Association
[6] San Francisco Center for Economic Development: Hotel Occupancy Rate and Other Features (2013), updated April 2014.
[7] American Hotel & Lodging Association, 2013 At-a-Glance Statistical Figures
[8] San Francisco Travel Association: Partners
[9] Boston University School of Management, "The Rise of the Sharing Economy: Estimating the Impact of Airbnb on the Hotel Industry" 2013, Boston University School of Management Research Paper Series No. 2013-16
[10] San Francisco Travel Association: Average growth of Room Night Demand from 2011 to 2014

might be more noticeable. To determine the extent of the potential impact on San Francisco hotels a more robust study and access to additional data would be necessary.

Short-term Rentals May Increase Tourism Spending
Assuming the Boston University study results for Texas that the availability of short-term rentals results in a net increase in tourists is similarly applicable to San Francisco, increased visitors to the City should result in additional spending at local businesses. A study funded by Airbnb[11] concludes that in 2012 Airbnb guests generated "approximately $56 million in local spending and supported 430 jobs in San Francisco." The study also suggests that tourist spending by Airbnb guests is distributed to less visited neighborhoods across the City. However, there is limited data on the extent to which Airbnb guests spend time in their host neighborhood vs. traditional tourist neighborhoods and the study did not assess the neighborhood impact when short-term guests replace long-term residents.

Short-term Rentals May Provide New Supplemental Income for Some Hosts
Many supporters of short-term rentals have stated that their hosting business allows them to afford the cost of living in the City and to pay various expenses. Based on the Budget and Legislative Analyst's assessment of available data on income earned by Airbnb hosts, this seems to be true in some case. Still, there is a distinction to be made between two types of hosts assumed for this analysis: casual hosts who rent out entire units and rooms on an occasional basis and commercial hosts who rent out their rooms or entire units more frequently to maximize earnings and achieve other business objectives.

Casual hosts are defined for this analysis as those who may on occasion share a room with a guest or rent a private room or entire home when they are away but they would not choose otherwise to be in the business of renting out their space on a long-term basis. Available data shows that the income earned in these scenarios could reasonably be considered supplemental but does not equal what could be earned with more frequent bookings. In contrast, commercial hosts may substitute their rooms and entire home that may otherwise be available on the long-term market with short-term rentals either to earn more than could be earned through long-term rentals or for other reasons.

In addition to the Budget and Legislative Analyst's assessment, the scenario of the casual host is supported by two recent studies. The first, a survey of 344 hosts concluded in a draft report for Airbnb that 56 percent of hosts report using income from rentals listed on Airbnb to pay for part of their rent or mortgage.[12] The second study, by Rosen Consulting Group in 2013, surveyed users of Airbnb and

[11] Airbnb.com "AIRBNB ECONOMIC IMPACT" http://blog.Airbnb.com/economic-impact-Airbnb/#san-francisco, accessed March 25, 2015

[12] HR&A Advisors, unpublished report for Airbnb on the economic impact assessment of Airbnb rental activities in San Francisco and New York City, October 2013. Some details are available from the (1)official press release from Airbnb.com, (2) article discussing results on Forbes.com, and (3) HR&A Advisor's summary on their client portfolio webpage.

found that 42 percent report using short-term rental income to supplement living expenses.[13] Both studies were commissioned by Airbnb, but the survey results seem reasonable. The remaining 44 percent of hosts from the 2012 study and the 58 percent from the 2013 study are assumedly not supplementing living expenses with their rental revenue but are treating it as a steady source of income.

The Budget and Legislative Analyst prepared estimates of the number of casual and commercial Airbnb hosts as of 2014 under three scenarios for this analysis using different assumptions about the threshold number of bookings that distinguish casual and commercial hosts and about the number of bookings per listing. One of the three scenarios, which will be referred to as the primary scenario in this report, is the one the Budget and Legislative Analyst concludes is the most reasonable and is presented in the main body of this report. The results of the two other scenarios are presented in the Alternate Scenarios section at the end of this report.

For the primary scenario, the Budget and Legislative Analyst classified 69 percent of all hosts, or 4,191 of the 6,113 hosts identified, as casual. This higher than the 42 to 56 percent of hosts identified in the two studies cited above as hosts who use their earnings to supplement living expenses or help pay their rent or mortgage. The remaining 31 percent of hosts, or 1,922 of the 6,113 hosts are assumed to be operating their short-term rentals as a business and may be generating income above the amount they could earn on the long-term rental market and/or that otherwise suits their business and personal objectives such as not having long-term tenants covered by rent control and rent stabilization.

Negative Impacts and Claims Pertaining to Short-term Rentals

Short-Term Rentals Decrease Available Housing in San Francisco

Short-term rentals may exacerbate the housing shortage in San Francisco by offering a more lucrative alternative or a more flexible living arrangement to listing a unit on the long-term rental market.

With the three estimates of the number of commercial users by listing type, the Budget and Legislative Analyst estimates that commercial hosts of 1,251 entire homes or apartments, 631 private rooms and 40 shared rooms may generate higher income through Airbnb than from the long-term rental market, which is shown in Tables 6 and 7 below. Since these hosts can earn an estimated level of revenue that is above what they could earn on the long-term market, they have an incentive to remove their units from traditional long-term rental opportunities. Some hosts may also be attracted to participating in the short-term rental market in order to maintain a more flexible living arrangement. For example, a host may not wish to have a roommate or long-term tenants on a rent-stabilized lease. The ease of participation in the short-term offers these hosts an alternative to participation in the traditional long-term rental market.

[13] Rosen Consulting Group, *Short-Term Rentals and Impact on the Apartment Market*. 2013

At 0.3 percent, the estimated 1,251 entire units being rented out by commercial Airbnb hosts is relatively small compared to the entire 376,083 units of housing in San Francisco, but larger when compared to the number of units available for rent at any one time, which was reported to be 8,438 in 2013 by the American Community Survey conducted by the U.S. Census Bureau. From this perspective, entire homes listed by commercial hosts take away an estimated 14.8 percent of the total rental housing available for rent Citywide, and private and shared rooms that might otherwise be occupied by roommates take even more units off the rental market. The impact on the rental stock in certain neighborhoods is higher, as detailed below.

Hosts operating casually are not assumed to take units off of the housing market since it is assumed that they occupy the unit themselves and only rent out only sporadically such as during their own vacations and trips away.

Short-Term Rentals May Encourage Tenant Evictions

Approximately 71.9 percent of San Francisco's rental stock is rent-stabilized, which typically results in rents below market rate. Housing market rental rates in San Francisco have been increasing significantly over the past few years so that for some landlords that may already be inclined to evict their tenants to capture current full market value rents, an additional incentive exists due to the higher revenue that could be generated through short-term renting. The San Francisco Rent Board reports that notices of eviction increased from 2,039 to 2,789, or by 37 percent, between 2011 and 2014. The Rent Board does not track what happens to units after evictions occur so it cannot be readily determined how many evictions resulted in housing units converted to short-term rental use. The Rent Board tracks filing of eviction notices only, though these are generally strong indicators of subsequent evictions. The Board does not systematically track successful evictions.

Many Short-Term Rentals May Violate Local Ordinances

In the fall of 2014, the Board of Supervisors legalized un-hosted short-term rentals (i.e., entire units) under 90 days, on the condition that hosts register with the Planning Department and apply for business licenses with Treasurer & Tax Collector. However, hosts have been slow to register; as of April 2015 455 hosts have registered. Given that seven publically available webscrapes report the number of listings on just the Airbnb platform as between 4,865 to 6,113 the rate of registration to date suggests that the majority of the current hosts are violating the required registration requirement.

Short-Term Rentals May Introduce Neighborhood Safety Risks and Decline in Quality of Life

The Planning Department has received noise complaints, concerns about parking, and other quality of life complaints from residents due to units suspected to be short-term rentals. These impacts seem plausible, but the extent and magnitude of these impacts have not been measured.

Housing Stock Impacts

To determine the potential impact of short-term rentals on San Francisco's housing available for long-term rentals, the approach for this analysis was to first distinguish between hosts who rent out their homes or rooms in their home on an occasional, or casual, basis such as hosts who rent out their entire units when they are away on vacation, a business trip or away for a weekend. For private room rentals, an example of a casual host would be one who occasionally rents out rooms for supplemental income and perhaps for the experience of meeting people from elsewhere, but does not otherwise need or want a full-time roommate.

Hosts who own or rent homes for the express purpose of renting on the short-term rental market and, for the most part, do not live in the unit themselves or who regularly rent out rooms in their homes in lieu of having a roommate to cover rent and other expenses were classified as commercial hosts.

The Budget and Legislative Analyst concludes that commercial hosts affect the Citywide and, to varying degrees, neighborhood supply of housing available for the long-term rental market. Without commercial short-term rentals, the use of the housing units would assumedly be the owners living in the unit themselves or renting the unit out on a long-term basis. Hosts who rent out rooms on a more frequent short-term basis and who need the income to cover rent and other living expenses would assumedly turn to getting long-term roommates if not for short-term rentals.

While data is not publically available from the short-term rental platform companies on the frequency of bookings per listing, the Budget and Legislative Analyst assembled data to estimate the number of bookings per listing. Data on listings, neighborhoods, and host type (entire units, private rooms, shared rooms) were obtained and analyzed from several publically available webscrapes of the Airbnb website to create three scenarios based on three sets of assumptions about the number of bookings per listing and the number of bookings that distinguishes casual and commercial hosts.

Though neither the short-term rental platform companies nor any of the available webscrapes provide information on the frequency of bookings for individual listings, the Budget and Legislative Analyst used a multiple of the number of reviews per listing to estimate the number of bookings, or frequency of rental use of each listing, to categorize all listing hosts as either casual or commercial.

Since no single source of data was available to identify the exact number of short-term rental listings and bookings in San Francisco, estimates were prepared using different assumptions about bookings and thresholds distinguishing casual from "commercial" short-term rental hosts. All three scenarios show an impact on the rental housing market, particularly in certain neighborhoods, ranging from lower to medium to higher impact. The scenarios are summarized as follows:

Lower impact scenario: assumes casual hosts are those renting their unit 90 nights or fewer per year, commercial hosts rent out their units more than 90 nights per year, and the number of reviews for each listing represents 72 percent of total bookings for the listing.

Medium impact scenario (*referred to as primary scenario in this report*): assumes casual hosts are those renting their unit 58 nights or fewer per year, commercial hosts rent out their units more than 58 nights per year, and the number of reviews for each listing represents 72 percent of total bookings for the listing.

Higher impact scenario: assumes casual hosts are those renting their unit 58 nights or fewer per year, commercial hosts rent out their units more than 58 nights per year and the number of reviews for each listing represents 30.5 percent of total bookings for the listing (resulting in a higher number of bookings per listing than the other two scenarios).

As an example of the differences between the three scenarios, the Budget and Legislative Analyst classified Airbnb hosts as follows under the three scenarios:

	BLA Scenario		
	Lower Impact	**Medium Impact** ***(primary scenario used in this report)***	**Higher Impact**
Number of Casual Hosts	4,517	4,191	3,107
Number of Commercial Hosts	1,596	1,922	3,006
Total	6,113	6,113	6,113

Casual hosts are assumed for the most part to be operating their short-term rentals to earn supplemental income or for other non-business reasons such as meeting travelers. Commercial hosts are assumed for the most part to be operating their short-term rentals as a business and may be generating income above the amount they could earn on the long-term rental market and/or otherwise fulfilling their business and personal objectives such as not having long-term tenants covered by rent control and rent stabilization.

As another example of differences between the three scenarios, in 2013, the American Community Survey estimated a 5-year average of 8,438 units as Vacant and For Rent in San Francisco, or 3.5 percent of the 244,012 units defined as the rental market at that time.[14] Based on the Budget and Legislative Analyst's model

[14] The American Community Survey (ACS) is conducted annually by the U.S. Census Bureau. Compared to the relatively comprehensive 10-year Census, the ACS is a "mandatory ongoing statistical survey that samples a small percentage of the population every year." The ACS selects approximately 1-in-480 addresses to mail 3.5 million questionnaires annually. While this is a significant number of individuals and addresses surveyed, it still relies on statistical assumptions, which result in a margin of error for every ACS estimate. The ACS Rental Vacancy figures

used to prepare estimated impacts and the 5-year average number of units Vacant For Rent in 2013 reported by the American Community Survey, commercial hosts renting out entire units would have reduced the San Francisco rental stock by between 11 and 23.2 percent, in accordance with the three scenarios' assumptions, as follows:

	Lower Impact	**Medium Impact *(primary scenario used in this report)***	**Higher Impact**
Number of Commercial Entire Unit Listings, 2014	925	1,251	1,960
Percent of 8,438 vacant units, 2013	11.0%	14.8%	23.2%

Sources: American Community Survey 2013, Budget and Legislative Analyst Utilization Model

For ease of reading, the primary scenario only is presented in the following main body of the text; the lower and higher impact scenarios are presented as alternative scenarios at the end of the report. While all three scenarios have strengths and limitations, the primary scenario is considered to be the most reasonable, with the most realistic assumptions, by the Budget and Legislative Analyst. The results of the two other scenarios are presented in the Alternate Scenarios section at the end of this report.

Table 1 summarizes the Budget and Legislative Analyst's classification of short-term rental hosts for Airbnb using only primary scenario assumptions. As shown, the total number of housing units listed in 2014 was 6,113, of which 4,191, or 69 percent, were classified by the Budget and Legislative Analyst as casual, and the other 1,922 units, or 31 percent, were classified as commercial. The threshold number of days to distinguish casual and commercial hosts is shown for each type of host for the primary scenario. Commercial hosts are those that book their space for more than 58 days for entire units and more than 88 days for private or shared rooms. Those amounts are the average number of booked nights reported for each host type in an unpublished report prepared for Airbnb and obtained by the Budget and Legislative Analyst.[15]

include all units listed for rent but currently not occupied and all units that are rented but have yet to be occupied by the incoming tenant. The total number of units that are vacant but have incoming tenants is expected to be small, but does somewhat inflate the size of the available rental units listed on the market.

[15] HR&A, "Airbnb Economic Impacts in San Francisco and its Neighborhoods," November 2012

Table 1: Primary Scenario: Estimated Number of Short-term Rental Housing Units in San Francisco, by Type of Host, 2014			
Type of Host/Listing	**Threshold Number of Days Unit Rented**	**Estimated Number of Units as of December 2014**	**Percentage of Total Units**
Casual: Entire unit	58 days or less	2,400	39%
Casual: Private room	88 days or less	1,565	26%
Casual: shared room	88 days or less	226	4%
Total casual:		*4,191*	*69%*
Commercial: Entire unit	over 58 days	1,251	20%
Commercial: Private room	over 88 days	631	10%
Commercial: Shared room	over 88 days	40	1%
Total commercial:		*1,922*	*31%*
TOTAL UNITS		6,113	100%

Source: Webscrape prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model

To determine the impact of the commercial hosts on the rental market, the Budget and Legislative Analyst relied on the U.S. Census Bureau's American Community Survey data from 2013 which reports total number of housing units in the San Francisco rental market and total number of vacant housing units available for rent, by neighborhood. This data, the most recent available from the American Community Survey, may overstate the number of units available currently since the published data is from 2013 and based on a five year average for the years leading up to 2013.

Table 2 summarizes the data sources used for the analysis. Further details and sources and methods are provided below.

Table 2: Information Sources Used for Analysis					
Variable	**Total Housing Units in San Francisco Rental Market (2013)**	**Vacant Housing Units for Rent in San Francisco, by Neighborhood (2013)**	**Airbnb Listings in San Francisco, by Neighborhood (2014)**	**Number of Reviews per Listing**	**Multiple: Number of Bookings per Listing Derived from Number of Reviews per Listing**
Source	American Community Survey, U.S. Census Bureau	American Community Survey, U.S. Census Bureau	2014 Webscrape of Airbnb website	2014 Webscrape of Airbnb website	Statement by Airbnb Co-Founder and CEO [16] (72 percent, used for Lower & Medium Impact scenarios) New York State Attorney General's Subpoenaed Airbnb Data for New York City (30.5 percent, used for Higher Impact scenario)[17]
Purpose	To identify total units in rental market	To identify rental vacancy rate for San Francisco and by neighborhood	To identify number of housing units being used by Airbnb	To apply to Multiple explained in next column	To apply to number of reviews per listing to determine frequency of bookings/listing

Data Sources

This report considers the impacts of short-term rentals on housing availability in San Francisco, and data from the American Community Survey, Zillow, Trulia, the San Francisco Rent Board, various webscrapes of the Airbnb website, and other reports on the short-term rental market such as those produced by and for the City's Planning Department, Airbnb press releases and public statements, and our own internal review of Airbnb.com were used.

The Budget and Legislative Analyst's Office sent a request for anonymized listing and booking data to Airbnb in April 2015 but the company did not respond. Therefore, the Budget and Legislative Analyst Office utilized 7 webscrapes of the Airbnb website and cross-referenced this information with actual Airbnb data obtained through subpoena and reported by the New York State Attorney General's Office in

[16]Chesky, Brian. September 7, 2012. "What percent of Airbnb hosts leave reviews for their guests?" Retrieved on May 6, 2015 from: http://www.quora.com/What-percent-of-Airbnb-hosts-leave-reviews-for-their-guests

[17] This rate was used to calculate a high estimate of the number of units removed from the long-term market by neighborhood, as shown in the Alternate Scenario section below.

2014, a report prepared for Airbnb[18] and Airbnb's press releases and public statements.

Source of Webscrape data

The Budget and Legislative Analyst's Office reviewed seven webscrapes of the Airbnb website prepared by three technology professionals. Webscrapes extract and compile data from the public-facing websites and allow for analysis that would otherwise not be feasible or practical to conduct using a standard browser. All seven of the webscrapes reviewed show a consistency over time in the number of Airbnb listings and in rental rates. The December 2014 webscrape prepared by Murray Cox was used by the Budget and Legislative Analyst for this analysis as this dataset provided the most comprehensive collection of data. Summary information from each of the seven webscrapes is provided in the Appendix to this report.

The webscrapes used were prepared by the following three individuals. Tom Slee, who works in the software industry, writes about technology and politics, is active in the open data and sharing economy communities, and is based in Waterloo, Ontario. Murray Cox is a community activist based in New York City who utilizes his technology skills for various non-profits and community groups. He has a degree in computer science from the University of Sydney. Gus Dolan collaborates with the Anti-Eviction Mapping Project.

Webscrapes are subject to limitations: there may be duplicate or inaccurate listings, and webscrape authors may run the scrapes several times to reduce error. Because of the consistency of the information in the webscrapes reviewed, the Budget and Legislative Analyst concluded that they were reliable sources of information for this analysis.

[18] New York State Attorney General, "Airbnb in the City." Office of the Attorney General of the State of New York's Research Department and Internet Bureau. October 2014

Table 3: Number of San Francisco Airbnb Listings, by Listing Type December 2014			
Number of Entire Unit Listings	**Number of Private Room Listings**	**Number of Shared Room Listings**	**Total Number of Listings**
3,651	2,196	266	6,113

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014

The Budget and Legislative Analyst conducted a review and sampling of Airbnb's current San Francisco listings to confirm summary statistics of the webscrapes. Average prices were checked by listing type for each webscrape against the website's reported averages. Table 4 below shows the average prices from the webscrape used for this analysis. See the Appendix for more detail about how the webscrapes were used for this analysis.

Table 4: Average San Francisco Airbnb Prices, by Listing Type December 2014			
Average Price of Entire Unit Listings	**Average Price of Private Room Listings**	**Average Price of Shared Room Listings**	**Average Price of All Listings**
$239	$115	$72	$239
Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014			

Limitations of data

The number of bookings is key to understanding the impact of the short-term rental market on housing in San Francisco. Hosts have the option to unlist or deactivate listings, but it is unclear whether listings expire; thus, units that are not currently being booked may still be listed. Data from the webscrapes do not provide information on bookings. However, the Budget and Legislative Analyst utilized the number of reviews left on each listing to estimate the booking frequency, or utilization rate, in booked nights per year for each listing. See the Appendix for detail on our methodology.

Airbnb and other platforms obscure the location of a host's unit on their website so it is not possible to determine exact locations. Neighborhoods are identified for each listing, although inconsistently and without clear definition. To help determine neighborhood locations for listings, zip codes were pulled from some of the webscrapes. The neighborhood locations used in our analysis are expected to approximate to within 0.6 miles of their true location.

Review Data Key to Estimating Utilization

Because data from the webscrapes do not provide information on the number of bookings, two estimates of bookings were prepared: 1) Airbnb's public statement that 72 percent of guests leave reviews was applied to all listings with reviews to

determine the total number of bookings per listing (i.e., assuming that the number of reviews per listing represented 72 percent of all bookings for that listing), and 2) a second, lower review rate of 30.5 percent was applied based on the number of reviews per listing reported from a webscrape of New York City Airbnb listings and compared to the number of bookings for the same time period in New York City as reported by the New York State Attorney General in subpoenaed Airbnb booking data. That report showed a total of 497,322 bookings from January 1, 2010 through June 2, 2014. When compared with the webscrape results showing a review count of 151,623 from January 1, 2010 through June 2, 2014, the rate of apparent reviews to bookings was determined to be 30.5 percent.

The apparent review ratio of 30.5 percent may not represent the actual rate that users leave reviews. Some sources suggested that Airbnb alters the number of reviews on their website, and may remove older reviews over time. If true, this would explain the difference between the apparent review rate and Airbnb statements from 2012 that 72 percent of guests leave reviews. Both the apparent review ratio and Airbnb's stated ratio are all well above common ratios assumed for the e-commerce and other online industries, which have been estimated to range between one[19] to nine percent, but the Airbnb business model appears to be more dependent on reviews than some other businesses .[20] [21]

The 72 percent review rate was used for the primary scenario estimates presented in this report. The 30.5 percent review rate was used for the higher impact alternate scenario presented in this report.

[19] Arthur, Charles. "What is the 1% rule?" theguardian.com July 19, 2006. Web. April 30, 2015. http://www.theguardian.com/technology/2006/jul/20/guardianweeklytechnologysection2http://nautil.us/issue/12/feedback/one-percenters-control-online-reviews

[20] Ford, Mat. "The Pareto Principle and the 1% Rule of Internet Culture. Mattyford.com. June 4, 2014. Web. 30 Apil, 2015. http://mattyford.com/blog/2014/6/5/the-pareto-principle-and-the-1-rule-of-internet-culture

[21] "What Percentage of People Write Reviews?" http://reviewreputation.com/what-percentage-of-people-writes-reviews/

Many Types of Hosts

As discussed above, for purposes of this analysis, the Budget and Legislative Analyst categorized hosts into one of two groups: casual hosts and commercial hosts depending on the number of nights their unit was booked. For entire units rented in the primary scenario for this analysis, the threshold for commercial hosts was 59 booked nights or more. Casual hosts for entire units were those with 58 or fewer booked nights. For private and shared rooms, the threshold was 88 or fewer booked nights for casual hosts and 89 or more booked nights for commercial hosts.

Casual hosts are defined for this analysis as those who list units on an ad hoc basis to make supplemental income. A casual host might be a host who lists their unit for rent a few weekends throughout the year or while on an out-of-town trip. Casual hosting is assumed to have little or no impact on the long-term rental market.

Commercial hosts with more than 58 booked nights per year for an entire home or 88 nights or more for private or shared room listings are renting out a room for over 7 days per month or a whole unit for almost 5 days a month. Commercial entire unit hosts would need to be out of their residences to rent them out for approximately two months or more per year. Commercial hosting is assumed by the Budget and Legislative Analyst to reduce the number of units or rooms available for long-term rent. A commercial host is one that practices short-term renting as a business instead of listing a unit on the long-term rental market.

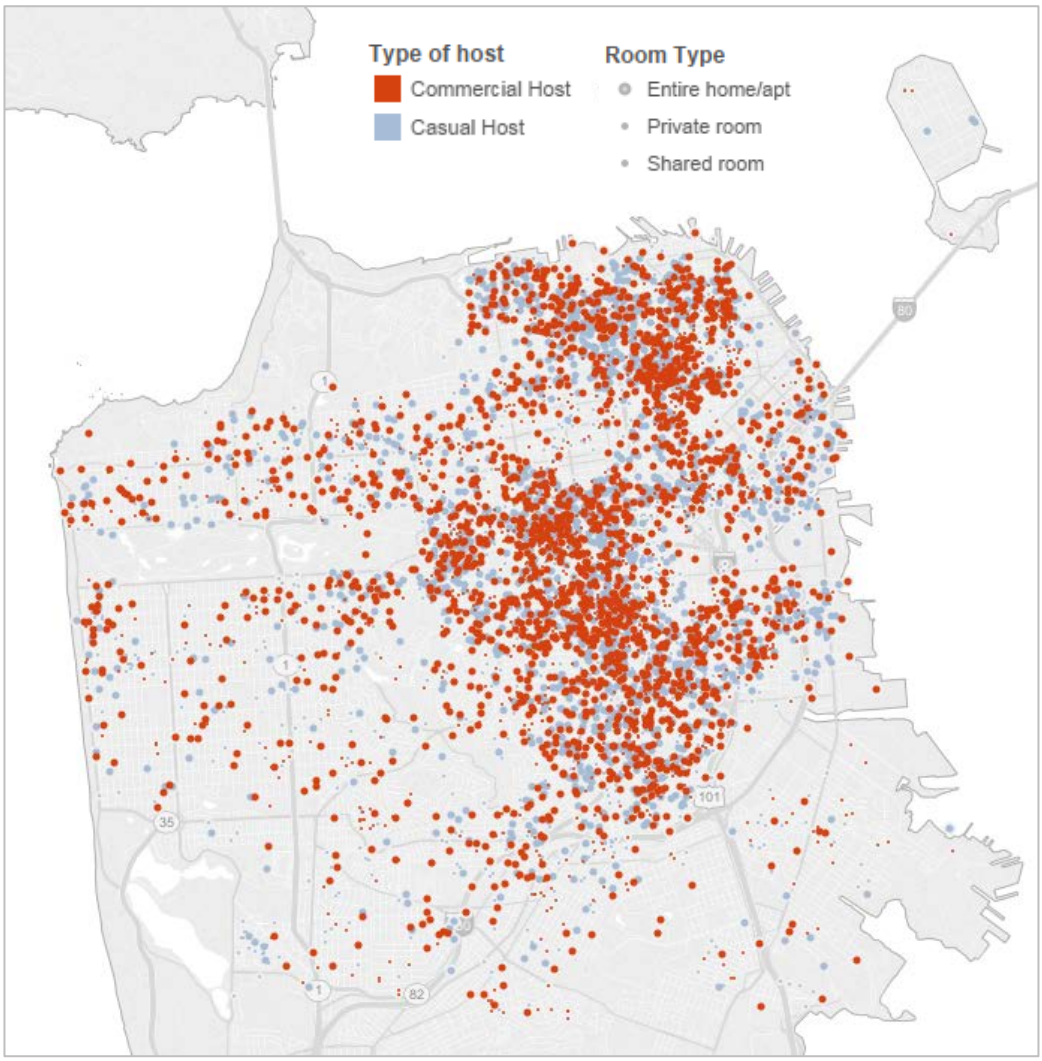
The Budget and Legislative Analyst assumes that there are exceptions to the casual and commercial classifications above. There are likely hosts who travel or stay elsewhere more than 59 days a year, rent out their entire primary residence unit while they are gone and therefore are not taking a housing unit away from the long-term rental market. Similarly, there are likely hosts who rent entire units for 58 days or less though they do not live in the unit, but would otherwise make it available to the long-term market.

Using the data from the December 2014 San Francisco Airbnb webscrape, the Budget and Legislative Analyst created a utilization model for the number of nights per year a listing is expected to be booked based on the number of reviews for each listing. For the primary scenario presented in this report, the following data was used: the 72 percent review to bookings ratio, 5.1 average nights of stay for Airbnb guests as reported by SF Travel, and the length of time from the host join date to the last review date. To determine the number of bookings per month for each listing, total bookings were spread over the amount of time since the host joined the site since that data was available from the 2014 webscrape. The detailed methodology for calculating this utilization rate is found in the Appendix.

Based on the utilization model and the thresholds described above to distinguish between casual and commercial hosts, Figure 5 below shows the distribution of the 6,113 Airbnb listings from the December 2014 webscrape across San Francisco by type of host under the primary scenario assumptions. As presented in Table 1

above, the primary scenario assumes 4,191 casual hosts and 1,922 commercial hosts for a total of 6,113.

Figure 5: Distribution of Casual and Commercial Hosts in San Francisco December 2014



Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model

Commercial Hosts Expected to Have Greater Impact on Housing Availability

At 68.6 percent, the 4,191 hosts classified as casual is slightly more than two thirds of all 6,113 listings. Casual hosts are not expected to reduce the rental stock due to the infrequency of and the motivations for their hosting. As shown Table 6 below, casual hosts are expected to earn significantly less than median gross rent for their neighborhoods on the short-term rental market based on the number of nights their unit is booked as estimated by our utilization model and the price a host charges per night.

Table 6: Differences between Short-term vs Long-term Monthly Revenue Generated by Casual Hosts for Entire Units, 2014

Zip Code	Neighborhood	Average Monthly Revenue for Entire Unit, Casual Host	Median Gross Rent, by Neighborhood (2013)	Monthly Earnings Above/(Loss Below) Long-term Rent
94102	Tenderloin/Union Square/Hayes Valley	$211	$840	($629)
94103	SOMA	$216	$922	($706)
94104	Financial District	$159	$673	($514)
94105	Rincon Hill	$258	$2,000+	($1,742)
94107	Potrero Hill/South Beach	$240	$2,000+	($1,760)
94108	Chinatown	$289	$1,019	($730)
94109	Russian Hill/Polk Gulch	$255	$1,379	($1,124)
94110	Inner Mission	$260	$1,459	($1,199)
94111	Telegraph Hill/Waterfront	$204	2,000+	($1,796)
94112	Ingleside/Excelsior	$189	$1,398	($1,209)
94114	Castro/Eureka Valley	$329	$1,771	($1,442)
94115	Western Addition	$328	$1,563	($1,235)
94116	Parkside	$208	$1,639	($1,431)
94117	Haight-Ashbury/Western Addition	$262	$1,732	($1,470)
94118	Inner Richmond	$300	$1,621	($1,321)
94121	Outer Richmond	$247	$1,512	($1,265)
94122	Sunset	$195	$1,663	($1,468)
94123	Marina/Cow Hollow	$278	$1,838	($1,560)
94124	Bayview/Hunters Point	$127	$892	($765)

Table 6: Differences between Short-term vs Long-term Monthly Revenue Generated by Casual Hosts for Entire Units, 2014 (cont'd)				
94127	Miraloma/Sunnyside	$294	$2,000+	($1,706)
94129	Presidio	$39	no data	
94130	Treasure Island	$178	$1,582	($1,404)
94131	Twin Peaks/Glen Park	$318	$1,728	($1,410)
94132	Lake Merced	$104	$1,797	($1,693)
94133	North Beach	$316	$1,274	($958)
94134	Visitacion Valley/Portola	$240	$1,101	($861)
94158	Mission Bay	$174	$2,000+	($1,826)
City-wide Average		$260	$1,516	($1,740)

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model; American Community Survey 2013 median gross rents

However, the estimated average monthly revenue from a commercial host for entire units exceeds the expected long-term rental rates per month. The table below shows that there is a financial incentive to list a unit on the short-term rental market, as it can generate revenues above median rents for each neighborhood.

Table 7: Differences between Short-term vs Long-term Monthly Revenue Generated by Commercial Hosts for Entire Units, 2014

Zip Code	Neighborhood	Average Monthly Revenue for Entire Unit, Commercial Host	Median Gross Rent by Neighborhood (2013)	Monthly Earnings Above/(Loss Below) Long-term Rent
94102	Tenderloin/Union Square/Hayes Valley	$2,264	$840	$1,424
94103	SOMA	$2,708	$922	$1,786
94104	Financial District	$2,412	$673	$1,739
94105	Rincon Hill	$2,644	$2,000+	$644
94107	Potrero Hill/South Beach	$2,400	$2,000+	$400
94108	Chinatown	$2,952	$1,019	$1,933
94109	Russian Hill/Polk Gulch	$2,382	$1,379	$1,003
94110	Inner Mission	$2,356	$1,459	$897
94111	Telegraph Hill/Waterfront	$2,351	2,000+	$351
94112	Ingleside/Excelsior	$1,784	$1,398	$386
94114	Castro/Eureka Valley	$2,703	$1,771	$932
94115	Western Addition	$2,438	$1,563	$875
94116	Parkside	$1,834	$1,639	$195
94117	Haight-Ashbury/Western Addition	$2,910	$1,732	$1,178
94118	Inner Richmond	$2,050	$1,621	$429
94121	Outer Richmond	$1,977	$1,512	$465
94122	Sunset	$2,074	$1,663	$411
94123	Marina/Cow Hollow	$2,723	$1,838	$885
94124	Bayview/Hunters Point	$1,721	$892	$829
94127	Miraloma/Sunnyside	$2,030	$2,000+	$30
94130	Treasure Island	$1,572	$1,582	($10)
94131	Twin Peaks/Glen Park	$2,263	$1,728	$535
94132	Lake Merced	$2,083	$1,797	$286
94133	North Beach	$2,826	$1,274	$1,552
94134	Visitacion Valley/Portola	$2,006	$1,101	$905
94158	Mission Bay	$2,779	$2,000+	$779
City-wide Average		$2,440	$ 1,516	$440

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model; American Community Survey 2013 median gross rents

Commercial hosts are expected to have a larger impact on the housing market. Entire units listed by commercial hosts would reduce the number of long-term rental units available, while private and shared rooms would reduce the number of rooms available for long-term rent. Entire units make up the majority of commercial units listed at 1,251 homes or apartments.

In 2013, the American Community Survey estimated a 5-year average of 8,438 units as Vacant For Rent in San Francisco, or 3.5 percent of the 244,012 units defined as the rental market at that time by the Census Bureau.[22] Based on the model developed for this analysis and the 5-year average Vacant For Rent in 2013 reported by the American Community Survey, the 1,922 commercial hosts renting entire units for over 58 days a year would reduce the San Francisco rental stock by an amount equal to 14.8 percent of the 8,438 units Vacant For Rent Citywide in San Francisco under the primary scenario assumptions. The range of this impact is between 11.0 and 23.2 percent based on the lowest to highest impact scenario assumptions. Rentals for private and shared rooms would reduce the available rental stock even further.

While commercial short-term rental hosts appear to be beating the median rents across the City in the data we examined, the Budget and Legislative Analyst also compared short-term rental revenues to the median $3,750 rental market rate in 2014.[23] Comparing data to this market rate, there were a total of 508 units in December 2014 beating the market rate—286 entire rooms, and 222 private rooms.

There were also about 200 units that generated just slightly less revenue than the median market rate. For example, a commercial entire home in the Castro which earned an average of approximately $330 per night, and was booked an estimated 134 nights per year earned about $3,690 per month, or slightly less than the 2014 City-wide median rent of $3,750. However, if the unit was booked just three more nights in the year or charged higher rates at other times of year, the short-term rental listing would be more profitable than the long-term market rates. Thus, the short-term rental market can offer similar financial compensation with an added flexibility in living arrangements over the long-term rental market.

The data from December 2014 shows that over two-thirds of the hosts could have potentially earned more by listing their units in the long-term rental market if their unit could have commanded the then median market rate of $3,750.[24] However, other factors affecting this calculation include:

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[22] The American Community Survey (ACS) is conducted annually by the U.S. Census Bureau. Compared to the relatively comprehensive 10-year Census, the ACS is a "mandatory ongoing statistical survey that samples a small percentage of the population every year." The ACS selects approximately 1-in-480 addresses to mail 3.5 million questionnaires annually. While this is a significant number of individuals and addresses surveyed, it still relies on statistical assumptions, which result in a margin of error for every ACS estimate. The ACS Rental Vacancy figures include all units listed for rent but currently not occupied and all units that are rented but have yet to be occupied by the incoming tenant. The total number of units that are vacant but have incoming tenants is expected to be small, but does somewhat inflate the size of the available rental units listed on the market.

[24] Zillow.com, San Francisco Home Prices & Values. Accessed on May 10, 2015 at http://www.zillow.com/san-francisco-ca/home-values/

[24] Zillow.com, San Francisco Home Prices & Values. Accessed on May 10, 2015 at http://www.zillow.com/san-francisco-ca/home-values/

- The calculations above are based on short-term rental rates charged in December 2014. Hosts may have charged higher rates at other times of year such as summer and thus their total annual income could be higher than the projected amounts based on December rates.

- Some short-term hosts could be renting units with market values below the median market rate so they could still be beating the market value for their particular unit even if their earnings or less than the total market median amount.

- Some of the short-term rental housing stock may not match the amenities of the median market rate housing stock and therefore it may not be possible to earn median market rent through long-term rentals compared to landlords with newer apartments and/or more amenities.

- Some commercial short-term rental hosts may not be marketing their units effectively to maximize rentals.

- Short-term rental and hotel competition may prevent some commercial short-term hosts from charging rates to earn more than a long-term rental would generate.

- Some commercial hosts may be satisfied earning more than they had in the long-term rental market though less than the median market rental rate as they may prefer the flexibility of short-term rentals and may not wish to rent their unit(s) on a long-term basis under City rent control laws.

Some commercial hosts may be in the hospitality business and not interested in entering the long term rental market.

Commercial Short-term Rentals by Neighborhood

Table 8 below shows the rental market size, vacancy for rent, and the estimates of commercial listings on Airbnb by neighborhood zip code under the primary scenario. The same results for the lower and higher impact scenarios are presented at the end of the report in the Alternative Scenarios section.

Table 8: Primary Scenario: Impact on Vacant For Rent Housing of Commercial Short-term Rentals for Entire Housing Unit, by Neighborhood

Zip Code	Neighborhood	Rental Market Size (2013)	Vacancy For Rent (2013)	Number of Commercial Entire Unit Listings	Total Potential Units for Rent	AirBnb Commercial Unit Listings as % of Total Potential Units
94158	Mission Bay	2,273	0	2	2	100.0%
94127	Miraloma/Sunnyside	1,614	24	19	43	44.2%
94117	Haight-Ashbury/ Western Addition	14,686	260	122	382	31.9%
94110	Inner Mission	19,194	483	199	682	29.2%
94114	Castro/Eureka Valley	9,921	358	117	475	24.6%
94107	Potrero Hill/South Beach	9,121	246	85	331	25.7%
94131	Twin Peaks/Glen Park	6,723	181	45	226	19.9%
94105	Rincon Hill	2,239	60	18	78	23.1%
94122	Sunset	12,780	202	60	262	22.9%
94118	Inner Richmond	12,665	194	40	234	17.1%
94121	Outer Richmond	11,117	192	43	235	18.3%
94115	Western Addition	15,041	305	52	357	14.6%
94123	Marina/Cow Hollow	11,211	495	84	579	14.5%
94133	North Beach	12,270	349	59	408	14.5%
94112	Ingleside/Excelsior	8,686	175	28	203	13.8%
94111	Telegraph Hill/ Waterfront	1,892	35	2	37	5.4%
94116	Parkside	5,931	205	22	227	9.7%
94109	Russian Hill/Polk Gulch	30,551	1,099	89	1188	7.5%
94103	SOMA	11,460	899	71	970	7.3%
94108	Chinatown	7,697	377	24	401	6.0%
94104	Financial District	259	52	2	54	3.7%
94134	Visitacion Valley/Portola	5,067	112	6	118	5.1%
94102	Tenderloin/Union Square/Hayes Valley	16,644	1360	54	1414	3.8%
94124	Bayview/Hunters Pt	5,932	146	4	150	2.7%
94132	Lake Merced	6,793	356	4	360	1.1%
94129	Presidio	1,385	159	0	159	0.0%
94130	Treasure Island	860	114	0	114	0.0%
TOTAL		244,012	8,438	1,251	9,689	12.9%

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model; American Community Survey 2013

Private Room Commercial Hosts

No historical data on roommate market was available, but an average number of bedrooms by neighborhood was calculated based on American Community Survey data. We multiplied the number of Vacant For Rent units by the Average Number of Rooms by zip code to get the number of Vacant Rooms For Rent. Based on 2013 American Community Survey data, 12,884 rooms were available for rent in San Francisco in 2013.

In addition to the number of entire units presented above, 631 commercial private rooms and 40 commercial shared rooms were listed on the Airbnb webscrape from December 2014. The number of shared rooms were divided by 2 to estimate the number of rooms these commercial shared rooms listings accounted for, and we estimate that 651 commercial rooms were listed in December 2014.

Table 9 below shows the range of commercial room listings and impacts by neighborhoods.

Table 9: Primary Scenario: Impact on Vacant For Rent Housing of Commercial Short-term Rentals for Private Rooms, by Neighborhood						
Zip Code	**Neighborhood**	**Room Rental Market Size (2013)**	**Vacancy For Rent (2013)**	**Number of Commercial Room Listings**	**Total Potential Rooms for Rent**	**Airbnb Commercial Room Listings as % of Total Potential Units**
94130	Treasure Island	No data	0	4	4	**100%**
94158	Mission Bay	2,705	0	1	1	**100%**
94127	Miraloma/Sunnyside	7,659	71	12	83	**14%**
94117	Haight-Ashbury/Western Addition	19,568	471	71	542	**13%**
94110	Inner Mission	29,276	940	114	1,054	**11%**
94107	Potrero Hill/South Beach	14,829	388	40	428	**9%**
94114	Castro/Eureka Valley	17,880	696	71	767	**9%**
94105	Rincon Hill	4,651	89	8	97	**8%**
94112	Ingleside/Excelsior	23,498	446	39	485	**8%**
94118	Inner Richmond	18,649	409	33	442	**7%**
94131	Twin Peaks/Glen Park	13,787	385	21	406	**5%**
94111	Telegraph Hill/Waterfront	2,643	46	3	49	**5%**
94115	Western Addition	18,968	488	27	515	**5%**
94122	Sunset	23,459	454	25	479	**5%**
94124	Bayview/Hunters Point	11,096	372	19	391	**5%**
94133	North Beach	14,987	520	24	544	**4%**
94121	Outer Richmond	18,837	414	16	430	**4%**
94103	SOMA	14,322	1,072	38	1,110	**3%**
94109	Russian Hill/Polk Gulch	36,850	1,235	39	1,274	**3%**
94104	Financial District	275	32	1	33	**3%**
94134	Visitacion Valley/Portola	12,088	294	6	300	**2%**
94116	Parkside	16,194	539	10	549	**2%**
94123	Marina/Cow Hollow	15,349	785	14	799	**2%**
94108	Chinatown	8,554	378	7	385	**2%**
94102	Tenderloin/Union Square/Hayes Valley	18,713	1,111	10	1,121	**1%**
94132	Lake Merced	11,227	819	3	822	**0%**
94129	Presidio	1,216	431	0	431	**0%**
TOTAL		377,280	12,885	651	13,536	4.8%

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model; American Community Survey 2013

Neighborhoods

The table below shows the five neighborhoods with the highest number of commercial Airbnb listings.

Table 10: Neighborhoods with Most Commercial Hosts					
Zip code	**Neighborhood**	**Entire Unit**	**Private Room**	**Shared Room**	**TOTAL**
94110	Inner Mission	199	112	4	315
94117	Haight-Ashbury/Western Addition	122	70	1	193
94114	Castro/Eureka Valley	117	70	1	188
94109	Russian Hill/Polk Gulch	89	37	4	130
94103	SOMA	71	34	8	113

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model

Evictions

Table 11 below shows that the neighborhoods with the highest number of listings also have the highest number of evictions. While the use of housing units after evictions cannot be determined from Rent Board data, landlords in neighborhoods that are popular areas for short-term rentals may have financial incentives to remove existing tenants.

About 71.9 percent of San Francisco's rental stock is rent-stabilized. Housing market rate prices in San Francisco have been increasing significantly over the past few years, and landlords, already encouraged to capture the full market value on the long-term rental market, may be further encouraged by the higher revenue that could be generated through short-term renting. The San Francisco Rent Board provided data which showed that evictions have increased by 37 percent from 2011 through 2014.

In 2014 there were 2,789 evictions. The table below compares the five neighborhoods with the most Airbnb listings to the eviction rates.

Table 11: Neighborhoods with Most 2014 Commercial Hosts Compared to Evictions					
Zip code	**Neighborhood**	**Number of Commercial hosts**	**Number of Evictions**	**Neighborhood Evictions, as % of Total Evictions in San Francisco**	**Neighborhood Evictions, Ranked**
94110	Inner Mission	315	323	12%	1st
94117	Haight-Ashbury/Western Addition	193	212	8%	3rd
94114	Castro/Eureka Valley	188	130	5%	10th
94109	Russian Hill/Polk Gulch	130	269	10%	2nd
94107	Potrero Hill/South Beach	126	51	2%	19th

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model; San Francisco Rent Board

As shown in the table above, the Inner Mission, Russian Hill, and Haight-Ashbury had the top three highest eviction rates in 2014 and are also the amongst the top five neighborhoods with highest commercial entire unit and private room Airbnb listings.

Impact of Night Limits

If followed, the various proposed legislation could result in significantly different hosting outcomes for all types of rooms. The estimates in Table 12 below are based on the December 2014 Airbnb webscrape. This webscrape showed 3,651 entire homes, 2,196 private homes, and 266 shared rooms, for a total of 6,113 listings.

Given current booking rates, if regulation that caps the number of un-hosted nights only at 90 nights, were followed, the number of entire homes listed would decrease to 3,115, or by 15 percent. Private and shared rooms would remain unchanged as the current legislation does not restrict hosted nights.

If the number of days for hosted and unhosted nights were capped at 120 nights, the total number of units expected to be listed on Airbnb would decrease from 6,113 to 5,706, or by 7 percent. If the number of nights were capped at 90 nights, the total number would decrease to 5,168 or by 15 percent. If the number of nights were capped at 60 nights, the total number would decrease to 4,471 or by 27 percent.

The table considers the financial incentives a commercial user would incorporate into their decision to host a short-term rental or a long-term rental based on American Community Survey 2013 rental rates by zip code. All casual users are

expected to remain in the short-term rental market, and only modify their behavior to abide by the caps. A commercial user would compare the expected monthly revenues from participating in the short-term rental market based on the cap to the monthly rate on the long-term market.

Table 12: Number of Listings in Primary Scenario, by Policy Limits

	Current scenario	Current Scenario if Fully Enforced Regulation (Max 90 un-hosted nights)	120 Night Max on All Unit Types	90 Night Max on All Unit Types	60 Night Max on All Unit Types
Entire Units Remaining	3,651	3,115	3,390	3,115	2,634
Private Rooms Remaining	2,196	2,196	2,060	1,803	1,602
Shared Rooms Remaining	266	266	256	250	235
TOTAL	**6,113**	**5,577**	**5,706**	**5,168**	**4,471**

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model

Table 13 below shows the corresponding number of units that are estimated to exit the short-term rental market and may be available for long-term rent under the various policy proposals and assuming effective enforcement.

Table 13: Number of Listings that Exit the Short-term Rental Market

	Current Scenario if Fully Enforced Regulation	120 Night Max on All Unit Types	90 Night Max on All Unit Types	60 Night Max on All Unit Types
Entire unit	536	261	536	1,017
Private room	0	136	393	594
Shared room	0	10	16	31
Total	**536**	**407**	**945**	**1,642**

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model; American Community Survey 2013 median gross rents

If Regulations Are Fully Enforced Many Commercial Hosts Will Switch to Long-term Rentals

The analysis suggests if regulations are followed at almost all levels then many commercial hosts will no longer find their operations economically feasible compared to the traditional long-term rental market. This is because with limitations on the number of nights that can be rented annually hosts would make more money renting continuously on the long-term market, particularly for entire units. Some amount of commercial hosts would remain because they have relatively high prices that allow them to maintain operations despite any annual limits on the number of nights per year. Other commercial hosts might raise their prices in response to any limitations, which would keep their unit off the long-term market. However, this group would likely be small since there market limits on how much guests are willing to pay per night.

Commercial Hosts Might Be Replaced by Additional Casual Hosts

The primary group of hosts that remain are the casual hosts. This is because they are less sensitive to revenue lost from capping the number of nights per year. Most aren't hosting at or above the various maximums modeled already and only a small percentage would lose revenue in any of the models.[25] As a side business, casual hosts aren't in the business of commercial lodging and unlike commercial hosts they haven't invested money on additional property to run a short-term rental business.

If demand from guests remains high, the bookings currently filled by commercial hosts are expected to be replaced by additional casual hosts. This would continue to deliver the many benefits of short-term rentals to the City and would replace much of the transient occupancy tax revenue that commercial host activity is currently providing.

Current Enforcement

The current regulations allow some limited commercial activity of short-term rentals in residential properties. Despite this change, the new laws have added few tools for the City to enforce short-term rentals. The primary challenge remains that short-term rentals are businesses that operate in private residences and it is difficult to know what is happening behind closed walls. Companies such as Airbnb have been unwilling to share booking information with the City and others such as VRBO don't facilitate individual transactions and don't have aggregate booking data available. Without booking information the City is unable to sufficiently enforce current regulations that limit the number of nights per year in some types of units.

[25] An estimated #X of casual hosts are currently offering private rooms and shared rooms that are booked for an estimated 61 to 88 nights per year. Under the 60 maximum scenario these casual hosts would lose some revenue because their maximum number of nights would be reduced to 60.

Limitations of Complaint-based System
Prior to the current regulations enacted in November 2014 that took effect in February 2015, all residential short-term rentals that weren't zoned and permitted as hotels, motels and bed and breakfasts were out of compliance - essentially over 5,000 businesses were operating in the City illegally. Even now that some host's rental activity is permitted, the City's is unable to sufficiently enforce regulations current regulations.

Enforcement is currently reliant on a traditional land use enforcement framework, where complaints trigger investigations. Upon receiving complaints, often from neighbors, violators are cited and asked to appear before an administrative hearing. Alleged violators are given 30 days to come into compliance prior to the hearing. Following the hearing and temporarily suspending business operations, many hosts reportedly return to renting their property short-term. This leaves only limited enforcement options for the City, and a challenge to essentially monitor and document alleged business activities occurring behind closed doors.

Framework Effective for Other Land Use Violations
This complaint-based enforcement framework has historically been effective for other land use violations. This is because most unpermitted commercial land use activities, such as un-approved retail or industrial activities and non-compliant building types were easy to identify and relatively visible to the public. In contrast, the operations of short-term rentals are obscured by vague internet listings and activities that occur within the walls of private residences.

Short-term Rentals Require New Information
Without knowledge of what is occurring within short-term rentals it is nearly impossible to enforce limits on the number of nights that are booked. This information could come from the platforms or, when platforms don't record booking transactions, it could come from the hosts themselves. Access to booking information would allow the Planning Department to better identify violators and substantiate the extent of their violations. This type of data sharing requires a stronger partnership with platforms and hosts to work with the City to ensure compliant hosts are allowed to operate and noncompliant hosts are penalized. If a partnership can't be established, regulations requiring the sharing of data could be considered.

City and State Options
To address these enforcement needs the Board of Supervisors could pass additional legislation requiring that platforms and hosts share booking data that allows the Planning Department to better enforce existing regulation. At the state level, Senator Mike McGuire of Healdsburg introduced state Senate Bill 593. The bill would provide a uniform framework across the state for municipalities to receive booking information on a quarterly basis and hold platforms accountable when their listings violate local laws. The bill would allow municipalities to levy fines against platforms that do not provide data or knowingly list units that violate local regulations.

Privacy Concerns

In any case, booking data does contain a degree of private information on hosts' activities. Despite its sensitivity, the data is important as it is the only way to monitor the business operations that hosts and platforms are conducting. Currently, the Planning Department maintains its registration information on a database separate and secured from other information systems in the department. It also anonymizes all host information that the public could potentially access. The same level of protections could be applied to booking data they receive from hosts and platforms. Importantly, information on the guests staying in short-term rentals is not needed for enforcement and the City would not need to receive private guest information.

Personal privacy protection for hosts remains important, but hosting is a business activity and a choice hosts make to transform a residential space into a commercial lodging. Like most other businesses and industries, some level of regulatory oversight is required. If handled with confidentiality and hosts' personal privacy in mind, then asking hosts and platforms to provide information on their bookings would be in line with other types of business oversight.

Rate of Registration is Low

Beyond the current enforcement limitations, very few hosts have applied to register their units with the Planning Department, as shown in Figure 14 below. As of May 1, 2015, only 579 hosts have applied. This is a small volume of the total amount of hosts estimated in the City, or 9.5 percent of the 6,113 estimated Airbnb listings as of December 2014, and even a smaller percentage if hosts that use other platforms besides Airbnb are considered. The incoming pipeline for hosts seems small too, with only 550 hosts having applied for business licenses with the Treasurer and Tax Collector since April 30, 2015. However, an unknown amount of hosts may have applied for business permits previously, but the Treasurer and Tax Collector did not track licenses for short-term rentals until recently.

Figure 14: Low Rate of Registration Compared to Total Estimated Units							
Estimated total number of listings in 2014	**Applied for Business License prior to February 2015**	**Applied for Business License after February 2015**	**Short-term Rental Applications Submitted to the Planning Department for Review**	**Certificates Issued**	**Incomplete Applications**	**Applications Under Review**	**Applications Awaiting Review**
6,113	Unknown [26]	550	579	282	77	50	170
	Unknown	9.0% of total listings	9.4% of total listings	48.7% of applications	13.3% of applications	8.6% of applications	29.4% of applications
	As of April 30, 2015		*As of May 1, 2015*				

Sources: Budget and Legislative Analyst Utilization Model, San Francisco Treasurer and Tax Collector, and San Francisco Planning Department

The low rate of applications implies that hosts have limited incentive to apply, don't know about the current regulations or have faced challenges in the application process. Our analysis shows there are an estimated 1,922 hosts operating at a commercial level and 536 renting their entire house for over the current 90 day un-hosted maximum. These hosts might choose not to register in order to avoid any unnecessary attention on their operations. However, even if all hosts applied, the Planning Department would have a very limited capacity to monitor compliance with current regulations without additional information on host's bookings.

Require Verification of Hosts by Platforms

Finally, increased registration and compliance with regulations could be encouraged if platforms only listed hosts with verified registration with the City. This again could be accomplished through stronger partnerships with platforms or in lieu of cooperation, regulations requiring platforms to verify the legality of units they list should be considered.

Alternative Scenarios

As discussed, the Budget and Legislative Analyst prepared two other scenarios in addition to the primary scenario presented above to estimate the impact of short-term rentals on the housing market. One of the two alternative scenarios presents a lower impact on the long-term rental market than the primary scenario used and the other scenario presents a higher impact.

The key differences in assumptions used to prepare these alternative scenarios were as follows. For the lower impact scenario, a threshold of 90 booking nights

[26] Treasure & Tax Collector did not track business licenses specific to short-term rentals prior to February 2015.

was used to distinguish casual and commercial hosts rather than the 58 used in the primary and higher impact scenarios. This resulted in a smaller number of hosts being classified as commercial and reduced the number of housing units removed from the long-term rental market through short-term rentals. For the higher impact scenario, a 32 percent rate of reviews per booking was used rather than the 70 percent used in the primary and lower impact scenarios. This resulted in more bookings per listing being assumed and thus increased the number of hosts classified as commercial and impacting the long-term rental housing market. The results are presented in the following tables.

Table 15: Higher Impact Scenario: Estimate of Short-term Rental Housing Units in San Francisco, by Type of Host, 2014

Type of Host/Listing	Threshold Number of Days Unit Rented	Est'd # of Units as of December 2014	Percentage of Total Units
Casual: Entire unit	58 days or under	1,690	28%
Casual: Private room	88 days or under	1,233	20%
Casual: shared room	88 days or under	184	3%
Total casual:		*3,107*	*51%*
Commercial: Entire unit	over 58 days	1,960	32%
Commercial: Private room	over 88 days	963	16%
Commercial: Shared room	over 88 days	82	1%
Total commercial:		*3,006*	*49%*
TOTAL UNITS		6,113	100%

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model

Table 16: Lower Impact Scenario: Estimate of Short-term Rental Housing Units in San Francisco, by Type of Host, 2014

Type of Host/Listing	Threshold Number of Days Unit Rented	Est'd # of Units as of December 2014	Percentage of Total Units
Casual: Entire unit	90 days or under	2,726	45%
Casual: Private room	88 days or under	1,565	26%
Casual: shared room	88 days or under	226	4%
Total casual:		*4,517*	*74%*
Commercial: Entire unit	over 90 days	925	15%
Commercial: Private room	over 88 days	631	10%
Commercial: Shared room	over 88 days	40	1%
Total commercial:		1,596	26%
TOTAL UNITS		6,113	100%

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model

Impacts of the two alternative scenarios on long-term housing by neighborhood are presented in Tables 17 and 18. As can be seen, the lower and higher impact scenarios also show impacts on housing available for long-term rentals.

Table 17: Impacts on Vacant For Rent Housing of Commercial Short-term Rentals for Entire Housing Unit, by Neighborhood (Low ~ High Estimates)

Zip Code	Neighborhood	Rental Market Size (2013)	Vacant For Rent (2013)	Number of Commercial Unit Listings (Low~ High)	Total Potential Units for Rent (Low ~ High)	Airbnb Commercial Unit Listings as % of Total Potential Units(Low ~ High)
94158	Mission Bay	2,273	0	1 ~ 4	1 ~ 4	100%
94127	Miraloma/Sunnyside	1,614	24	14 ~ 23	38 ~ 47	37% ~ 49%
94117	Haight-Ashbury/Western Addition	14,686	260	94 ~ 193	354 ~ 453	27% ~ 43%
94110	Inner Mission	19,194	483	144 ~ 321	627 ~ 804	23% ~ 40%
94114	Castro/Eureka Valley	9,921	358	91 ~ 196	449 ~ 554	20% ~ 35%
94107	Potrero Hill/South Beach	9,121	246	62 ~ 117	308 ~ 363	20% ~ 32%
94131	Twin Peaks/Glen Park	6,723	181	31 ~ 81	212 ~ 262	15% ~ 31%
94105	Rincon Hill	2,239	60	12 ~ 26	72 ~ 86	17% ~ 30%
94122	Sunset	12,780	202	49 ~ 80	251 ~ 282	20% ~ 28%
94118	Inner Richmond	12,665	194	30 ~ 71	224 ~ 265	13% ~ 27%
94121	Outer Richmond	11,117	192	31 ~ 58	223 ~ 250	14% ~ 23%
94133	North Beach	12,270	349	43 ~ 92	392 ~ 441	11% ~ 21%
94123	Marina/Cow Hollow	11,211	495	60 ~ 130	555 ~ 625	11% ~ 21%
94115	Western Addition	15,041	305	33 ~ 79	338 ~ 384	10% ~ 21%
94112	Ingleside/Excelsior	8,686	175	20 ~ 45	195 ~ 220	10% ~ 20%
94116	Parkside	5,931	205	15 ~ 31	220 ~ 236	7% ~ 13%
94111	Telegraph Hill/Waterfront	1,892	35	2 ~ 5	37 ~ 40	5% ~ 13%
94109	Russian Hill/Polk Gulch	30,551	1099	66 ~ 151	1165 ~ 1250	6% ~ 12%
94103	SOMA	11,460	899	57 ~ 105	956 ~ 1004	6% ~ 10%
94108	Chinatown	7,697	377	17 ~ 36	394 ~ 413	4% ~ 9%
94134	Visitacion Valley/Portola	5,067	112	6 ~ 9	118 ~ 121	5% ~ 7%
94104	Financial District	259	52	2 ~ 4	54 ~ 56	4% ~ 7%
94102	Tenderloin/Union Square/Hayes Valley	16,644	1360	39 ~ 88	1399 ~ 1448	3% ~ 6%
94124	Bayview/Hunters Point	5,932	146	3 ~ 9	149 ~ 155	2% ~ 6%
94132	Lake Merced	6,793	356	3 ~ 6	359 ~ 362	1% ~ 2%
94129	Presidio	1,385	159	~	159 ~ 159	0%
94130	Treasure Island	860	114	~	114 ~ 114	0%
TOTAL		244,012	8,438	925 ~ 1,960	9,363 ~ 10,398	9.9% ~ 18.9%

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model; American Community Survey 2013

Table 18: Impacts on Vacant For Rent Housing of Commercial Short-term Rentals for Private Rooms, by Neighborhood (Low ~ High Estimates)						
Zip Code	**Neighborhood**	**Rental Market Size (2013)**	**Vacancy For Rent (2013)**	**Number of Commercial Room Listings (Low ~ High)**	**Total Potential Rooms for Rent (Low ~ High)**	**Airbnb Commercial Room Listings as % of Total Potential Units (Low ~ High)**
94130	Treasure Island	No data	0	4 ~ 5	4 ~ 5	100%
94158	Mission Bay	2,705	0	1 ~ 2	1 ~ 2	100%
94127	Miraloma/Sunnyside	7,659	71	12 ~ 22	83 ~ 93	14% ~ 24%
94117	Haight-Ashbury/Western Adtn.	19,568	471	71 ~ 98	542 ~ 569	13% ~ 17%
94110	Inner Mission	29,276	940	114 ~ 179	1,054 ~ 1,119	11% ~ 16%
94107	Potrero Hill/South Beach	14,829	388	40 ~ 58	428 ~ 446	9% ~ 13%
94114	Castro/Eureka Valley	17,880	696	71 ~ 102	767 ~ 798	9% ~ 13%
94112	Ingleside/Excelsior	23,498	446	39 ~ 54	485 ~ 500	8% ~ 11%
94111	Telegraph Hill/Waterfront	2,643	46	3 ~ 6	49 ~ 52	5% ~ 11%
94105	Rincon Hill	4,651	89	8 ~ 10	97 ~ 99	8% ~ 10%
94118	Inner Richmond	18,649	409	33 ~ 45	442 ~ 454	7% ~ 10%
94131	Twin Peaks/Glen Park	13,787	385	21 ~ 38	406 ~ 423	5% ~ 9%
94115	Western Addition	18,968	488	27 ~ 46	515 ~ 534	5% ~ 9%
94122	Sunset	23,459	454	25 ~ 35	479 ~ 489	5% ~ 7%
94133	North Beach	14,987	520	24 ~ 39	544 ~ 559	4% ~ 7%
94103	SOMA	14,322	1,072	38 ~ 69	1,110 ~ 1,141	3% ~ 6%
94121	Outer Richmond	18,837	414	16 ~ 25	430 ~ 439	4% ~ 6%
94124	Bayview/Hunters Point	11,096	372	19 ~ 22	391 ~ 394	5%
94109	Russian Hill/Polk Gulch	36,850	1,235	39 ~ 64	1,274 ~ 1,299	3% ~ 5%
94134	Visitacion Valley/Portola	12,088	294	6 ~ 10	300 ~ 304	2% ~ 3%

Table 18: Impacts on Vacant For Rent Housing of Commercial Short-term Rentals for Private Rooms, by Neighborhood (Low ~ High Estimates) (cont'd)						
94104	Financial District	275	32	1 ~ 1	33 ~ 33	3%
94123	Marina/Cow Hollow	15,349	785	14 ~ 24	799 ~ 809	2% ~ 3%
94116	Parkside	16,194	539	10 ~ 16	549 ~ 555	2% ~ 3%
94108	Chinatown	8,554	378	7 ~ 10	385 ~ 388	2% ~ 3%
94102	Tenderloin/Union Sq./Hayes Vly	18,713	1,111	10 ~ 20	1,121 ~ 1,131	1% ~ 2%
94132	Lake Merced	11,227	819	3 ~ 7	822 ~ 826	0% ~ 1%
94129	Presidio	1,216	431	0 ~ 0	431 ~ 431	0%
TOTAL		377,280	12,885	651 ~ 1,004	13,536 ~ 13,888	5 % ~ 7%

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst Utilization Model; American Community Survey 2013

Policy Options

The Board of Supervisors should consider the following actions:

1. Enact legislation requiring hosting platforms to provide host address information and booking information on a quarterly basis for enforcement purposes.
2. Enact legislation requiring hosting platforms to only list units and hosts that are registered with the City.
3. Enact legislation limiting the number of un-hosted nights allowed per year.
4. Amend the Planning Code to allow the Planning Department to levy fines on platforms that list unregistered hosts.

Appendix: Methodology

Airbnb Listing Counts, Distributions, and Prices

Webscrape Total Counts

The Budget and Legislative Analyst's Office reviewed 7 webscrapes of the Airbnb website prepared by three technology professionals. Webscrapes extract and compile data from the public-facing websites and allow for analysis that would otherwise not be feasible or practical to conduct using a standard browser. All seven of the webscrapes reviews show a consistency over time in the number of Airbnb listings and in rates reported by the different webscrapers. The December 2014 webscrape prepared by Murray Cox was used by the Budget and Legislative Analyst for this analysis as this dataset provided the most comprehensive collection of data. Summary information from each of the seven webscrapes is provided in the Appendix to this report.

The webscrapes used were prepared by the following three individuals. Tom Slee, who works in the software industry, writes about technology and politics, is active in the open data and sharing economy communities, and is based in Waterloo, Ontario. Murray Cox is a community activist based in New York City who utilizes his technology skills for various non-profits and community groups. He has a degree in computer science from the University of Sydney. Gus Dolan collaborates with the Anti-Eviction Mapping Project.

Webscrapes are subject to limitations: there may be duplicate or inaccurate listings, and webscrape authors may run the scrapes several times to reduce error. Because of the consistency of the information in the webscrapes reviewed, the Budget and Legislative Analyst concluded that they were reliable sources of information for this analysis.

The table below shows the frequency distribution of types of listing by each of the 7 webscrape.

Appendix Table 1: Number of Airbnb Listings, by Type

	Number of Entire Unit Listings	Number of Private Room Listings	Number of Shared Room Listings	Total Number of Listings
November 2013	3,533	1,917	235	5,685
May 2014	2,991	1,733	192	4,916
August 2014	3,001	1,691	173	4,865
December 2014	3,651	2,196	266	6,113
December 2014	3,329	1,938	235	5,502
February 2015	3,176	1,844	229	5,249
February 2015	2,988	2,101		5,089

Source: Webscrapes prepared by: November 2013, May 2014, August 2014, December 2014 and February 2015: Tom Slee; December 2014: Murray Cox; February 2015: Gus Dolan.

The Budget and Legislative Analyst conducted a review and sampling of Airbnb's current listings to confirm summary statistics of the webscrapes. Average prices were checked by listing type for each webscrape against the website's reported averages. While variations appear from the different webscrapes, the table below also shows consistent relationships in the prices of the different types of rentals.

Appendix Table 2: Number of Listings				
	Number of Entire Unit Listings	Number of Private Room Listings	Number of Shared Room Listings	Total Number of Listings
November 2013 Tom Slee	3,533	1,917	235	**5,685**
May 2014 Tom Slee	2,991	1,733	192	**4,916**
August 2014 Tom Slee	3,001	1,691	173	**4,865**
December 2014 Murray Cox	3,651	2,196	266	**6,113**
December 2014 Tom Slee	3,329	1,938	235	**5,502**
February 2015 Tom Slee	3,176	1,844	229	**5,249**
February 2015 Gus Dolan	2,988	2,101		**5,089**

Source: Webscrapes prepared by: November 2013, May 2014, August 2014, December 2014 and February 2015: Tom Slee; December 2014: Murray Cox; February 2015: Gus Dolan; Budget and Legislative Analyst review of Airbnb.com in April 2015

Percentage Distribution of Listings by Type

HR&A reported a percentage distribution by Airbnb listing type in 2012 which was described to be based on actual Airbnb data. The table below compares the distribution by webscrapes to the distribution reported by HR&A. We determined the frequency distribution by listing type for each and calculated the percentage of total listings report for each of the webscrapes. We also calculated the percentage distribution based on our review in April 2015 of the website. We compared the distribution by listing type for the webscrapes and our review to the HR&A distribution, as a check on the webscrapes. We found the percentage distributions to be similar.

Appendix Table 3: Percent Distribution of Listings by Type			
	% Entire Unit Listing	% Private Room Listing	% Shared Room Listing
HR&A 2012	63%	35%	2%
November 2013 Tom Slee	62%	34%	4%
May 2014 Tom Slee	61%	35%	4%
August 2014 Tom Slee	62%	35%	4%
December 2014 Murray Cox	60%	36%	4%
December 2014 Tom Slee	61%	35%	4%
February 2015 Tom Slee	61%	35%	4%
February 2015 Gus Dolan	59%	41%	0%
April 2015 Airbnb Website	54%	38%	9%

Source: Webscrapes prepared by: November 2013, May 2014, August 2014, December 2014 and February 2015: Tom Slee; December 2014: Murray Cox; February 2015: Gus Dolan; HR&A report 2012; Budget and Legislative Analyst review of Airbnb.com April 2015

Price Check by Types

We checked the average prices by listing type for each webscrape against the website's reported averages. The New York Attorney General's report in 2014 shows seasonality in the usage of Airbnb, which would affect prices based on demand for Airbnb units. The table below reflects the seasonality, showing higher prices in May, November, and December, and lower ones in April.

Appendix Table 4: Average Prices by Listing Type				
	Average Price of Entire Unit Listings	**Average Price of Private Room Listings**	**Average Price of Shared Room Listings**	**Average Price of All Listings**
November 2013 Tom Slee	$240	$111	$73	$190
May 2014 Tom Slee	$254	$132	$87	$204
August 2014 Tom Slee	$281	$134	$94	$224
December 2014 Murray Cox	$239	$115	$72	$239
December 2014 Tom Slee	no data	no data	no data	no data
February 2015 Tom Slee	$322	$153	$105	$253
February 2015 Gus Dolan	$249	$113		$193
April 2015 Airbnb Website	$232	$115	$71	$173

Source: Source: Webscrapes prepared by: November 2013, May 2014, August 2014, December 2014 and February 2015: Tom Slee; December 2014: Murray Cox; February 2015: Gus Dolan; Budget and Legislative Analyst review of Airbnb.com April 2015

Price Check by Sampling

In order to gather further confidence in the price data from the webscrapes, we collected data internally to check prices reported in the webscrapes. We pulled samples of sizes to obtain a 95 percent confidence level + / - 10 for select neighborhoods. We used the distribution by type to collect samples for each type from three zip codes.

Appendix Table 5: Sampling by Neighborhood		
Zip Code	**Total Number of Listings from Airbnb Website**	**Sample for 95% Confidence Interval**
94110	1,000	183
94109	741	120
94103	738	121

Based on the total populations listed by zip code on Airbnb, we selected samples of the sizes found in the table above. We manually went through the website and collected information to check prices and the length of time host is active for our utilization model.

The sampled data was first used to compare the median prices by listing type for each webscrape to our samples. The data showed variations due to seasonality, but showed similarities.

Appendix Table 6: Median Prices of Listings			
	Median Price of Entire Unit Listings	**Median Price of Private Room Listings**	**Median Price of Shared Room Listings**
November 2013 Tom Slee	$193	$99	$54
May 2014 Tom Slee	$201	$111	$62
August 2014 Tom Slee	$214	$118	$79
December 2014 Murray Cox	$190	$105	$60
December 2014 Tom Slee	no data	no data	no data
February 2015 Tom Slee	$249	$141	$83
February 2015 Gus Dolan	$195	$100	
April 2015 Airbnb Website	$182	$110	$60

Source: Source: Webscrapes prepared by: November 2013, May 2014, August 2014, December 2014 and February 2015: Tom Slee; December 2014: Murray Cox; February 2015: Gus Dolan; Budget and Legislative Analyst review of Airbnb.com April 2015

Our samples were also used to check the prices of one of the key webscrapes we utilized in our analysis, the December 2014 Murray Cox webscrape. This webscrape provided a more comprehensive database with locations and dates of activity recorded more thoroughly than the other webscrapes. The table below compares the median reported prices from the December 2014 Murray Cox webscrape and our sample data. These numbers show similarities in the data.

Appendix Table 7: Median Prices of Listings for Sampled Neighborhoods				
		Median Price of Entire Unit Listings	**Median Price of Private Room Listings**	**Median Price of Shared Room Listings**
April 2015 Airbnb Website	**94103**	$199	$113	$65
	94109	$195	$107	$159
	94110	$174	$100	$53
December 2014 Murray Cox Webscrape	**94103**	$185	$115	$59
	94109	$193	$120	$74
	94110	$180	$100	$59

Source: Webscrape of Airbnb website prepared by Murray Cox, December 2014; Budget and Legislative Analyst review of Airbnb.com April 2015

Model to Estimate Utilization Rate (Days per Year)

Our model to estimate utilization rate in days per year required several preliminary calculations.

Apparent review rate

Total # reviews / Total # bookings = Review rate **(1)**

Airbnb stated that the rate of reviews was 72 percent in 2012. However, data on New York City's apparent reviews and bookings show a rate of 30.5 percent. The New York Attorney General's report on Airbnb released in October 2014 shows a total of 497,322 bookings from January 1, 2010 through June 2, 2014. Data pulled from Murray Cox's InsideAirbnb.com showed reviews of 151,623 from January 1, 2010 through June 2, 2014, which is an apparent review rate of 30.5 percent.

We interpret this 30.5% of reviews as the apparent review ratio, in that the number of visible reviews to the number of actual bookings remains a reliable variable assuming

that Airbnb behaves similarly with the San Francisco market in its activities around reviews.

We used both ratios in our calculations. The 30.5 percent apparent review ratio estimated a higher number of bookings to apparent reviews, and the 72 percent review ratio estimated a lower number of bookings to reviews.

 # Days listing active

Date of host join - Date of first review = # Days listing active **(2)**

The dates a listing is active was calculated by subtracting the date of the host joining from the date of last review. Airbnb has been noted to remove older reviews and alter the review displays.

 # Reviews per average booked nights

(# Reviews for a listing / Review rate) * Average # nights for a listing = Estimated # nights booked for a listing **(3)**

We divided the number of reviews visible on the site by the review rate to get the estimated number of bookings (see (1)), and multiplied this by the average number of nights per stay of 5.1 as reported by SF Travel. This gives us an estimate of the number of nights the Airbnb listing is occupied.

Utilization rate over lifetime of listing

Estimated # nights booked for a listing / # Days listing active = Utilization rate over lifetime of listing **(4)**

We divide the estimated number of nights booked for a listing (3) by the dates a listing is active (2), to determine the utilization rate over the lifetime of a listing.

Utilization rate model

Utilization rate over lifetime of listing * 365 days = # Days a listing is booked out of the year **(5a)**

We multiple the utilization rate in (4) by 365 days in a year to obtain an estimate of the number of days a listing is booked out of the year. This is our utilization rate.

To put it all together, our model to estimate utilization rate (days per year) is as follows:

([(# Reviews for a listing / Review rate) * Average # of nights for a listing] / # Days listing active) * 365 days = # Days a listing is booked out of the year **(5b)**

Estimated revenue

Price per night * # Days a listing is booked out of the year = Estimated revenue per listing per year **(6a)**

Estimated revenue per listing per year / 12 = Estimated revenue per listing per month **(6b)**

The webscrapes provided listing prices per night. We multiplied this by the number of days a listing is booked out of the year to get an estimate of the revenue per year. We divided the estimated revenue per year by 12 to get an estimated revenue per month.

<u>Number of Rentals Available "for rent" by Neighborhood</u>

The American Community Survey is conducted annually by the U.S. Census Bureau. Compared to the relatively comprehensive 10-year Census, the American Community Survey is a "mandatory ongoing statistical survey that samples a small percentage of the population every year." The American Community Survey selects approximately 1-in-480 addresses to mail 3.5 million questionnaires annually. While this is a significant number of individuals and addresses surveyed, it still relies on statistical assumptions, which result in a margin of error for every American

Community Survey estimate. The American Community Survey Rental Vacancy figures include all units listed for rent but currently not occupied and all units that are rented but have yet to be occupied by the incoming tenant. The total number of units that are vacant but have incoming tenants is expected to be small, but does somewhat inflate the size of the available rental units listed on the market.

Another survey challenge of the American Community Survey is that field representatives are only deployed to review addresses which did not reply by mail, internet or phone. As such, there are no field representatives present to independently assess the units reported by mail, internet or phone. If a survey respondent has any reason to falsely report or not report a vacant unit these false responses are then included in the data. Despite these shortcomings, the American Community Survey vacancy data was the most reliable, comprehensive, and up-to-date data source identified by the Budget and Legislative Analyst.

Size of Rental Market by Neighborhood

The American Community Survey includes an estimate of Rental Vacancy Rates, and the rental market size by neighborhood was backed out of the 5-year estimate of the Rental Vacancy Rate. The American Community Survey summary of definitions defines the Rental Vacancy Rate as "The rental vacancy rate is the proportion of the rental inventory that is vacant "for rent." It is computed by dividing the number of vacant units "for rent" by the sum of the renter-occupied units, vacant units that are "for rent," and vacant units that have been rented but not yet occupied, and then multiplying by 100. This measure is rounded to the nearest tenth."

American Community Survey estimates vacant units "for rent," renter-occupied units, and rented but not yet occupied units. There three were added to find the size of the rental market. This was checked against the American Community Survey's estimate of the overall housing stock and subtracting out the home ownership rate for the city to get the size of the rental market.

Rental Unit and Room Prices

Gross rents reported by the American Community Survey were used for 2013 rents. Zillow median rental prices by zip code over 2014 were used for market rate comparisons.

Appendix Table 8: Rents by Neighborhood			
Zip Code	**Neighborhood**	**Median Rent (2013)**	**Room Rental Price (2013)**
94102	Tenderloin/Union Square/Hayes Valley	$2,326.51	$840
94103	SOMA	$3,460.00	$922
94104	Financial District	$2,709.00	$673
94105	Rincon Hill	$2,984.33	$2,000+
94107	Potrero Hill/South Beach	$2,677.14	$2,000+
94108	Chinatown	$3,107.21	$1,019
94109	Russian Hill/Polk Gulch	$2,745.13	$1,379
94110	Inner Mission	$2,606.35	$1,459
94111	Telegraph Hill/Waterfront	$7,051.04	2,000+
94112	Ingleside/Excelsior	$2,404.98	$1,398
94114	Castro/Eureka Valley	$3,140.04	$1,771
94115	Western Addition	$2,648.82	$1,563
94116	Parkside	$2,060.63	$1,639
94117	Haight-Ashbury/Western Addition	$3,420.32	$1,732
94118	Inner Richmond	$2,305.93	$1,621
94121	Outer Richmond	$2,024.53	$1,512
94122	Sunset	$2,242.05	$1,663
94123	Marina/Cow Hollow	$2,836.71	$1,838
94124	Bayview/Hunters Point	$2,025.66	$892
94127	Miraloma/Sunnyside	$2,439.37	$2,000+
94130	Presidio	-	$1,582
94131	Twin Peaks/Glen Park	$2,469.24	$1,728
94132	Lake Merced	$2,786.42	$1,797
94133	North Beach	$3,288.60	$1,274
94134	Visitacion Valley/Portola	$2,486.89	$1,101
94158	Mission Bay	$3,235.72	$2,000+

Source: American Community Survey 2013

Appendix Table 9: Market Rates by Neighborhood				
Zip Code	**Neighborhood**	**Market Rental Rate (2014)**	**Average Number of Bedrooms (2013)**	**Room Market Rental Price (2014)**
94102	Tenderloin/Union Square/Hayes Valley	$3,512	0.82	**$4,300**
94103	SOMA	$3,670	1.19	**$3,079**
94104	Financial District	$3,940	0.62	**$6,336**
94105	Rincon Hill	$4,265	1.48	**$2,887**
94107	Potrero Hill/South Beach	$3,819	1.58	**$2,419**
94108	Chinatown	$3,412	1	**$3,405**
94109	Russian Hill/Polk Gulch	$3,600	1.12	**$3,205**
94110	Inner Mission	$3,782	1.95	**$1,943**
94111	Telegraph Hill/Waterfront	$3,815	1.31	**$2,905**
94112	Ingleside/Excelsior	$2,763	2.55	**$1,083**
94114	Castro/Eureka Valley	$4,331	1.94	**$2,228**
94115	Western Addition	$3,594	1.6	**$2,248**
94116	Parkside	$3,314	2.63	**$1,261**
94117	Haight-Ashbury/Western Addition	$3,751	1.81	**$2,071**
94118	Inner Richmond	$3,750	2.11	**$1,781**
94121	Outer Richmond	$3,087	2.16	**$1,432**
94122	Sunset	$3,065	2.25	**$1,363**
94123	Marina/Cow Hollow	$4,021	1.56	**$2,535**
94124	Bayview/Hunters Point	$2,375	2.54	**$933**
94127	Miraloma/Sunnyside	$4,140	2.98	**$1,391**
94129	Presidio	$3,344	2.71	**$1,234**
94131	Twin Peaks/Glen Park	$3,574	2.13	**$1,679**
94132	Lake Merced	$2,911	2.3	**$1,265**
94133	North Beach	$4,068	1.49	**$2,731**
94134	Visitacion Valley/Portola	$2,836	2.62	**$1,081**
94158	Mission Bay	$3,887	1.36	**$2,853**

Source: American Community Survey 2013, Zillow.com

Eviction rates

The San Francisco Rent Board provided data on the number of eviction notices filed. The Rent Board does not track the purpose of evictions systematically and does not follow up on outcomes of notices filed, but stated that the notices filed are a reliable indicator of the number of actual evictions.

Short Changing New York City

The impact of Airbnb on New York City's housing market

June 2016

Prepared by BJH Advisors LLC

For Housing Conservation Coordinators Inc.
MFY Legal Services Inc.

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Executive Summary

The short-term rental market in New York City has swelled in recent years as a result of the emergence and rapid growth of online platforms. This expansion has created many challenges for communities throughout the City and negatively impacted the residential rental market. For decades, the residential rental vacancy rate has remained well below 5 percent, which the New York State legislature classifies as a housing emergency.[1] Converting residential units to short-term rentals removes units from the housing supply and exacerbates the existing housing emergency. Any pressure on supply is likely to catalyze an increase in rental prices, an issue that is deeply concerning in New York City where affordable housing is already severely limited. Moreover, short-term rental units have been found to consistently violate health, safety, building, and zoning regulations. In New York, many short-term rental units blatantly breach the Multiple Dwelling Law, which prohibits occupancy of units within residential buildings with three or more units for less than 30 days unless a permanent resident is present during the rental period.[2]

There are a number of players and platforms facilitating short-term rental transactions in New York City. This report focuses exclusively on Airbnb short-term rental activity because of its role as the leader in the industry and constraints in obtaining comprehensive short-term rental data from other online rental platforms. For the purposes of this report, 2015 Airdna data[3] on Airbnb listings was analyzed to assess the interaction between the short-term and the traditional rental market in New York City. This analysis focuses on a key subset of Airbnb listings, which BJH defines as "Impact Listings." Impact Listings are units that are most likely to result in the reduction in the supply of residential rental units, and thus compound the challenges in the housing market related to excessively low vacancy rates and rising prices. In order to meet the definition of "Impact Listings," an Airbnb listing must meet all of the following criteria:

1. **"Entire Apartment/Home"** defined as unique units listed on Airbnb in 2015 that allow rental of entire homes or apartments.
2. **"Regular Short-Term"** defined as unique units listed on Airbnb in 2015 that:
    a) Are booked for rental periods of less than 30 days;
    b) Are booked for more than one reservation in a month; **and**
    c) Have at least one non-booked day in a month.
3. **"Commercial"** defined as unique units listed on Airbnb in 2015 that met one of two criteria:
    a) Are listed for at least 3 months per year by hosts that listed more than one unit on Airbnb ("multi-listers"); **or**
    b) Are listed for at least 6 months per year by hosts that listed only one unit on Airbnb ("single-listers").

[1] See, Timothy L. Collins and the Staff of the New York City Rent Guidelines Board, An Introduction to the New York City Rent Guidelines Board and the Rent Stabilization System, (February 2016): 1, 4.
[2] See, Office of the New York Attorney General, Airbnb in the city, (October, 2014): 2, 8.
[3] Airdna is a third-party firm that uses advanced artificial intelligence and machine learning technology to model Airbnb occupancy based on listings and historical Airbnb occupancy data. Airdna is the only reliable source for short-term rental data that includes occupancy rates and revenue data.

Key Findings

Airbnb listings are concentrated in a few neighborhoods in Manhattan and Brooklyn.

A disproportionate share of Airbnb listings is concentrated in the boroughs of Manhattan and Brooklyn. New York City Airdna data for calendar year 2015, (the "study period"), shows that **over 90 percent of the 51,397 Airbnb listings are concentrated in these two boroughs**, whereas less than 60 percent of the total housing supply in New York City is located in these boroughs. Within Manhattan and Brooklyn, Airbnb listings are clustered in several neighborhoods. In fact, **53 percent of all Airbnb listings are located in one of the following five "macro-neighborhoods"** - East Village/Lower East Side (LES), Chelsea/Hell's Kitchen, West Village/Greenwich Village/SoHo, Williamsburg/Greenpoint/Bushwick, and Bedford Stuyvesant/Crown Heights.

Short-term rentals continue to flout building and safety regulations.

The New York State Multiple Dwelling Law prohibits occupancy of units within residential buildings with three or more units for less than 30 days unless a permanent resident is present during the rental period. Thus, short-term rentals that allow the tenant to book an Entire Apartment/Home in multiple dwellings violate the Multiple Dwelling Law. In New York City, during the study period, **more than 55 percent of Airbnb listings (28,765 unique units) allow the booking of an Entire Apartment/Home.**

Based on the neighborhood analysis, Entire Apartment/Home listings are more prevalent in Manhattan macro-neighborhoods, as compared to Brooklyn macro-neighborhoods. **More than 63 percent of Airbnb listings in the three Manhattan neighborhoods are Entire Apartment/Home, whereas just over 40 percent of Airbnb listings in the Brooklyn neighborhoods are classified as Entire Apartment/Home.** It should be noted that Entire Apartment/Home listings that are located in residential buildings with fewer than three units do not violate the Multiple Dwelling Law. However, it is likely that many Entire Apartment/Home listings do violate the Multiple Dwelling Law due to the predominance of multi-family housing (buildings with three or more units) in the areas with significant Airbnb activity.

Commercial use of Airbnb is pervasive.

A significant number of hosts engage in commercial activity through Airbnb. In fact, 70 percent of all units listed in New York City have more than one reservation per month, and **over 30 percent of Airbnb listings in New York City are classified as Commercial** based on the number of units controlled by the host and the length of time the listing is available on Airbnb. Even more staggering, **8,058 listings (16 percent of all listings) are defined as Impact Listings**, due to regular participation in commercial activity on the Airbnb platform. **More than half of these Impact Listings were managed by hosts that control multiple Airbnb units.** In the aggregate, these **Impact Listings are likely to generate $27.6 million in average monthly revenue.**

Impact Listings may exacerbate already severely low vacancy rates.

The residential rental vacancy rate in New York City is between 3.4 and 3.6 percent and has remained below 5 percent for decades.[4] The New York City Rent Guidelines Board has determined that rental vacancy rates below 5 percent are likely to generate market distortions that result in tenant hardships and displacement.[5] Moreover, the New York City Legislature has determined that a residential rental vacancy rate below 5 percent constitutes a housing emergency.[6]

The potential for Impact Listings to provide housing for New Yorkers is notable. **If the 8,058 units defined as Impact Listings were made available on the rental market, the number of vacant rental units citywide would increase by 10 percent and the vacancy rate would rise to 4.0 percent**, holding all else constant. However, this finding is even more salient at the macro-neighborhood level. For example, if the 687 Impact Listings identified in the West Village/Greenwich Village/SoHo were made available on the rental market, the vacancy rate for these neighborhoods would increase from 2.9 percent to 5.0 percent. Similarly, if the 1,154 Impact Listings identified in Chelsea/Hell's Kitchen were reintroduced into the rental market as vacant units, the vacancy rate for these neighborhoods would rise from 4.2 to 5.7 percent.

Geographic concentration of Airbnb listings coincides with rapidly changing neighborhoods.

The analysis finds that there is a strong correlation between Impact Listings and rental prices. In New York City on the whole, **the correlation between Airbnb listings and median asking price for residential rental units is 0.93**, an extremely strong correlation suggesting that the number of Impact Listings and asking prices are both increasing over time at a similar rate.

Additionally, the findings reveal that **average Airbnb monthly revenue is greater than median monthly asking price in all five macro-neighborhoods**. In some cases, the premium is remarkably pronounced. For example, in West Village/Greenwich Village/SoHo average monthly revenue per Airbnb listing is $822 greater than median asking price. This premium equates to nearly $10,000 per listing on an annual basis. In Chelsea/Hell's Kitchen, the estimated average monthly Airbnb revenue is $678 greater than median monthly asking price, which amounts to $8,000 per year for each listing. **These discrepancies create an incentive to participate in the short-term rental market**, which in turn may catalyze a cycle of constrained supply and increasing rents.

The New York University Furman Center ("Furman Center") in its 2015 report, *State of New York City's Housing and Neighborhoods in 2015*, identified three of the five macro-neighborhoods studied – East Village/Lower East Side, Williamsburg/Greenpoint/Bushwick, and Bedford Stuyvesant/Crown Heights - as "gentrifying neighborhoods" based on rapid

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[4] Collins and the Staff of the New York City Rent Guidelines Board, An Introduction to the New York City Rent Guidelines Board and the Rent Stabilization System: 1,4.
[5] Ibid: 1.
[6] The NYS Emergency Tenant Protection Act (1974) [ETPA]: Section 3: Local Determination of Emergency; end of Emergency. Accessed 25 May 2016. http://tenant.net/Rent_Laws/ETPA/etpa-03.html.

increases in prices between 1990 and 2014, reductions in the supply of affordable housing, and changes in neighborhood composition. The report finds that rents increased between 36 percent (for Bedford Stuyvesant) and 79 percent (for Williamsburg) between 1990 and 2014.[7]

Based on analysis of U.S. Census and American Communities Survey data, all neighborhoods studied experienced changes in demographic composition between 2000 and 2014. Most notably, the neighborhoods have experienced changes in the proportion of white residents and the proportion of residents over 25 years old with a Bachelor's degree or higher education, two indicators of gentrification defined by the Furman Center's report. In fact, the proportion of residents with at least a Bachelor's degree increased by greater than 12 percentage points in each of the five macro-neighborhoods. The change in racial composition was most prominent in Brooklyn neighborhoods, demonstrating an influx of white residents. The proportion of white residents increased by 10 percentage points in Williamsburg/Greenpoint/Bushwick and by 13 percentage points in Bedford Stuyvesant/Crown Heights. The Brooklyn macro-neighborhoods also experienced the sharpest decline in the poverty rate, indicating new residents moving into the communities are likely to be higher income.

[7] New York University Furman Center, *State of New York City's Housing and Neighborhoods in 2015*: 6.

1. Introduction

Background on the New York City Residential Rental Market

Quality housing that is affordable to most residents is strikingly limited in New York City. The citywide rental vacancy rate, which is currently 3.4 percent,[8] has consistently remained below 5 percent for decades.[9] According to the New York City Rent Guidelines Board, a vacancy rate below 5 percent "creates abnormal market conditions." Additionally, the New York City Council and State legislature has identified that vacancy rates below 5 percent "cause 'severe hardship to tenants' and force the 'uprooting of long-time city residents from their communities.'" [10] Furthermore, the New York State Emergency Tenant Protection Act established the declaration of a housing emergency if the vacancy rate for housing falls below 5 percent.[11]

The 2014 Housing and Vacancy Survey identified a distinct difference between vacancy rates for units that are defined as affordable and high cost rental units. The vacancy rate for units that are rent-regulated, or defined as affordable (less than $800 in monthly rent), is below 2 percent.[12] The vacancy rate for units with rents between $1,000 and $2,000 is similarly low, ranging between 3.1 and 3.2 percent.[13] On the contrary, the vacancy rate for units with monthly rent above $2,500 is greater than 7 percent and has increased in the past three years.[14]

Severely low vacancy rates have coincided with increases in rental prices. Since 2000, median rent has increased by 27 percent.[15] Household income has not kept pace with increases in rent. During the same time period, median household income in New York City declined by 5 percent.[16] The decline in median household income is even more dramatic for renters, who have experienced an 8 percent decline.[17] Thus, as housing expenses increase, families have less money to spend on housing. A 2016 report by the Community Service Society indicates that this trend is most pronounced for households with the lowest incomes. The report finds that rents have increased 30 percent faster than incomes for households ranked in the bottom quintile for median income.[18] This trend is measured through the increasing percent of families that are rent burdened, defined by the federal government as spending 30 percent or more of total income on housing.[19] In 2014, 30 percent of households in New York City were

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[8] See, Collins and the Staff of the New York City Rent Guidelines Board, *An Introduction to the New York City Rent Guidelines Board and the Rent Stabilization System*: 1.
[9] Ibid: 4.
[10] Ibid: 1.
[11] The NYS Emergency Tenant Protection Act (1974) [ETPA]: Section 3: Local Determination of Emergency; end of Emergency. Accessed 25 May 2016. http://tenant.net/Rent_Laws/ETPA/etpa-03.html.
[12] New York City Department of Housing Preservation and Development, Selected Initial Findings of the 2014 New York City Housing and Vacancy Survey, by Elyzabeth Gaumer, (February 2016): 18.
[13] Ibid.
[14] Ibid.
[15] New York University Furman Center, *State of New York City's Housing and Neighborhoods in 2015: 66.*
[16] Ibid: 67.
[17] Ibid.
[18] Tom Waters and Victor Back, *Making the Rent. The Community Service Society of New York*, (May 2016): 2.
[19] New York University Furman Center, *State of New York City's Housing and Neighborhoods in 2015*: 167.

identified as severely rent burdened, indicating they spend more than 50 percent of their income on housing, an increase from 24 percent in 2000.[20] Of households earning below 80 percent of area median income, almost half – 49 percent - are defined as severely rent burdened, up from 40 percent in 2000.[21]

Short-Term Rental Market

These challenges in the housing market are influenced by a multitude of complex and interrelated issues that range from employment opportunities and migration trends to city and state housing policies to interest rates. This report is designed to explore one particular issue that has been thought to exacerbate the availability of affordable housing in New York City: the short-term rental of residential housing. Short-term rentals, housing units leased for less than 30 days, have existed in New York City for decades. In the early 2000's, several single-room occupancy (SRO) residential buildings in the Upper West Side of Manhattan were converted to short-term rentals. SRO units, which generally do not have private bathrooms or kitchen facilities and are often considered the housing of last resort for New York City's lowest income residents. However, landlords were able to secure considerably higher rates by renting these units on a nightly basis to travelers or others seeking short-term housing. In recent years, the emergence of online platforms, such as Airbnb, VRBO, Booking.com, Craigslist, Homeaway, and Roomorama, have fostered growth of the short-term rental market by expanding access for both hosts and users.

Proponents hail short-term rental platforms as economic development engines that allow peripheral neighborhoods to capture tourist revenue that was once more heavily concentrated in areas known as traditional tourist destinations. [22] Additionally, online short-term rental platforms have been celebrated for creating opportunities for individuals to supplement their income.[23] Yet, opponents of the rapidly growing short-term rental market argue that the trend negatively impacts neighborhoods and the residential rental market. First, this kind of rental activity within a neighborhood can contribute to constrained supply and increasing prices for rental housing.[24]

Additionally, short-term rentals have been found to consistently flout zoning and safety regulations.[25] Most notably, short-term rentals are likely to violate the Multiple Dwelling Law in New York State, which is designed to uphold health, safety, and fire protection standards. The

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[20] New York University Furman Center, *State of New York City's Housing and Neighborhoods in 2015*: 67.
[21] Ibid.
[22] See, for example, Kaplan and Nadler, "Airbnb: A Case Study in Occupancy Regulation and Taxation," *The University of Chicago Law Review Dialogue*, 103, (2015): 104-107, and the San Francisco Budget and Legislative Analyst's Office, *Re: Analysis of the Impact of Short-Term Rentals on Housing*, prepared for Supervisor Campos. May 13th, 2015: 8-10.
[23] Ibid.
[24] See, Roy Samaan, *Airbnb, Rising Rent, and the Housing Crises in Los Angeles*, (LAANE, March 2015), Dayne Lee, "How Airbnb Short-Term Rentals Exacerbate Los Angeles' Affordable Housing Crises: Analysis and Policy Recommendations," Harvard Law Review, Vol. 10, (2016) 229-253, Ariel Stulberg, "How Much Does Airbnb impact rents in NYC?" *The Real Deal,* October 14th, 2015. Accessed March 25th, 2016, http://therealdeal.com/2015/10/14/how-much-does-airbnb-impact-nyc-rents/, Office of the New York Attorney General, *Airbnb in the city,* (October, 2014), and San Francisco Budget and Legislative Analyst's Office, *Re: Analysis of the Impact of Short-Term Rentals on Housing*.
[25] See, Office of the New York Attorney General, *Airbnb in the city: 2, 8.*

Multiple Dwelling Law prohibits occupancy of units within residential buildings with greater than three units for less than 30 days unless a permanent resident is present during the rental period.[26] Additionally, New York City imposes significantly stricter fire and building regulations on commercial hotels and other transient accommodations than residential buildings that house long-term tenants.[27] Because many short-term rentals are located within residential properties that are designed for long-term tenants, it is highly likely that these properties violate fire and safety regulations.[28]

Lastly, opponents argue that the presence of short-term rentals can disrupt the security and quality of life of permanent tenants in their neighborhoods. A 2008 report by a coalition of housing advocates identified that most residential buildings designed for permanent tenants are not equipped with the proper security mechanisms to regulate many new, unfamiliar guests entering and exiting the building.[29] The report, which includes interviews from residents faced with short-term rental activity in their neighborhood, also argues that the introduction of many transient occupants with limited ties to a neighborhood can erode neighborhood cohesion.[30]

The Rise of Airbnb

While there are a number of online platforms that facilitate short-term rentals, in recent years Airbnb has emerged as the largest company focused on the short-term rental market. Founded in 2008, Airbnb is an online housing platform that aggregates individual properties available for short and long-term occupancy and facilitates booking and payment for accommodations. When a stay is booked through the platform, Airbnb collects a percentage of the entire cost of the booking as a fee. Since 2008, the company has grown and evolved rapidly, and it now facilitates booking of entire homes and apartments, private rooms or shared rooms in over 190 countries. Today, the value of Airbnb is estimated at $25.5 billion, more than the Marriott International hotel chain.[31]

Research shows that there has been a rise and increasing trend toward "commercial" use of the Airbnb platform, and that a disproportionate share of revenue is generated by these hosts. While the definition of commercial use varies among researchers, many studies coalesce around a key characteristic of the term – it involves a property that is not lived in by the host, but primarily dedicated to generating revenue through short-term rentals. A 2014 memorandum by the San Francisco Budget and Legislative Analyst Office determined that, in its base case modeling scenario, 31 percent of hosts in San Francisco were commercial users: either hosts of entire homes or apartments that were booked for more than 58 nights per year,

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[26] Ibid: 8.
[27] See, Illegal Hotels Working Group, Room by Room: Illegal Hotels and the Threat to New York's Tenants, June 2008: 28.
[28] Ibid: 28-29.
[29] Ibid: 26.
[30] Ibid: 26-27.
[31] Sara Ashely O'Brien, "'Crazy money'- Airbnb valued at over $25 billion," CNN Money, June 27, 2015, accessed June 14, 2016. http://money.cnn.com/2015/06/27/technology/airbnb-funding-valuation-update.

or hosts of private or shared rooms within an apartment that were booked for more than 88 nights per year.[32]

O'Neill and Ouyang, in a 2016 article published by the Penn State School of Hospitality Management, find that Airbnb hosts that list multiple units generate 40 percent of Airbnb's revenue in 12 of its largest markets in the United States.[33] Furthermore, they find that the revenue generated by hosts who listed more than two units grew by 81 percent from September 2014 to September 2015.[34] O'Neill and Ouyang also identify 2,675 hosts that leased Airbnb units full-time (360 or more days per year) in the 12 markets they studied and calculated the average annual revenue generated by these hosts was greater than $142,000.[35]

Relationship Between Airbnb and Housing Supply and Prices

Numerous studies link the use of Airbnb, and in particular, the commercial listing of entire apartments on Airbnb, to a reduction in the supply and an increase in the price of rental housing. The 2014 San Francisco Budget and Legislative Analyst's Office memorandum determined that, in its base case modeling scenario, short-term rentals listed on Airbnb removed approximately 15 percent of San Francisco's vacant rental housing from the market.[36] A 2016 article by Dayne Lee published in the Harvard Law Review argues that by converting long-term rentals into short-term rentals, Airbnb significantly reduces the rental housing supply in Los Angeles. Lee reports that in the Los Angeles neighborhoods with the highest Airbnb listing concentrations, Airbnb reduces the overall residential rental supply by up to 3 percent. Lee also notes that every 1 percent decrease in housing stock may lead to a 0.2 percent increase in rent. He states that rental prices in these select neighborhoods have increased 33 percent faster than rental prices citywide.[37]

This finding is supported by Roy Samaan's 2015 report for LAANE, which determines that average rents in Airbnb's top grossing Los Angeles neighborhoods are 20 percent higher than the citywide average.[38] Samaan also reports that rental prices in these neighborhoods have increased by 16 percent since 2013, more than the citywide average of 12 percent.[39] While Samaan's analysis does not causally link Airbnb activity to these rental premiums, he does hypothesize that the use of Airbnb contributes to increased rental prices by incentivizing profit-seeking landlords to convert their long-term rental units into short-term rental units.[40]

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[32] San Francisco Budget and Legislative Analyst's Office*, Re: Analysis of the Impact of Short-Term Rentals on Housing*: 2-3.
[33] See, John W. O'Neill and Yuxia Ouyang, *From Air Mattresses to Unregulated Business: An Analysis of the Other Side of Airbnb,* (Penn State School of Hospital Management, 2016): 3.
[34] Ibid: 4.
[35] Ibid: 3.
[36] San Francisco Budget and Legislative Analyst's Office *Re: Analysis of the Impact of Short-Term Rentals on Housing*: 14.
[37] Dayne Lee, "How Airbnb Short-Term Rentals Exacerbate Los Angeles' Affordable Housing Crises: Analysis and Policy Recommendations:" 234-238.
[38] Roy Samaan, *Airbnb, Rising Rent, and the Housing Crises in Los Angeles*: 19.
[39] Ibid.
[40] Ibid*:* 19-20.

Airbnb in New York City

Airbnb usage on the rise

In 2014, a report issued by the New York Attorney General's Office (NYAG) explores the proliferation of Airbnb activity in New York City. The report focuses solely on short-term bookings of entire apartments/homes or private rooms, which it defines as "private short-term rentals." The report found that the number of "private short-term rentals" that booked stays on Airbnb's platform increased by more than 500 percent during the study period. Over the full year of 2010, 2,652 unique "private short-term rentals" were listed on the Airbnb platform. Between January and June 2014 only, more than 16,400 "private short-term rentals" were listed on Airbnb. During its study period, booking activity for "private short-term rentals" increased by more than tenfold. The report also indicates that there were approximately 20,800 bookings of "private short-term rentals" in 2010. Even more striking, during the first five months of 2014 the total number of bookings for "private short-term rentals" increased to 243,000.[41]

Violations to New York City and State laws

The Attorney General's report determined that 72 percent of the Airbnb units studied were in violation of the New York State Multiple Dwelling Law or New York City's Administrative Code, which establishes building codes to promote health and safety.[42] This issue is confounded by the rapid growth of "private short-term rental" bookings documented during the study period from January 2010 to June 2014.

Significant commercial use

The Attorney General's report found that 6 percent of all hosts in its data set listed more than two unique units, but that those "commercial hosts" controlled more than 20 percent of all unique, "private short-term rentals" and generated 37 percent of all revenue from those listings.[43] The report also found that one commercial user in New York City controlled 272 unique, "private short-term rentals" listed on Airbnb and generated 2 percent of all New York host revenue for "private short-term rentals."[44]

O'Neill and Ouyang's research in the New York City market supports the NYAG's report. O'Neill and Quyang found that 14 percent of all hosts in New York list multiple units, and those hosts generated 32 percent of revenue during the study period. They further determined that 3 percent of hosts in New York qualified as full-time operators and generated 24 percent of all revenue from Airbnb bookings during the study period.[45]

Impact of Airbnb on supply and pricing

Airbnb short-term rentals have been found to impact housing supply and rental prices in New York City. The Attorney General's report finds that "private short-term rentals" booked on Airbnb removed as many as 4,600 units from New York City's permanent housing market in

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[41] Ibid: 6.
[42] Office of the New York Attorney General, *Airbnb in the city*: 2, 8.
[43] Ibid: 10.
[44] Ibid: 11.
[45] O'Neill and Ouyang, *From Air Mattresses to Unregulated Business: An Analysis of the Other Side of Airbnb*: 3, 6.

2013.[46] It also identifies several neighborhoods in Manhattan that it classifies as "rapidly gentrifying" as focal points for Airbnb activity: Lower East Side/Chinatown, Chelsea/Hell's Kitchen, and Greenwich Village/SoHo. The report indicates that more than 40 percent of revenue from "private short-term rentals" was generated in these neighborhood.[47] Additionally, Ariel Stulberg, in a 2015 article for *The Real Deal*, estimates that Airbnb listings contribute to increased rental housing prices in several neighborhoods that experience heavy Airbnb activity. For example, median rental housing prices were estimated to increase by $37 to $69 per month in Williamsburg and Greenpoint and by $30 to $57 per month in the East Village, the Lower East Side and Chinatown.[48]

Purpose and Scope of Work

The purpose of this report is to explore the relationship between short-term rental activity and the residential rental market in New York City. The short-term rental market is comprised of a multitude of players and platforms. However, due to limitations with obtaining comprehensive data on short-term rental stays, the research for this report focuses on Airbnb activity through data obtained by Airdna. As a result, the findings presented in this report are inherently conservative since the full universe of short-term rentals has not been studied.

This analysis of the short-term rental market was conducted through two primary tasks, outlined below and explained in more detail in the following section:

1. Analyze Airbnb's listing data for 2015 to identify trends in the type, volume, and price of Airbnb listings within the context of the New York City housing market.

2. Examine these trends in five key neighborhoods with a strong presence of Airbnb listings:
   a) East Village/Lower East Side ("LES")
   b) Chelsea/Hell's Kitchen
   c) West Village/Greenwich Village/SoHo
   d) Williamsburg/Greenpoint/Bushwick
   e) Bedford Stuyvesant/Crown Heights

[46] Office of the New York Attorney General, *Airbnb in the city:* 12.
[47] Ibid: 16.
[48] Ariel Stulberg, "How much does Airbnb impact rents in NYC?"

2. Methodology

Data

BJH used a variety of third-party data sources to carry out the analysis for this report. The analysis of Airbnb's listings in New York City is based on Airdna monthly listings data for New York City for the period from January 2015 to December 2015. Airdna is a third-party firm that provides data and analytics on Airbnb listings and bookings. It tracks the daily performance of over 2 million listings across 5,000 cities worldwide and provides data products that include occupancy rates, seasonal demand and revenue generated by short-term rentals. Airdna is the only reliable source for short-term rental data that includes occupancy rates and revenue data.

In order to produce reliable Airbnb booking data, Airdna uses advanced artificial intelligence and machine learning technologies to identify blocks of unavailable dates observed on Airbnb's platform as either booked by a customer or blocked by the host. It should be noted that since the fourth quarter of 2015, Airbnb has altered the platform so that it is not possible to distinguish between booked units and units that are blocked by the host. Thus, occupancy data from Airdna relies on modeling and is an approximation of actual occupancy data for the study period. Airdna's ability to develop an occupancy model is based on its extensive historical dataset which captured actual booked and blocked data for 18 months prior to the changes in the platform that obscured this distinction, as well as institutional knowledge of Airbnb host behavior and smart application of modern artificial intelligence technology, which continues to extract patterns and improve its predictive capabilities as it observes more data over time.

This report is based on an analysis of Airdna's monthly data for all Airbnb listings with at least one booking in a month, from January to December 2015. BJH distilled this data into a set of unique Airbnb listings in 2015 and analyzed the following indicators:

1. Average occupancy rate
2. Average number of unique reservations per month
3. Average days reserved per month
4. Average daily revenue
5. Average monthly revenue

For data regarding residential and rental housing supply and vacancies in New York City, BJH employed publicly available data from the New York City Department of City Planning Primary Land Use Tax Lot Output database (PLUTO) and the American Community Survey (ACS), produced by the United States Census Bureau. The 2015 PLUTO dataset contains extensive land use and geographic data at the tax lot level and the ACS is an ongoing survey that provides information on a multitude of categories regarding communities in the United States, including housing supply by category and location, and vacancy rates. The ACS datasets used for this study were produced in 2014 (the most current available).

Demographic data was collected from the 2014 ACS and the 2000 U.S. Census.

Finally, the rental price data was obtained from publicly-available data from Zillow Research that aggregates monthly median asking prices for all housing advertised on Zillow or Streeteasy at the zip code level for December 2015.

Methodology

In order to determine the impact of short-term rentals in New York City, this study examines Airbnb's listing data for 2015 in the context of New York City's rental market. Specifically, this study analyzes the effect of Airbnb listings on rental housing in New York City using the following methodology:

1) ***Analysis of the overall residential rental market.***

   The overall residential market was analyzed at three geographic levels:

   a) New York City as a whole;
   b) Borough level; and
   c) Five macro-neighborhoods, described below.

   Residential market analysis focuses on the supply of housing, the vacancy rate and the median residential rental asking price in 2015.

   At the macro-neighborhood level, BJH also examined changes in neighborhood composition. This analysis explores the connection between "gentrifying" neighborhoods and areas with concentrated Airbnb activity. The analysis explores changes in the following neighborhood characteristics between 2000 and 2014:

   a) Median age
   b) Proportion of white residents
   c) Median household income
   d) Poverty rate
   e) Proportion of residents with a Bachelor's degree or higher

   These demographic characteristics were selected because the Furman Center's report *State of New York City's Housing and Neighborhoods in 2015* identified these measures as indicators of gentrification.

2) ***Classify all Airbnb listings in New York City between January and December 2015 into three primary categories.***

   BJH categorized Airbnb listings through the following classification system.

   a) **"Entire Apartment/Home"** defined as unique units listed on Airbnb in 2015 that allow rental of entire homes or apartments.
   b) **"Regular Short-Term"** defined as unique units listed on Airbnb in 2015 that meet all of the following criteria:
      - Are booked for rental periods of less than 30 days;
      - Are booked for more than one reservation in a month; **and**
      - Have at least one non-booked day in a month.

c) **"Commercial"** defined as unique units listed on Airbnb in 2015 that met one of two criteria:
   - Listed for at least 3 months in the year by hosts that listed more than one unit on Airbnb ("multi-listers"); **or**
   - Listed for at least 6 months per year by hosts that listed only one unit on Airbnb ("single-listers").

3) ***Determine which Airbnb listings are likely to have the strongest effect on the residential housing market – "Impact Listings."***

Emphasis on Commercial Airbnb Usage in Previous Studies

There is an expanding literature that seeks to differentiate between commercial and casual Airbnb use to identify which and how many units likely contribute to the constrained supply of housing. For example, the San Francisco Budget and Legislative Analyst's Office 2014 memorandum differentiates between the casual and the commercial use of Airbnb by defining casual users "as those who occasionally make their residences available for short-term rentals for supplemental income" and commercial users as hosts who "probably do not live or could not live in their short-term rental unit and therefore rent it out as a means of generating income."[49] Its base case modeling scenario defines commercial users as hosts who rent private entire homes or apartments for more than 58 nights per year or private or shared rooms for more than 88 nights per year.[50]

O'Neill and Ouyang, in a 2016 article published by the Penn State School of Hospitality Management, examine two types of Airbnb users who participate in commercial activity: (1) multiple-unit operators who rent out multiple units, and (2) full-time operators who rent out units for more than 360 days per year.[51] Alternatively, Roy Samaan, in a 2015 article published by the Los Angeles Alliance for a New Economy (LAANE), defines two types of commercial users: (1) leasing companies who list more than two whole units; or (2) single lessors who list a single, entire home or apartment.[52] The New York Attorney General's report defined commercial users as hosts who listed more than two unique units on Airbnb during its review period.[53]

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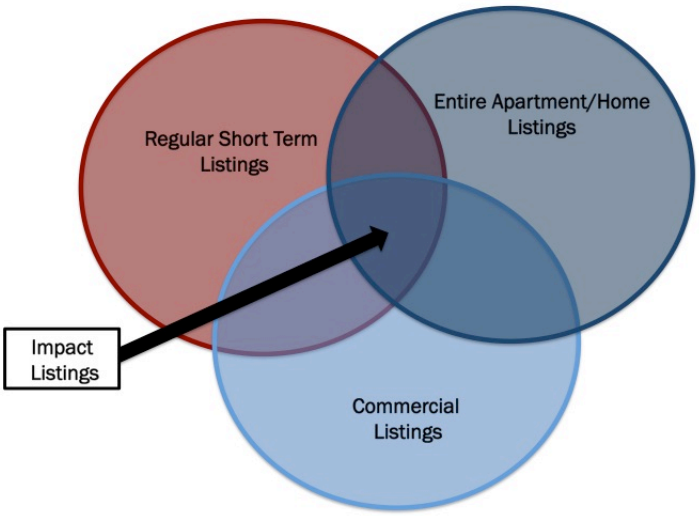
[49] San Francisco Budget and Legislative Analyst's Office, *Re: Analysis of the impact of short-term rentals on housing*, prepared for Supervisor Campos, May 13, 2015, 2.
[50] Ibid: 2-3.
[51] O'Neill and Ouyang, *From Air Mattresses to Unregulated Business: An Analysis of the Other Side of Airbnb*: 2.
[52] Roy Samaan, *Airbnb, Rising Rent, and the Housing Crisis in Los Angeles:* 9-10.
[53] Office of the New York Attorney General, *Airbnb in the city*: 2, 10.

Impact Listings for this Analysis

Due to the emphasis on commercial users in previous reports as well as a desire to remain conservative in its analysis and findings, BJH created a new category – "**Impact Listings**" – as the primary category of analysis for this report. Impact Listings are defined as unique units listed on Airbnb in 2015 that **meet all three of the classifications** established above (Entire Apartment/Home, Regular Short-Term and Commercial).

Figure 1: Listings Classification Structure



As noted, this classification is substantially more conservative than those used in previous studies because it uses a three-tiered classification, whereas most other studies focus analysis on one category, such as repeat short-term listings/bookings. Additionally, the definition of Regular Short-Term as used in this report requires that three distinct criteria (outlined above) are met, whereas most other studies define short-term only has having been booked for rental periods of less than 30 days. This conservative approach is further reinforced by the data set which is limited to Airbnb listings, and thus excludes other short-term rental platforms.

Impact Listings are likely to have the strongest effect on the residential market because, given the three criteria, it is extremely unlikely that hosts of Impact Listings live in the units that they rent. This implies that these units have been removed from the residential rental market.

Correlation of Impact Listings and Median Asking Prices

Once identified, the report analyzes Impact Listings, as well as rental housing pricing and other factors, to explore the relationship between Airbnb activity and the traditional residential rental market. It should be noted that a multitude of complex factors impact the residential rental market in New York City, including City, State, and Federal policies, labor markets, interest rates, among many other issues. Additionally, the analysis is based on 12 months of data. As a result of the complexity of the housing market and data

limitations, this analysis does not attempt to causally link short-term rental activity to changes in the residential rental market. Instead, the analysis explores the correlation between short-term rental activity, namely the number of Airbnb listings, and median asking rents in New York City, as an indicator of the relationship between these two phenomenon.

4) ***Identify neighborhoods with high concentration of Airbnb activity.***

BJH analyzed Airbnb listings data in 20 neighborhoods with the highest prevalence of Airbnb usage according to two measures: 1) the number of Impact Listings and 2) the ratio of Impact Listings to the sum of vacant rentals plus Impact Listings, which is an indicator of the effect that Impact Listings may have on residential supply.

Figure 2: Indicator of Impact Listing Effect on Residential Supply

$$\frac{\text{Impact Listings}}{\text{Impact Listings} + \text{Vacant Residential Units}}$$

BJH assembled 12 of the 20 neighborhoods into five "macro-neighborhoods," which are comprised of several zip codes. The five macro-neighborhoods, identified due to their heavy concentration of Airbnb usage, are:

a) East Village/Lower East Side ("LES"), comprised of zip codes 10002, 10003, and 10009
b) Chelsea/Hell's Kitchen, comprised of zip codes 10011, 10018, 10019, 10020, and 10036
c) West Village/Greenwich Village/SoHo, comprised of zip codes 10012, 10013, and 10014
d) Williamsburg/Greenpoint/Bushwick, comprised of zip codes 11206, 11211, 11221, 11222, and 11237
e) Bedford Stuyvesant/Crown Heights, comprised of zip codes 11205, 11213, 11216, 11225, 11233, and 11238

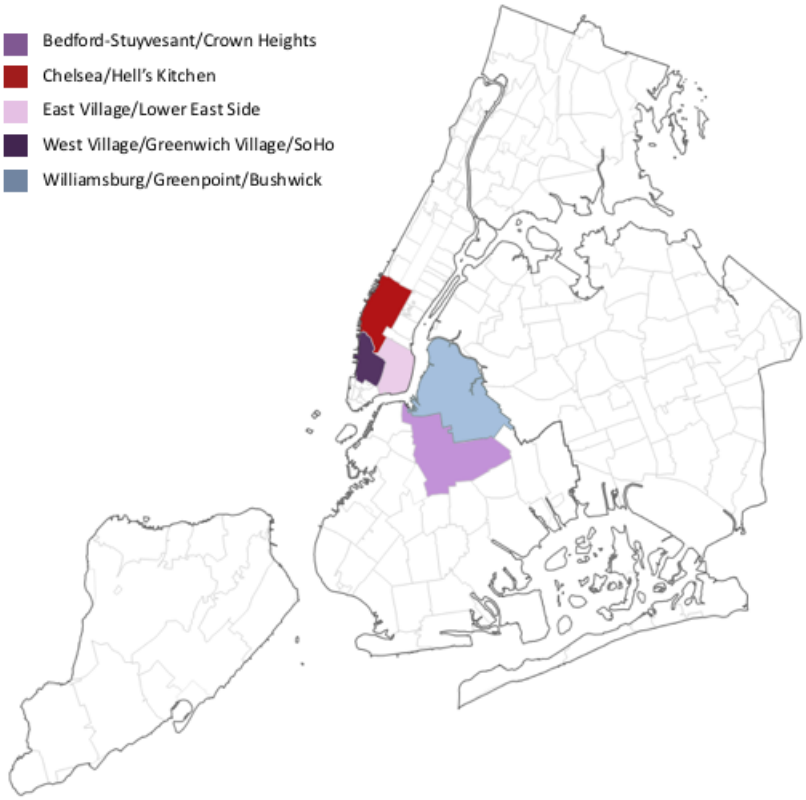
The number of impact listings, vacant rentals and the ratio of these variables for 20 New York City neighborhoods with the highest number of Airbnb listings is presented in the table below. The neighborhoods highlighted in gray are included in the five macro-neighborhoods studied in this report.

Table 1: Neighborhoods by Number of Impact Listings (2015)

Rank	Neighborhood	Impact Listings	Vacant Rentals	Ratio Impact Listings/ (Vacant Rentals + Impact Listings)
1	East Village	599	2,978	17%
2	Williamsburg	561	4,583	11%
3	Hell's Kitchen	555	2,509	18%
4	Upper East Side	476	2,361	17%
5	Bedford-Stuyvesant	460	2,874	14%
6	Upper West Side	382	2,613	13%
7	Harlem	370	2,691	12%
8	Chelsea	357	1,605	18%
9	Midtown	310	1,493	17%
10	Lower East Side	301	1,426	17%
11	West Village	296	1,309	18%
12	East Harlem	216	1,219	15%
13	Crown Heights	197	1,421	12%
14	SoHo	164	638	20%
15	Greenpoint	153	1,089	12%
16	Bushwick	148	2,062	7%
17	Greenwich Village	139	628	18%
18	Clinton Hill	108	665	14%
19	Kips Bay	107	726	13%
20	Fort Greene	105	545	16%

Source: Airdna, 2015; Pluto, 2015; ACS 2014.

Figure 3: Map of Macro-Neighborhoods



For each neighborhood, except Bushwick, the ratio of Impact Listings to Impact Listings plus vacant residential units was greater than 0.1. This ratio indicates that if all Airbnb listings were added to the rental housing supply as available vacant units, they would comprise more than 10 percent of the vacant units. In Bushwick, this ratio was 0.07, indicating that Airbnb listings would comprise 7 percent of vacant units.

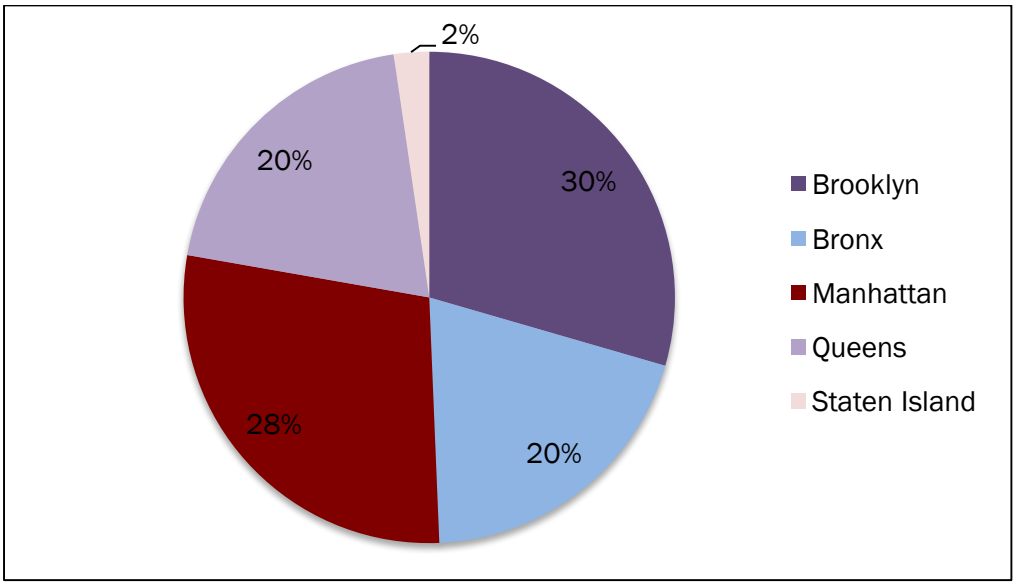
3. New York City Findings

Residential Housing

Supply

As of 2015, New York City's housing market consisted of 3.47 million residential units, including subsidized, rent controlled, rent stabilized and market rate rentals and ownership units.[54] Sixty-two percent of residential units, or 2.15 million units, are rental units. The remaining 38 percent of units are ownership units, including condominiums, cooperatives, and homes. Approximately 28 percent of rental units in New York City are located in Manhattan and 30 percent are located in Brooklyn.

Figure 4: Percent of Rental Units in New York City by Borough (2015)



Source: Pluto 2015; ACS, 2014.

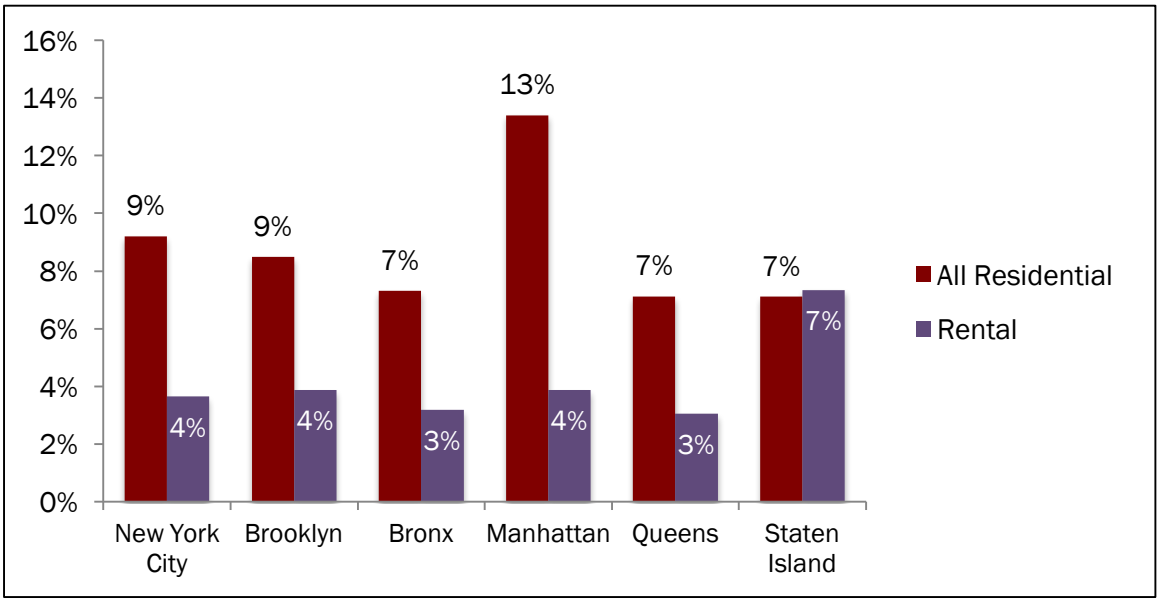
Housing Vacancy

In the study period, New York City's overall residential vacancy rate, for both rental and ownership units, is 9.2 percent. Of the five boroughs, Manhattan has the highest residential vacancy rate, 13.4 percent, with a total of 122,160 vacant residential units.

The vacancy rate for rental units is considerably lower than the vacancy rate for all residential units. In fact, based on BJH's methodology, the rental vacancy rate for New York City is 3.65 percent, nearly 10 basis points below that of the total residential market. It should be noted that the New York City Housing and Vacancy Survey found that the vacancy rate is 3.45 percent, even lower than the rate BJH determined, due to slight differences in methodology.

[54] Residential units in the PLUTO dataset represent the sum of residential units in all buildings on all tax lots in New York City.

Figure 5: Rental Vacancy in New York City (2015)

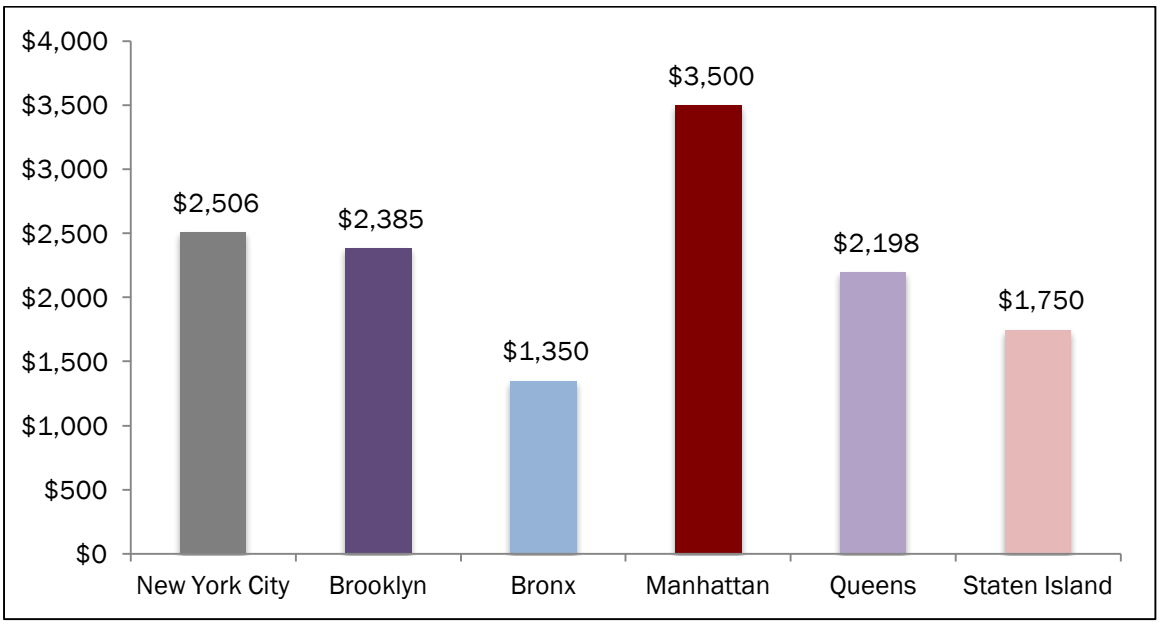


Source: Pluto 2015; ACS, 2014.

Asking Price of Rental Housing

In December 2015, the median monthly asking price for rental housing in New York City was $2,506. The median asking price was highest in Manhattan at $3,500 and lowest in the Bronx at $1,350.[55]

Figure 6: Median Monthly Rental Asking Price in New York City by Borough (December 2015)



Source: Zillow, 2015.

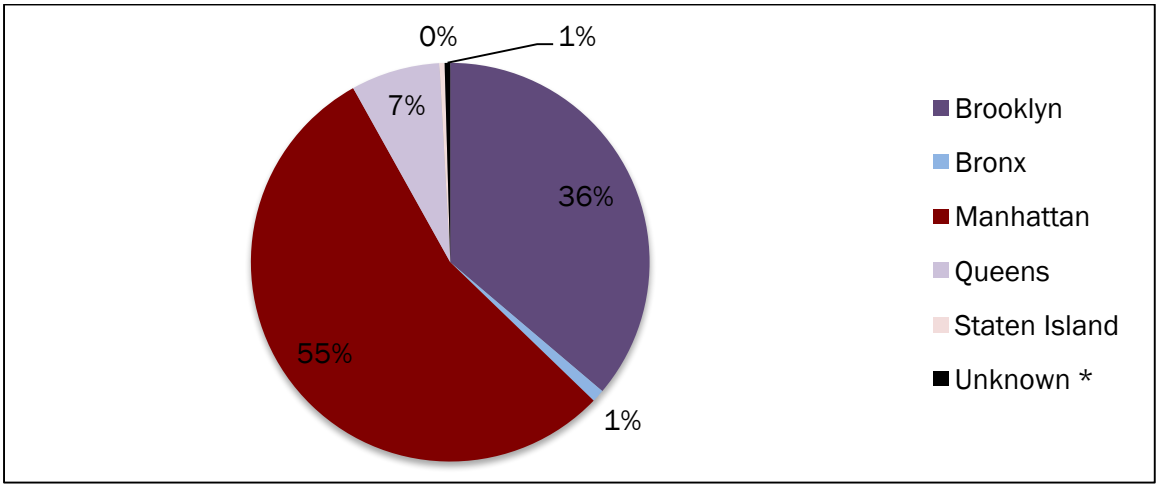
[55] Zillow Median Rental Price, All Homes, 2015, Accessed 2016.

Fifty-five percent of all renter households in New York City are defined as rent burdened.[56] Twenty-five percent of those households are considered moderately rent burdened, spending between 30 and 50 percent of the household income on rent; this statistic is consistent in Manhattan and Brooklyn.[57] An additional 30 percent are considered severely rent burdened, with rents exceeding 50 percent of household income.[58] A greater percent of households in Brooklyn (32 percent) are severely rent burdened, as compared to Manhattan (22 percent).[59]

Airbnb Listings

The analysis identified 51,397 unique Airbnb listings in New York City during the study period. This figure represents continued growth in the number of total listings, as compared to the New York State Attorney General's report, which identified 16,483 unique Airbnb units that met its criteria in New York City in the first five months of 2014. The vast majority of 2015 listings are located in Manhattan (28,108 listings) and Brooklyn (18,601 listings).

Figure 7: Unique Airbnb Listings in New York City by Borough (2015)



Source: Airdna, 2015.
*Note: *Airdna does not provide borough, neighborhood or zip code identifiers for these listings.*

The average occupancy rate for listings in New York City is 55 percent and each unit is rented an estimated of 11 days per month. On average, Airbnb listings in New York City rent for $160 per night and thus have the potential to generate $1,715 per month.

Nearly 40 percent of all listings in New York City are managed by hosts who control multiple unique units, while the remaining 60 percent are managed by hosts who control one unit. Listings that are managed by hosts with multiple listings are likely to be booked slightly more regularly, 12.6 days per month, and as a result generate higher average monthly revenues, estimated at $1,844.

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[56] New York University Furman Center, *State of New York City's Housing and Neighborhoods in 2015*: 66.
[57] Ibid: 66, 87, 109, 167.
[58] Ibid.
[59] Ibid: 87, 109.

Table 2: Airbnb Listings Summary (2015)

Airbnb Listing Indicator	All Listings
Number of unique listings	51,397
Average occupancy rate	55%
Average days reserved per month	11.25
Average daily revenue	$160
Average monthly revenue	$1,715

Source: Airdna, 2015.

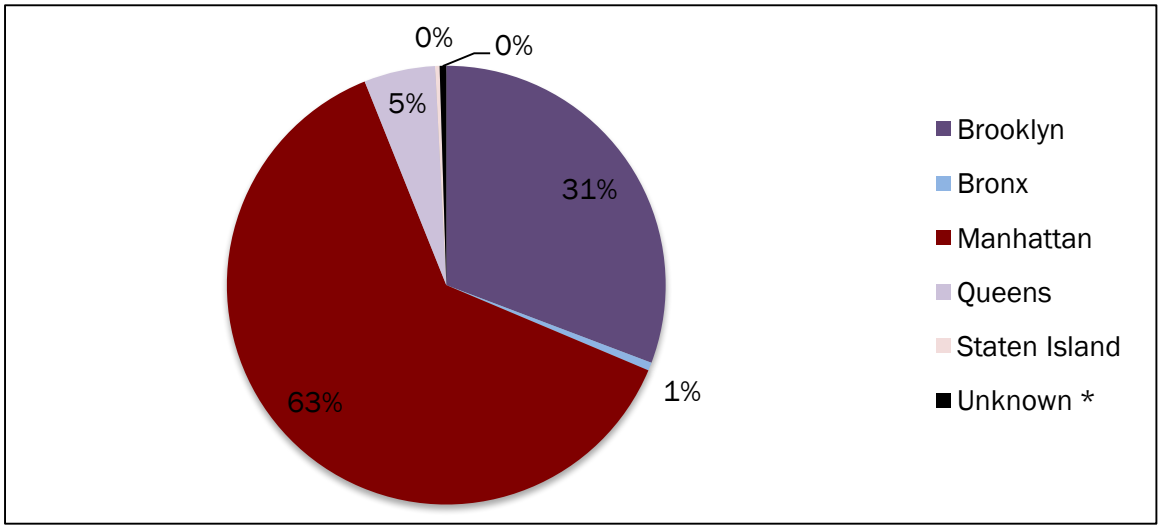
Listings by Type

Each listing is classified as 1) Entire Apartment/Home, 2) Regular Short-Term or 3) Commercial.

1. Entire Apartment/Home: Fifty-six percent of all Airbnb listings in New York City are classified as Entire Apartment/Home. The geographic distribution of Entire Apartment/Home Listings is consistent to overall listings, with nearly 63 percent of the Entire Apartment/Home Listings located in Manhattan and 35 percent in Brooklyn.

   The data does not distinguish if listings are located in a multi-unit residential building. Thus, it is not possible to determine which listings violate the Multiple Dwelling Law. However, because Entire Apartment/Home Listings are booked for short-term stays without the permanent tenant present, these listings are most likely to violate the Multiple Dwelling Law.

Figure 8: Entire Apartment/Home Listings by Borough (2015)



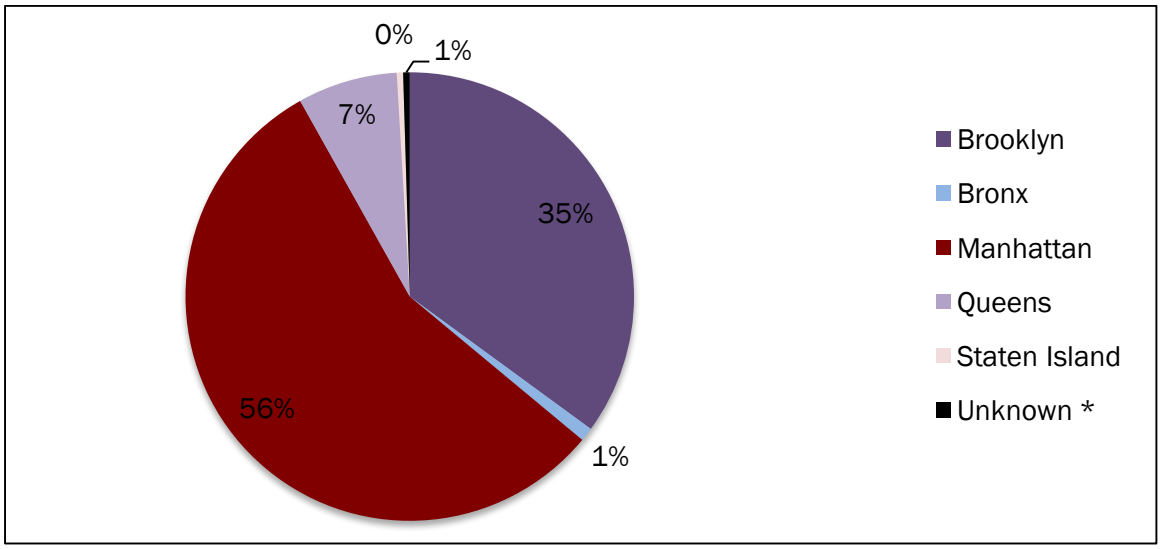
Source: Airdna, 2015.

*Note: *Airdna does not provide borough, neighborhood or zip code identifiers for these listings.*

2. Regular Short-Term: Nearly 70 percent of all Airbnb listings are Regular Short-Term Listings, indicating these listings book more than one short-term stay per month. Manhattan and Brooklyn represent the most active markets for Regular Short-Term

Listings with 56 percent of Regular Short-Term Listings located in Manhattan and 35 percent in Brooklyn.

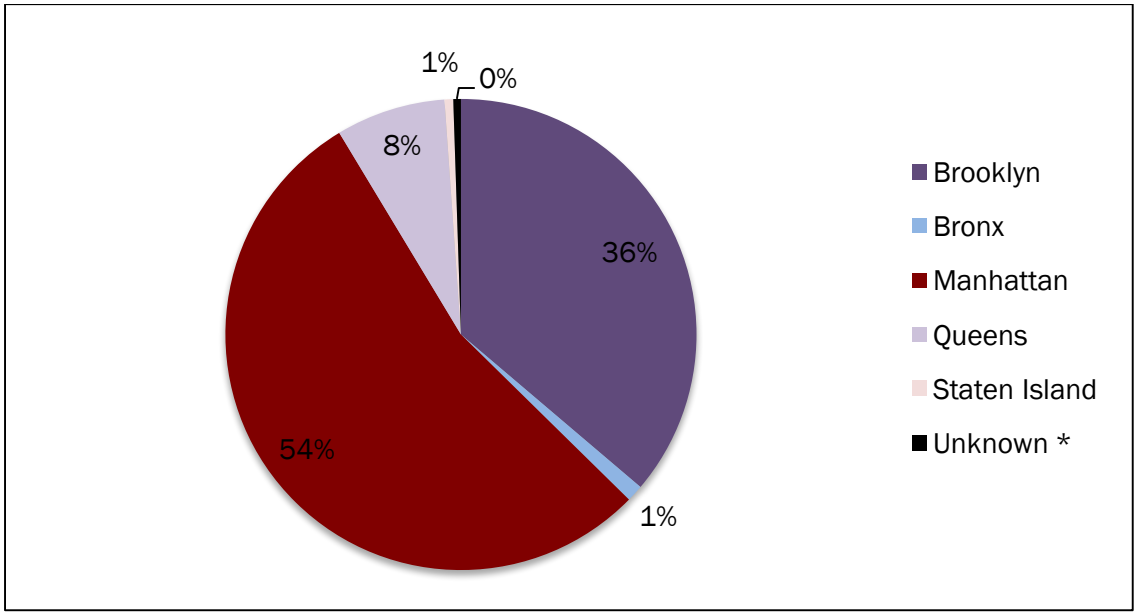
Figure 9: Regular Short-Term Listings by Borough (2015)



Source: Airdna, 2015.
*Note: *Airdna does not provide borough, neighborhood or zip code identifiers for these listings.*

3. Commercial**:** During the study period, approximately 30 percent of all Airbnb listings in New York City are classified as Commercial. Ninety percent of those units are located in Manhattan or Brooklyn.

Figure 10: Commercial Listings by Borough (2015)

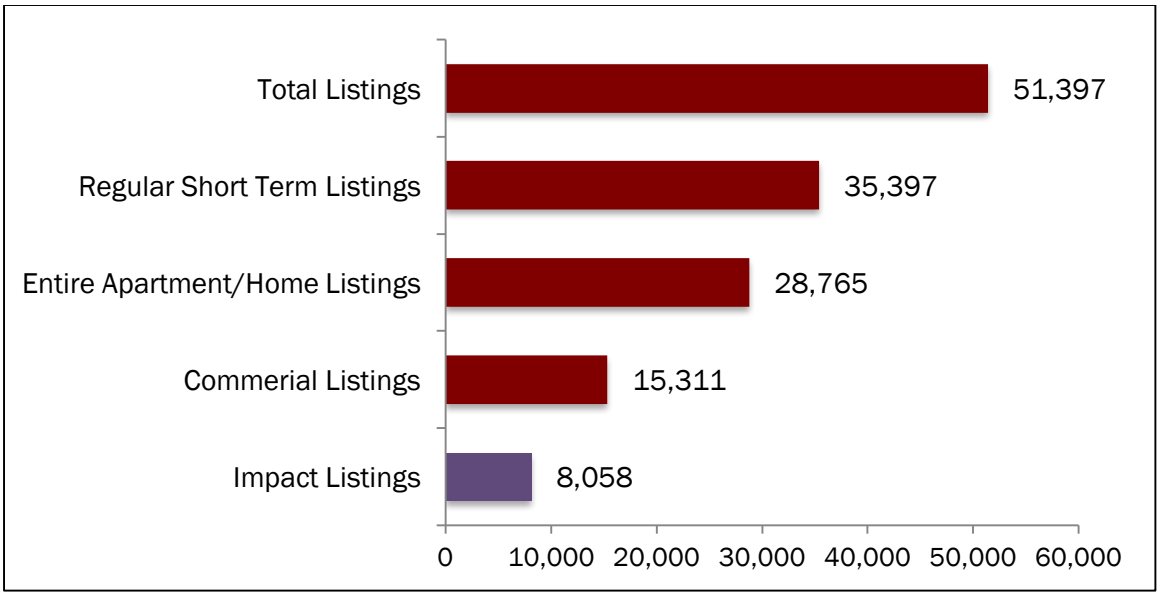


Source: Airdna, 2015.
*Note: *Airdna does not provide borough, neighborhood or zip code identifiers for these listings.*

Impact Listings

Airbnb listings that meet the criteria for all three categories presented above are defined as Impact Listings because these listings are for units most likely to be removed from the residential rental market. During the study period, nearly 16 percent of all listings in New York City, 8,058 unique listings, are Impact Listings. More than half of these Impact Listings, 4,169, are linked to hosts who control multiple listings. Over 90 percent of all Impact Listings are in Manhattan or Brooklyn. Moreover, 18 percent of all listings in Manhattan and 13 percent of all listings in Brooklyn are Impact Listings.

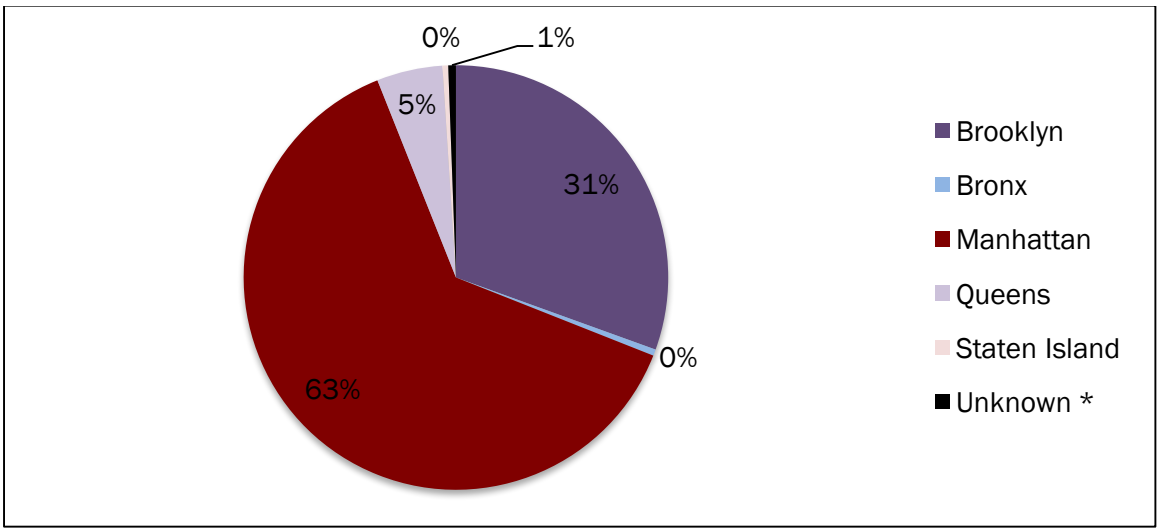
Figure 11: Airbnb Listings in New York City by Type (2015)



Source: Airdna, 2015.

While data limitations preclude analysis of year over year growth, comparisons to previous analysis clearly indicate the number of units participating in Airbnb is expanding. Data for January 2015 indicates there were 3,458 more Impact Listings than the number of "private short-term rentals" that the NYAG's report determined had removed supply from the rental housing market in 2013. This change represents an increase of 75 percent. As the definition of "Impact Listing" is much more conservative than that of "private short-term rentals" used in the NYAG's report, it is likely the increase of units removed from the rental market from 2013 to 2015 is understated.

Figure 12: Impact Listings in New York City by Borough (2015)



Source: Airdna, 2015.
*Note: *Airdna does not provide borough, neighborhood or zip code identifiers for these listings.*

Impact Listings have higher occupancy rates and generate higher average daily revenue than Airbnb listings as a whole. Moreover, the average monthly revenue from Impact Listings is nearly twice the average monthly revenue for all listings in New York City, reinforcing the idea that these listings are focused on commercial activity. In the aggregate, monthly revenue from all Impact Listings in New York City is $26.7 million. If each Impact Listing participates in Airbnb activity for all 12 months of the year, these listings have the potential to generate $302.9 million in annual revenue.

Impact Listings in Manhattan generate the highest average daily revenue at nearly $250 per day. The estimated average monthly revenue from one Impact Listing in Manhattan is $3,770. The aggregate monthly revenue for all Impact Listings in Manhattan is more than $19 million. In Brooklyn, each Impact Listing generates an average of $184 per day. The estimated average monthly revenue for each Impact listing is $2,603. In the aggregate, revenue for all Impact Listings in Brooklyn equates to $6.4 million in monthly revenue.

Table 3: Impact Listings Detail (2015)

Airbnb Listing Indicator	All Airbnb Listings	Impact Listings		
		All	Manhattan	Brooklyn
Total number of unique listings	51,397	8,058	5,074	2,459
Average occupancy rate	55%	66%	67%	65%
Average days reserved per month	11.25	15.46	15.70	15.02
Average daily revenue	$160	$222	$247	$184
Average monthly revenue	$1,715	$3,319	$3,770	$2,603

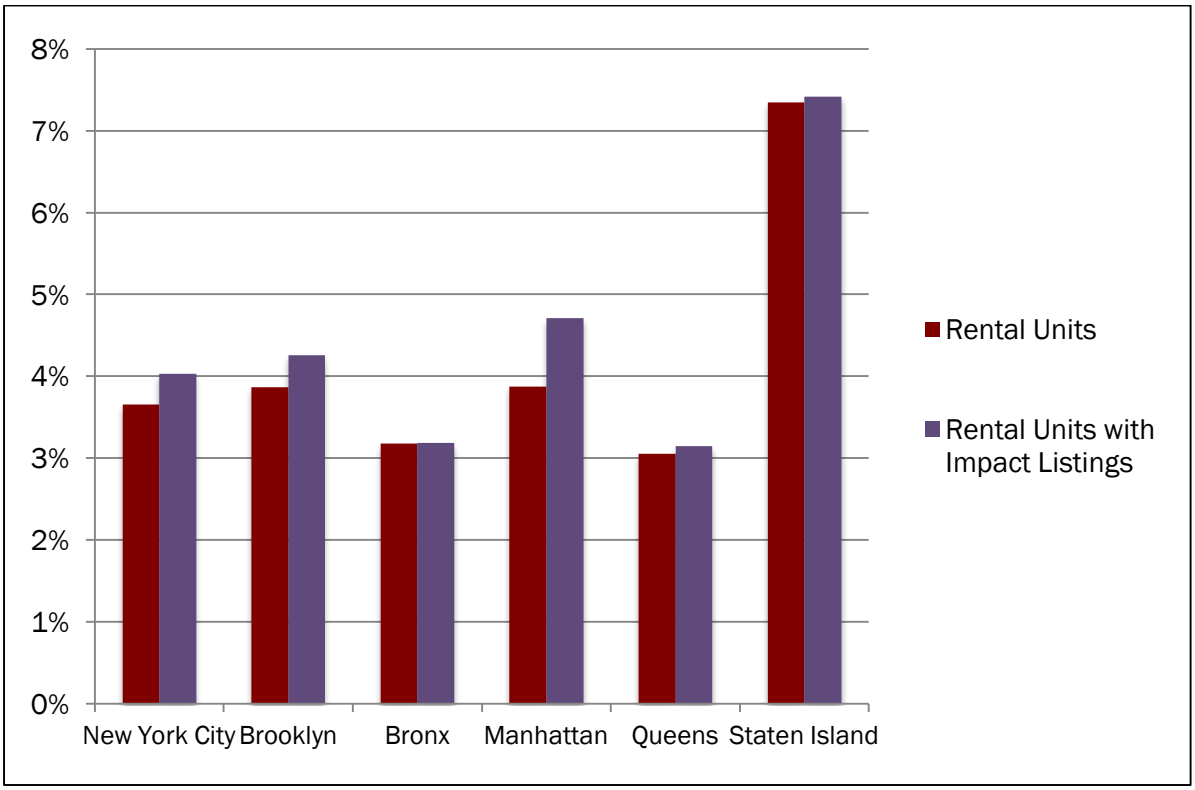
Source: Airdna, 2015.

Effect of Impact Listings on Residential Rental Vacancy Rates

If Impact Listings were available for rent as traditional apartments, the supply of residential rental units available to New Yorkers would increase. If it is assumed that all Impact Listings were added to the residential rental market as vacant units, the number of vacant rental units in New York City would increase by 10 percent, holding all else constant. Because the housing market is acutely constrained and the Airbnb market is highly active in Manhattan, the number of vacant rental units would increase by a dramatic 21 percent in Manhattan, holding all else constant.

This increase in vacant rental units could alleviate some pressure on the housing market caused by exceedingly low vacancy rates. For example, if all Impact Listings were added to the housing supply as vacant rental units, holding all else constant, the overall vacancy rate in New York City would rise from 3.6 to 4.0 percent, bringing it closer to 5 percent which the New York City Rent Guidelines Board indicates is a threshold below which results in market distortions. The impact would be most significant in Manhattan where the vacancy rate would increase by nearly a full percentage point, from 3.8 to 4.7 percent, if Impact Listings were added to the residential rental market as vacant units. In Brooklyn, the vacancy rate could increase from 3.8 to 4.3 percent if Impact Listings were added to the residential rental market as vacant units.

Figure 13: Residential Rental Vacancy Rate Sensitivity (2015)



Source: PLUTO, 2015; Airdna, 2015.

Impact Listings and Rental Prices

A strong correlation[60] was found between Impact Listings and median monthly rental asking prices in New York City as a whole (a correlation of 0.93) and within the boroughs (correlations ranging from 0.46 in the Bronx to 0.88 in Brooklyn). The exception is Staten Island, where the correlation is negative. Overall, the correlations found between Impact Listings and median monthly rental asking price suggest a strong association between Airbnb activity and median monthly asking prices in the traditional rental market. The table below presents the correlations by borough.

In the case of Staten Island, it should be noted that Impact Listings are not very numerous and that vacancy rates are quite high in the borough, so the effect of these listings might be easily absorbed by the slack in this borough.

Table 4: Correlation of Impact Listings and Median Rental Asking Price (2015)

Geographic Area	Impact Listings	Median Monthly Rental Asking Price	Correlation Impact Listings vs. Median Monthly Asking Price*
New York City	8,058	$2,506	0.93
Brooklyn	2,459	$2,385	0.88
Bronx	39	$1,350	0.46
Manhattan	5,074	$3,500	0.64
Queens	404	$2,198	0.79
Staten Island	35	$1,750	-0.09

Source: Zillow, 2015; Airdna, 2015.

**Note: It should be noted that correlations for a subset of the population may differ in magnitude from the findings for the total population due to the number of observations and the standard deviation of the dataset.*

[60] Correlation, a statistical measure which falls between -1 and 1, is an indication of the interdependence of variables. A correlation of 1 means that the two variables are perfectly correlated, indicating that the two variables evolve over time at the same rate. However, it must be noted that correlation does not imply causation.

4. Macro-Neighborhood Findings

To better understand the impact of short-term rentals on the residential housing market, this report includes an analysis of Airbnb listings in five macro-neighborhoods with significant Airbnb presence:

1. East Village/Lower East Side (LES)
2. Chelsea/Hell's Kitchen
3. West Village/Greenwich Village/SoHo
4. Williamsburg/Greenpoint/Bushwick
5. Bedford Stuyvesant/Crown Heights

Together, these macro-neighborhoods in Manhattan and Brooklyn represent 53 percent of all Airbnb listings in New York City. Listings in these neighborhoods reveal higher occupancy rates and greater number of days reserved than in New York City as a whole. Moreover, the proportion of Impact Listings in these neighborhoods is considerably higher than in New York City as a whole, indicating that these neighborhoods may be at the highest risk for experiencing the negative impacts associated with short-term rental activity, such as constrained supply, increased rental prices, and accelerated changes to neighborhood characteristics.

Table 5: Number of Impact Listings and Vacant Residential Units by Neighborhood (2015)

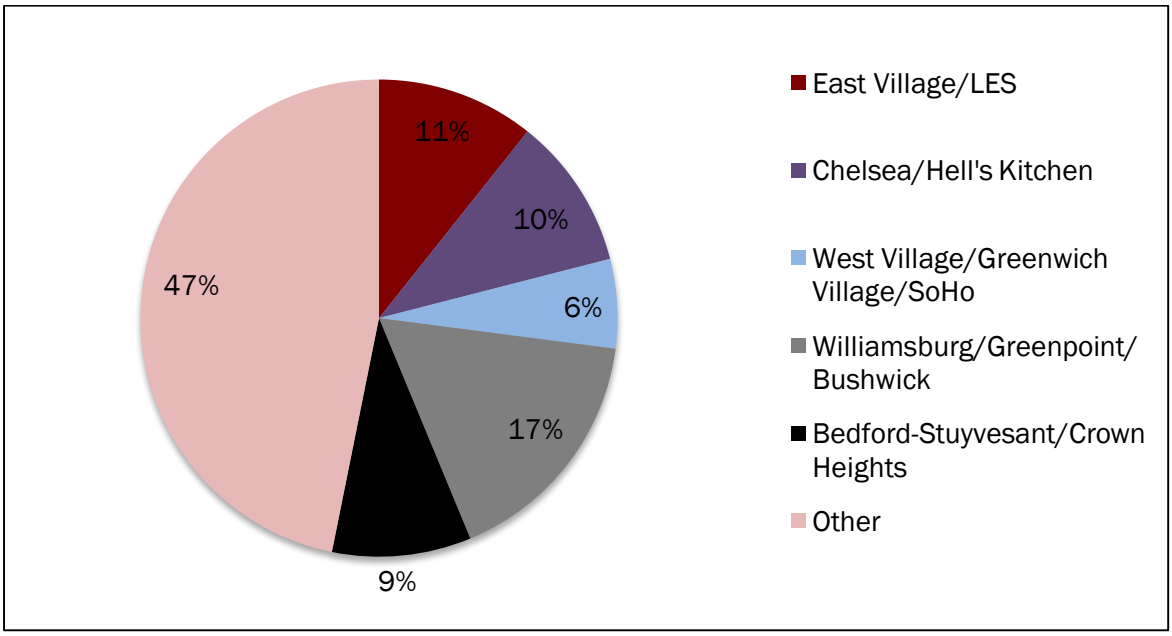
	Neighborhood	Impact Listings	Vacant Rental Units	Ratio Impact Listings/ (Vacant Rentals + Impact Listings)
1	East Village	599	2,978	17%
	Lower East Side	301	1,426	17%
2	Chelsea	357	1,605	18%
	Hell's Kitchen	555	2,509	18%
3	West Village	296	1,309	18%
	Greenwich Village	139	628	18%
	SoHo	164	638	20%
4	Williamsburg	561	4,583	11%
	Greenpoint	153	1,089	12%
	Bushwick	148	2,062	7%
5	Bedford-Stuyvesant	460	2,874	14%
	Crown Heights	197	1,421	12%

Source: Airdna, 2015; Pluto, 2015; ACS, 2014.

Additionally, three of the five macro-neighborhoods analyzed are classified as "gentrifying neighborhoods" by the Furman Center's report *State of New York City's Housing and Neighborhoods in 2015*. The report categorizes neighborhoods as "gentrifying" based on extreme changes in average rents and neighborhood compositions, including the percent of college graduates, young people, non-family households, and white versus non-white

residents.[61] The report also highlights that "gentrifying" neighborhoods presented a sharp decline from 2000 to 2014 in the share of recently available rental units affordable to low-income households.[62]

Figure 14: Proportion of Airbnb Listings by Macro-Neighborhood (2015)

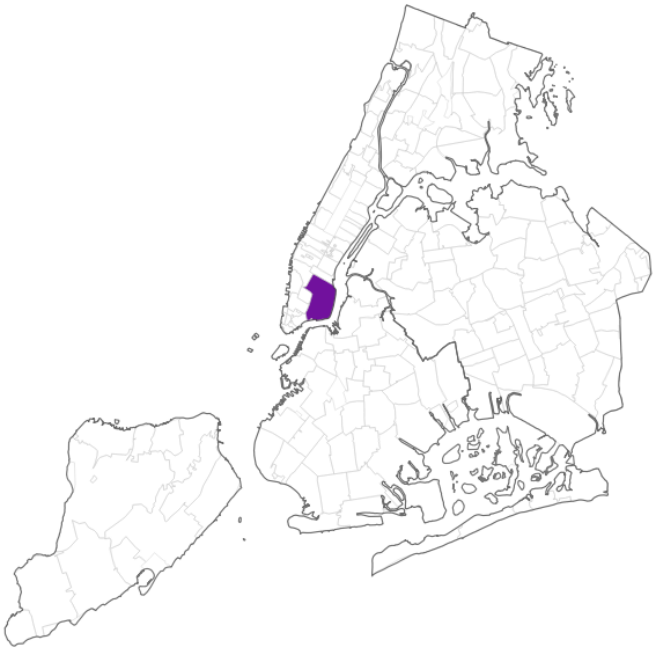


Source: Airdna, 2015.

[61] New York University Furman Center, *State of New York City's Housing and Neighborhoods in 2015: 4.*
[62] Ibid.

East Village/Lower East Side (LES)

Figure 15: East Village/ LES Map



Residential Market

There are 77,000 rental units in the East Village/LES neighborhood and the vacancy rate is 3.45 percent. The median monthly rental asking price for an apartment in the East Village/Lower East Side is $3,445.

Table 6: East Village/Lower East Side Residential Market Summary (2015)

Residential Market Indicators	East Village/Lower East Side
Rental Units	77,099
Vacant Rental Units	2,657
Rental Vacancy Rate	3.4%
Median Monthly Asking Price	$3,445

Source: Zillow, 2015; PLUTO, 2015; ACS, 2014.

The Furman Center's report *State of New York City's Housing and Neighborhoods in 2015* identifies the Lower East Side as a "gentrifying neighborhood," and states that the percent change in average rent in the Lower East Side from 1990 to 2014 was greater than 50 percent.[63]

Furthermore, an analysis of neighborhood demographics and household income supports the finding that the area is gentrifying. From 2000 to 2014, the number of white residents in the East Village/LES increased by 10 percent. The proportion of residents over 25 years of age

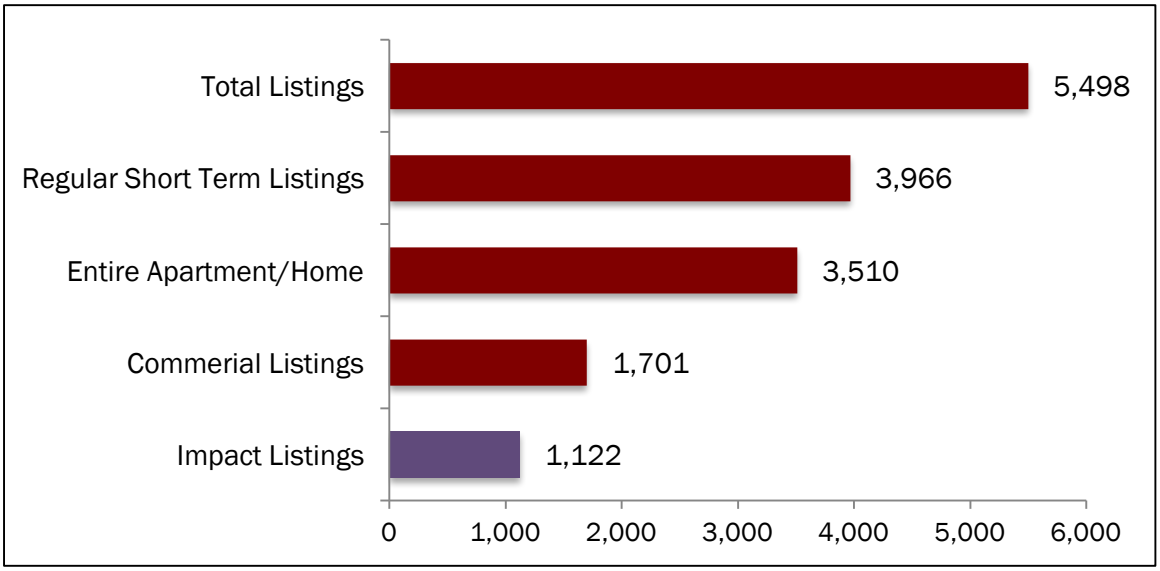
[63] Ibid: 6.

with a Bachelor's degree increased by 12 percentage points. In addition to changing demographics, the data shows that residents in the East Village/LES in 2014 had higher incomes than residents in 2000. The median household income increased by 11 percent from $57,324 in 2000 to $63,881 in 2014.

Airbnb Listings

Ten percent of all Airbnb listings in New York City, 5,498 unique listings, are located in the East Village/Lower East Side. Twenty percent of Airbnb listings in the East Village/Lower East Side, 1,122 listings, are defined as Impact Listings. Moreover, these Impact Listings represent 14 percent of total Impact Listings in New York City.

Figure 16: East Village/Lower East Side Airbnb Listings by Type (2015)



Source: Airdna, 2015.

The 70 percent occupancy rate for these listings is much higher than the average occupancy rate for New York City as a whole at 55 percent. Additionally, the estimated average monthly revenue from Airbnb listings is $3,650, more than $200 greater than the median monthly rental asking price in the neighborhood.

Table 7: East Village/Lower East Side Airbnb Listings Summary (2015)

Airbnb Listings Indicators	East Village/ Lower East Side
Average occupancy rate	70%
Average reservations per month	3.43
Average days reserved per month	16.04
Average daily revenue	$234
Average monthly revenue	$3,650

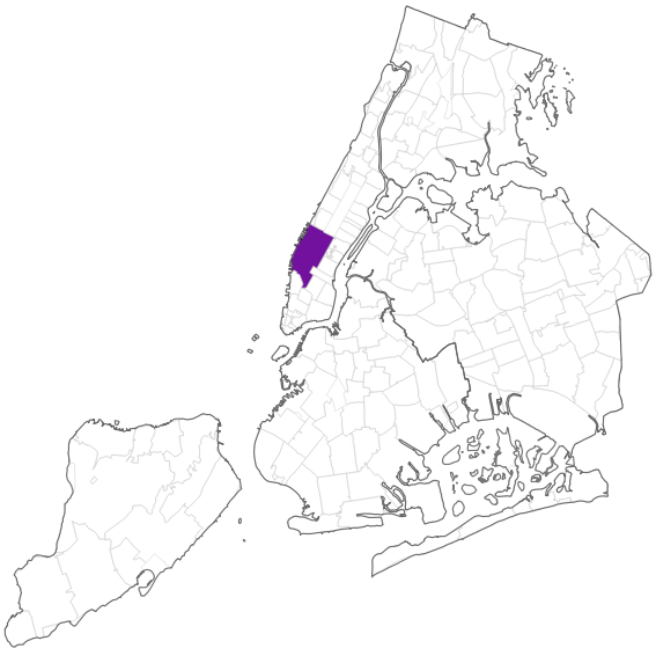
Source: Airdna, 2015.

Adding Impact Listings to the housing supply as vacant units would increase the vacancy rate from 3.4 to 4.9 percent. This finding is critical as it brings the vacancy rate within one tenth of

a percent of 5 percent, the threshold below which the New York City Rent Guidelines Board indicates can cause market distortions.

Chelsea/Hell's Kitchen

Figure 17: Chelsea/Hell's Kitchen Map



Residential Market

There are 77,000 rental units in the Chelsea/Hell's Kitchen neighborhood. The vacancy rate is 4.2 percent and median monthly rental asking price is nearly $3,600.

Table 8: Chelsea/ Hell's Kitchen Residential Market Summary (2015)

Residential Market Indicators	Chelsea/Hell's Kitchen
Rental Units	77,013
Vacant Rental Units	3,262
Rental Vacancy Rate	4.2%
Median Monthly Asking Price	$3,595

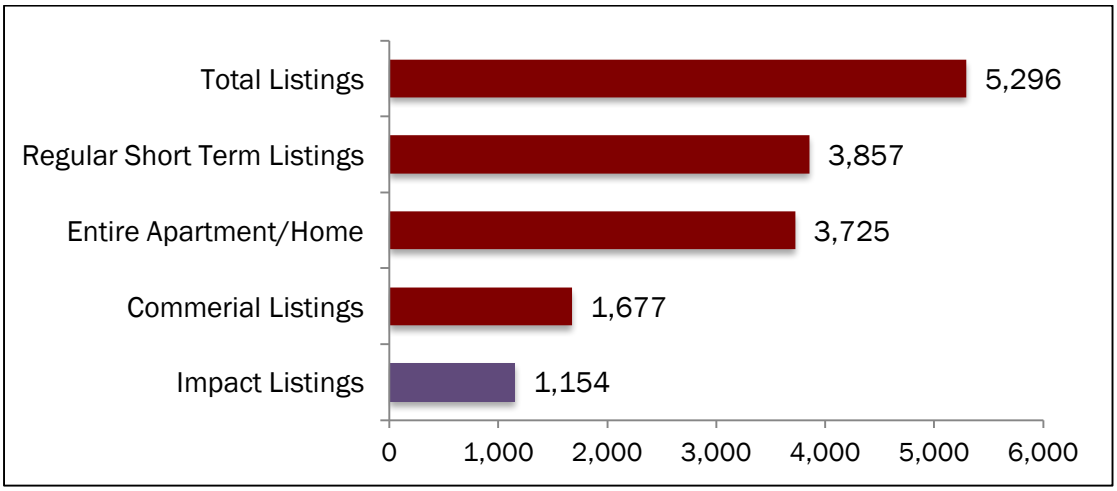
Source: Zillow, 2015; PLUTO, 2015; ACS, 2014.

A comparison of demographics in 2000 and 2014 indicates prominent changes in the neighborhood composition. First, median household income in Chelsea/Hell's Kitchen increased by 31 percent from $68,326 in 2000 to nearly $90,000 in 2014. The total population in Chelsea/Hell's Kitchen increased by 20 percent from 2000 to 2014, more than half of which is comprised of growth of the white population. Additionally, the percentage of residents over 25 years old with a Bachelor's degree also increased by 15 percentage points.

Airbnb Listings

There are 5,296 Airbnb listings located in Chelsea/Hell's Kitchen during the study period. Over 70 percent of listings are Entire Apartment/Home and 22 percent of listings are Impact Listings.

Figure 18: Chelsea/Hell's Kitchen Airbnb Listings by Type (2015)



Source: Airdna, 2015.

Adding Impact Listings to the housing supply as vacant units would increase the vacancy rate in Chelsea/Hell's Kitchen from 4.2 to 5.7 percent, exceeding 5.0 percent, the threshold determined by the New York Rent Guidelines Board that results in market distortions.

Impact Listings in Chelsea/Hell's Kitchen are booked an average of 16 days per month, as compared to an average of 11 days for all listings across New York City. That distinction resulted in 60 more days booked over the course of the year, as compared to the average for all listings in New York City. Additionally, the estimated average monthly revenue from Airbnb listings is $4,274, more than $675 greater than median monthly rental asking price in the neighborhood.

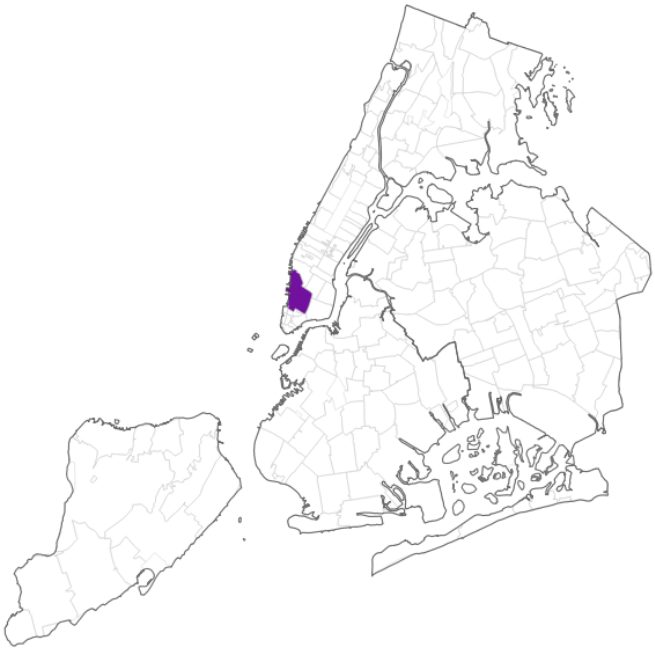
Table 9: Chelsea/Hell's Kitchen Airbnb Listings Summary (2015)

Airbnb Listings Indicators	Chelsea/Hell's Kitchen
Average occupancy rate	68%
Average reservations per month	3.65
Average days reserved per month	16.29
Average daily revenue	$268
Average monthly revenue	$4,274

Source: Airdna, 2015.

West Village/Greenwich Village/SoHo

Figure 19: West Village/Greenwich Village/SoHo Map



Residential Market

There are 32,600 rental units in the West Village/Greenwich Village/SoHo neighborhood. Its vacancy rate of 2.9 percent is among the lowest of all neighborhoods in New York City. The median monthly rental asking price is $3,700.

Table 10: West Village/Greenwich Village/SoHo Residential Market Summary (2015)

Residential Market Indicators	West Village/Greenwich Village/SoHo
Rental Units	32,598
Vacant Rental Units	949
Rental Vacancy Rate	2.9%
Median Monthly Asking Price	$3,700

Source: Zillow, 2015; PLUTO, 2015; ACS, 2014.

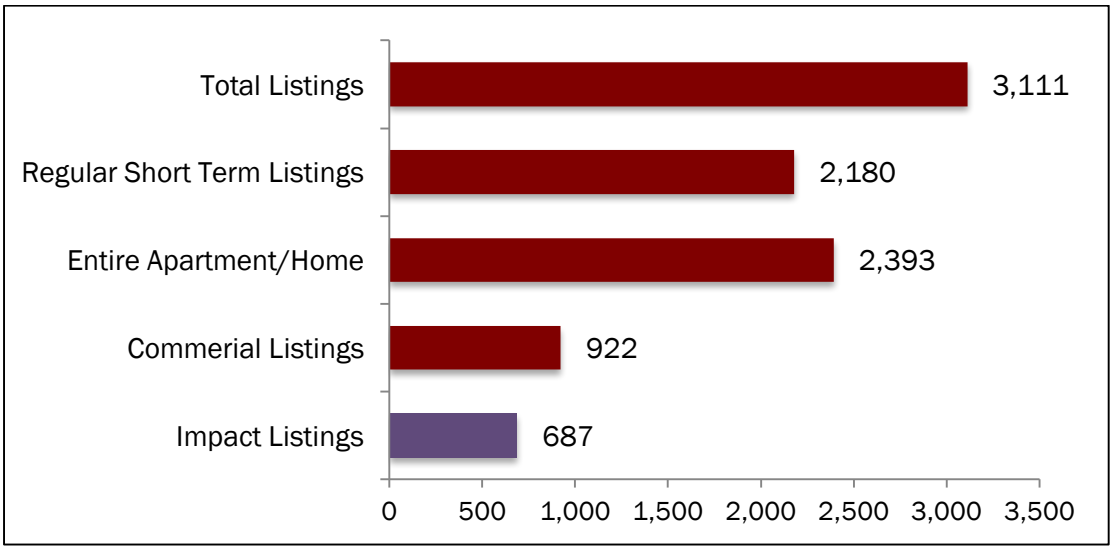
In 2000, 60 percent of residents over 25 years of age had a Bachelor's degree or higher. The median household income was nearly $75,000. Even still, between 2000 and 2014, the neighborhood demonstrated a 35 percent increase in median income. Additionally, the proportion of residents over 25 years of age with a Bachelor's degree or higher increased by 14 percentage points during the same time period.

Airbnb Listings

There are 3,111 Airbnb listings located in West Village/Greenwich Village/SoHo, which account for 10 percent of the housing stock in the neighborhood. Seventy-seven percent of

listings are classified as Entire Apartment/Home and 22 percent of listings are Impact Listings because they were classified as Regular Short-Term, Entire Apartment/Home, and Commercial.

Figure 20: West Village/Greenwich Village/SoHo Airbnb Listings by Type (2015)



Source: Airdna, 2015.

If these Impact Listings were added to the housing supply as vacant rental units, the rental vacancy rate would increase by more than 2 basis points from 2.9 to 5.0 percent, which would help to alleviate the severely constrained residential rental market in the neighborhood.

Impact Listings in West Village/Greenwich Village/SoHo are booked an average of 15 days per month, as compared to an average 11 days for all listings in New York City. Moreover, the average daily revenue of $312 is nearly two times the average daily revenue for New York City on the whole. The estimated average monthly revenue from Airbnb listings in this macro-neighborhood is $4,523, which is $820 greater than the median monthly rental asking price in the neighborhood, indicating there is a high incentive to participate in the short-term rental market.

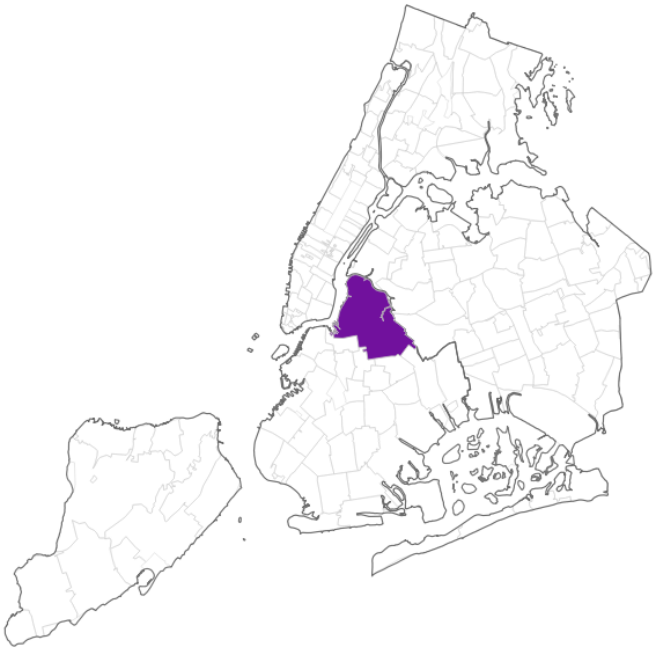
Table 11: West Village/Greenwich Village/SoHo Airbnb Listings Summary (2015)

Airbnb Listings Indicators	West Village/Greenwich Village/SoHo
Average occupancy rate	65%
Average reservations per month	3.25
Average days reserved per month	14.88
Average daily revenue	$312
Average monthly revenue	$4,523

Source: Airdna, 2015.

Williamsburg/Greenpoint/Bushwick

Figure 21: Williamsburg/Greenpoint/Bushwick Map



Residential Market

There are 97,300 rental units in the Williamsburg/Greenpoint/Bushwick neighborhood. The median monthly rental asking price is approximately $2,800, which is considerably above the median monthly asking price for the borough of Brooklyn at $2,400.

Table 12: Williamsburg /Greenpoint/Bushwick Residential Market Summary (2015)

Residential Market Indicators	Williamsburg/Greenpoint/Bushwick
Rental Units	97,298
Vacant Rental Units	3,659
Rental Vacancy Rate	3.7%
Median Monthly Asking Price	$2,797

Source: Zillow, 2015; PLUTO, 2015; ACS, 2014.

The Furman Center's report *State of New York City's Housing and Neighborhoods in 2015* identified Williamsburg/Greenpoint/Bushwick as a "gentrifying neighborhood." The report indicates that average rent increased by as much as 79 percent between 1990 to 2014.[64]

BJH's analysis of demographic data bolsters the Furman Center's findings. The change in the neighborhood composition in Willamsburg/Greenpoint/Bushwick is pronounced. The proportion of white residents increased by 10 percentage points from 25 to 35 percent of the total population. This finding indicates that the proportion of residents of color has declined

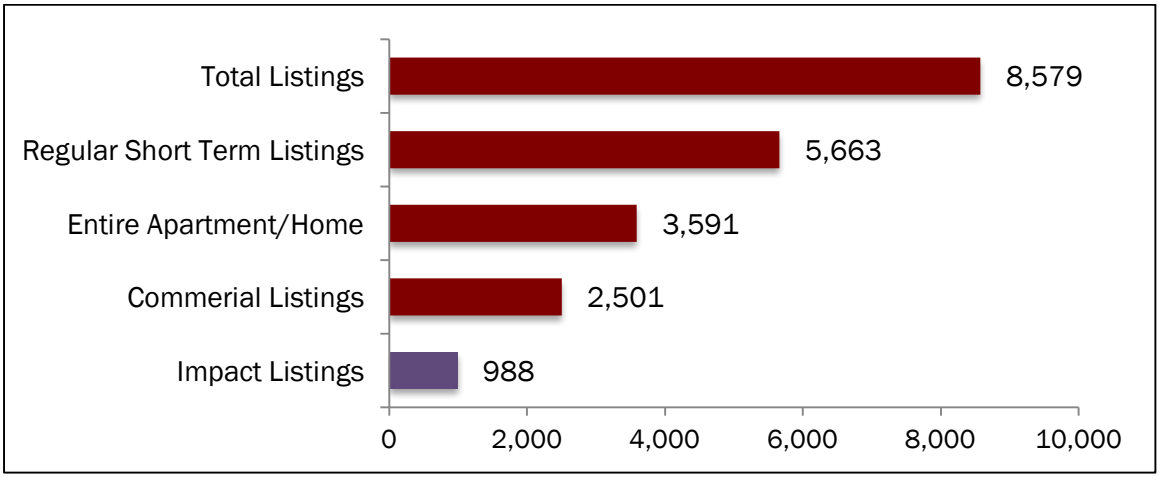
[64] Ibid, 6.

dramatically in Williamsburg/Greenpoint/Bushwick since 2000. The proportion of residents over 25 with a Bachelor's degree or higher has increased by 19 percentage points. It is likely that new residents are higher income earners, as the median household income has increased by 38 percent and the poverty rate declined by 7 basis points.

Airbnb Listings

There are 8,580 Airbnb listings located in Williamsburg/Greenpoint/Bushwick, which account for 9 percent of the rental housing stock in the neighborhood and 17 percent of all Airbnb listings in New York City. Shared apartments are more common in Williamsburg/Greenpoint/Bushwick than the Manhattan neighborhoods analyzed above. Approximately 42 percent of the listings are for the Entire Apartment/Home category. Thus, the percent of Impact Listings is slightly lower in Williamsburg/Greenpoint/Bushwick, as compared to the Manhattan neighborhoods, with 12 percent of all Airbnb neighborhood listings classified as Impact Listings.

Figure 22: Williamsburg /Greenpoint/Bushwick Airbnb Listings by Type (2015)



Source: Airdna, 2015.

Assuming that Impact Listings may be added to the rental housing supply as vacant units, the vacancy rate would increase by 1 percentage point from 3.8 to 4.8 percent, holding all else constant.

Impact Listings are booked an average of 15 days per month, as compared to an average 11 days for all listings in New York City. The estimated average monthly revenue from Airbnb listings is $2,814, which is only slightly above the median monthly rental asking price in the neighborhood.

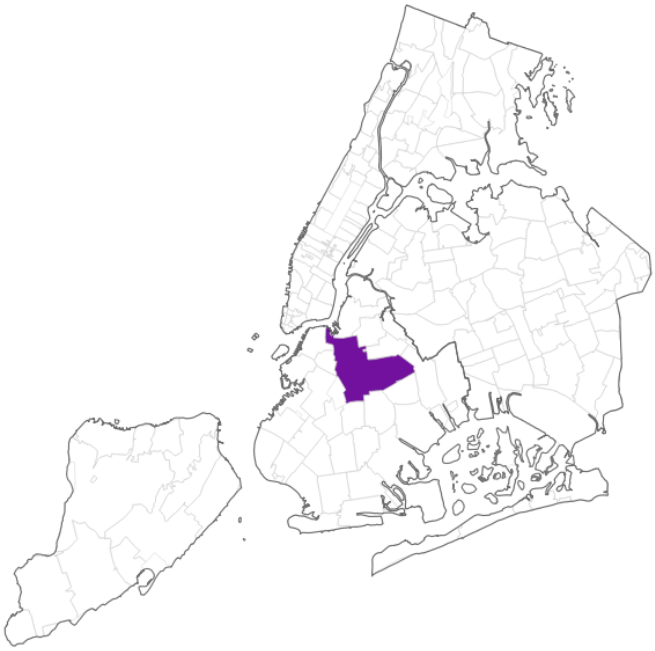
Table 13: Williamsburg/Greenpoint/Bushwick Airbnb Listings Summary (2015)

Airbnb Listings Indicators	Williamsburg/Greenpoint/Bushwick
Average occupancy rate	66%
Average reservations per month	3.23
Average days reserved per month	15.09
Average daily revenue	$197
Average monthly revenue	$2,814

Source: Airdna, 2015.

Bedford Stuyvesant/Crown Heights

Figure 23: Bedford Stuyvesant/Crown Heights Map



Residential Market

There are 104,870 rental units in the Bedford Stuyvesant/Crown Heights neighborhood. Median monthly rental asking price is $2,375, very similar to the median monthly asking price for the borough of Brooklyn, which is $2,400.

Table 14: Bedford Stuyvesant/Crown Heights Residential Market Summary (2015)

Residential Market Indicators	Bedford-Stuyvesant/Crown Heights
Rental Units	104,869
Vacant Rental Units	5,272
Rental Vacancy Rate	5.0%
Median Monthly Asking Price	$2,372

Source: Zillow, 2015; PLUTO, 2015; ACS, 2014.

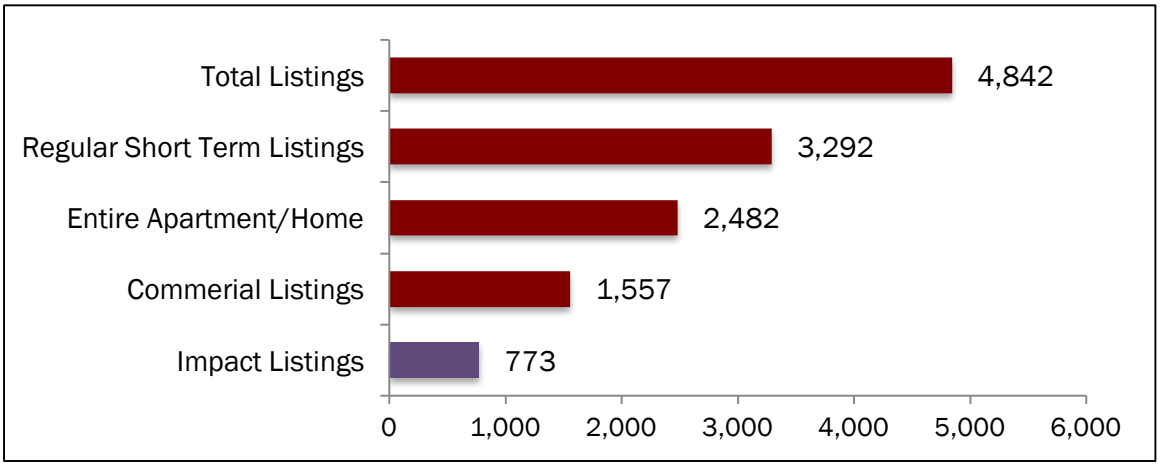
The Furman Center's report *State of New York City's Housing and Neighborhoods in 2015* identified the Bedford Stuyvesant/Crown Heights areas as "gentrifying." The report indicates that average rent increased by 18 to 36 percent between 1990 and 2014, depending on the community within the macro-neighborhood.[65]

A comparison of demographic and household income data from 2000 to 2014 supports the Furman Center's findings. The change in the neighborhood's racial composition is staggering. The raw number of white residents in the neighborhood more than doubled and the proportion of white residents increased by 13 percentage points. The proportion of residents over 25 with a Bachelor's degree or higher increased by 16 percentage points. Additionally, median household income increased by 16 percent and the poverty rate declined by 4 basis points.

Airbnb Listings

There are 4,842 Airbnb listings located in Bedford Stuyvesant/Crown Heights, which account for 5 percent of the rental housing stock in the neighborhood. Similar to Williamsburg, listings in Bedford Stuyvesant/Crown Heights are more likely to be shared apartments as compared to the Manhattan neighborhoods analyzed above. Approximately half of the listings are classified as Entire Apartment/Home. As a result, the percent of Impact Listings is slightly lower in Bedford Stuyvesant/Crown Heights, as compared to Manhattan neighborhoods. Sixteen percent of all Airbnb listings in Bedford Stuyvesant/Crown Heights are classified as Impact Listings.

Figure 24: Bedford Stuyvesant/ Crown Heights Airbnb Listings by Type (2015)



Source: Airdna, 2015.

Adding Impact Listings as vacant units to the housing supply would increase the vacancy rate from 5.0 to 5.8 percent, which may alleviate some pressure on the housing market.

[65] Ibid, 6.

Consistent with Williamsburg, Impact Listings are booked an average of 16 days per month. The estimated average monthly revenue from Airbnb listings is $2,530, which is over $150 greater than the median monthly rental asking price in the neighborhood.

Table 15: Bedford Stuyvesant/ Crown Heights Airbnb Listings by Type (2015)

Airbnb Listings Indicators	Bedford-Stuyvesant/Crown Heights
Average occupancy rate	66%
Average reservations per month	3.18
Average days reserved per month	15.81
Average daily revenue	$171
Average monthly revenue	$2,530

Source: Airdna, 2015.

Macro-Neighborhood Comparison

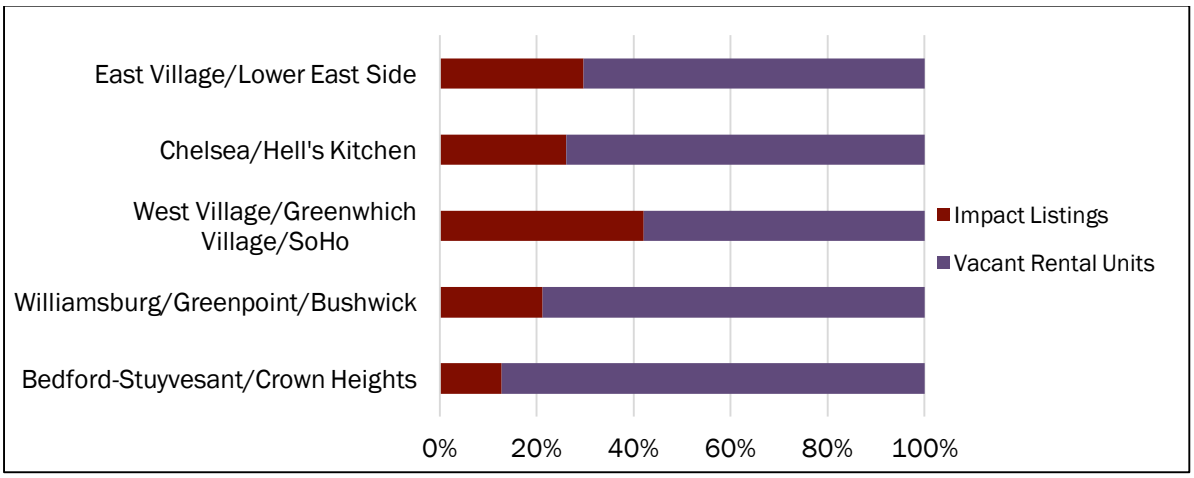
Airbnb activity is concentrated in Manhattan and Brooklyn and, within those two boroughs, there are several neighborhoods that contain the most active Airbnb markets. In many cases, these neighborhoods may be considered some of the most desirable residential neighborhoods in New York City based on demand indicators such as vacancy rates and median monthly rent. For example, the residential vacancy rate in the West Village is under 3 percent and median monthly rents are $3,700. In all cases, the neighborhood has experienced significant market growth in recent years, evidenced through increases in rents and population. For example, the Furman Center report, *State of New York City's Housing and Neighborhoods in 2015*, indicates that the Lower East Side, Williamsburg, and Bedford Stuyvesant are areas that have experienced striking increases in average rents over the past two decades.[66]

A number of market forces, policies, and neighborhood conditions impact the housing market in each neighborhood. Additionally, the intensely active short-term listing market in these neighborhoods exacerbates extremely low vacancy rates by removing rental units from the housing supply. If the Impact Listings identified in each market were returned to the residential rental supply as vacant units, each neighborhood would experience a considerable increase in the number of available units and the vacancy rate, holding all else constant.

The comparison of Impact Listings versus vacant residential units indicates that there is nearly the same number of Impact Listings as vacant residential units in the West Village/Greenwich Village/SoHo. In three of the four remaining neighborhoods, if Impact Listings were added to the housing supply as vacant units, the listings would comprise between 20 and 30 percent of all available units.

[66] Ibid: 6.

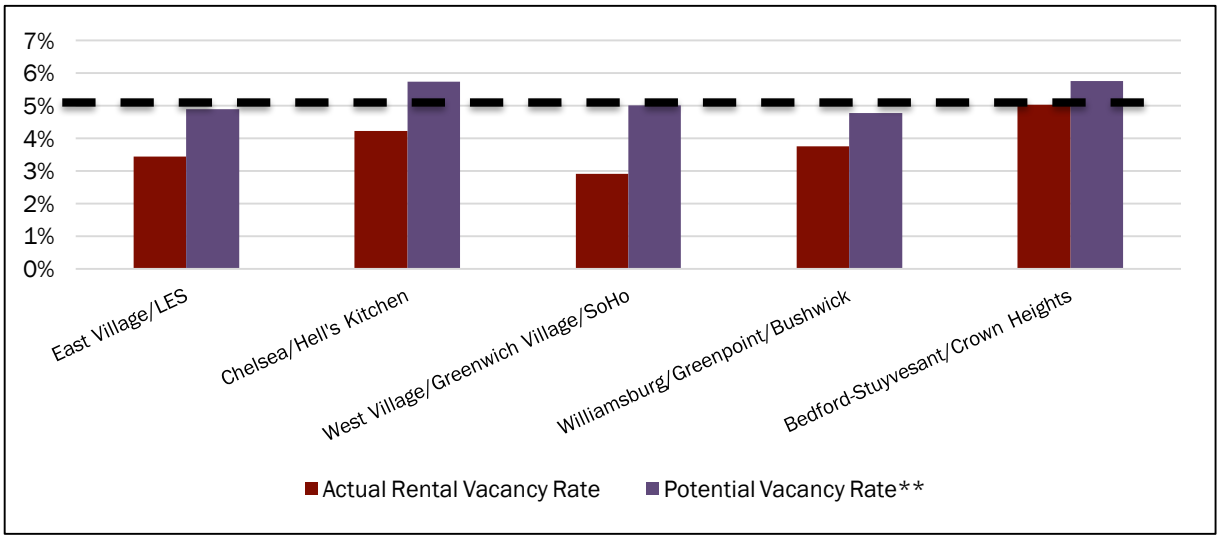
Figure 25: Comparison of Vacant Rental Units and Impact Listings by Neighborhood (2015)



Source: Airdna, 2015; PLUTO, 2015; and ACS, 2014.

The large number of Impact Listings in these neighborhoods indicate that these units are likely to have a profound impact on vacancy rates, holding all else constant. In Chelsea/Hell's Kitchen, the West Village/Greenwich Village, and Bedford Stuyvesant/Crown Heights the vacancy rate would rise above 5 percent, the threshold below which the New York Rent Guidelines Board indicates often leads to market distortions that cause tenants to be displaced and rents to increase. In the East Village/LES, the vacancy rate would increase to within one-tenth of a percent of this threshold. As vacancies are absorbed into the market, it follows that housing price pressure would lessen.

Figure 26: Actual Residential Rental Vacancy Rates and Estimated Rental Vacancy Rate Including Impact Listings as Vacant Units (2015)



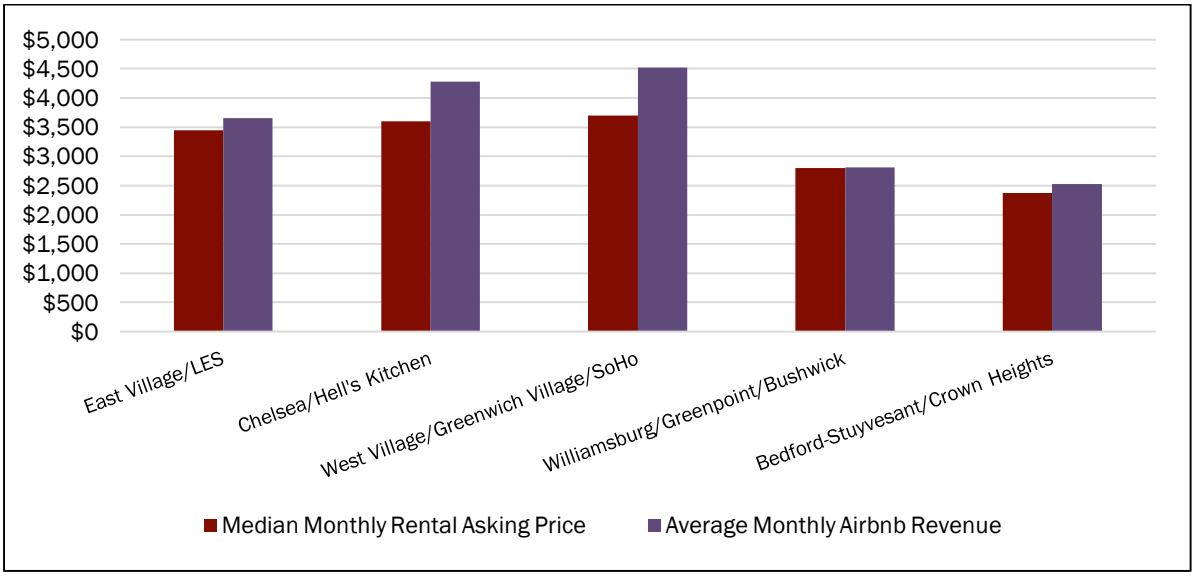
Source: Airdna, 2015; PLUTO, 2015; and ACS, 2014.

***Note: The potential vacancy rate was calculated by dividing the sum of vacant residential rental units plus Impact Listings by the total residential rental units in the neighborhood. It assumes all other supply and demand forces are held constant.*

Constrained supply often results in rising prices. Moreover, in each neighborhood, the estimated average monthly revenue from Impact Listings is greater than the median monthly rental asking price. In some cases, this premium is greater than $500, potentially creating an incentive to place rental units on the short-term market. Together, these phenomena may contribute to increases in prices over time within these neighborhoods.

It should be noted that it is likely that individuals make decisions about whether or not to participate in the short-term rental market based on the comparison of monthly rent to "potential" monthly revenue from short-term rental bookings.[67] An individual is unlikely to have sophisticated data regarding the average occupancy rate or number of reservations per month for the short-term rental market. Thus, this "potential" revenue would be based on an estimated daily rate multiplied by the number of days in the month, a much higher figure that would exaggerate the monetary benefit associated with participating in the short-term rental market.

Figure 27: Comparison of Median Monthly Rental Asking Prices and Estimated Average Airbnb Monthly Revenue (2015)

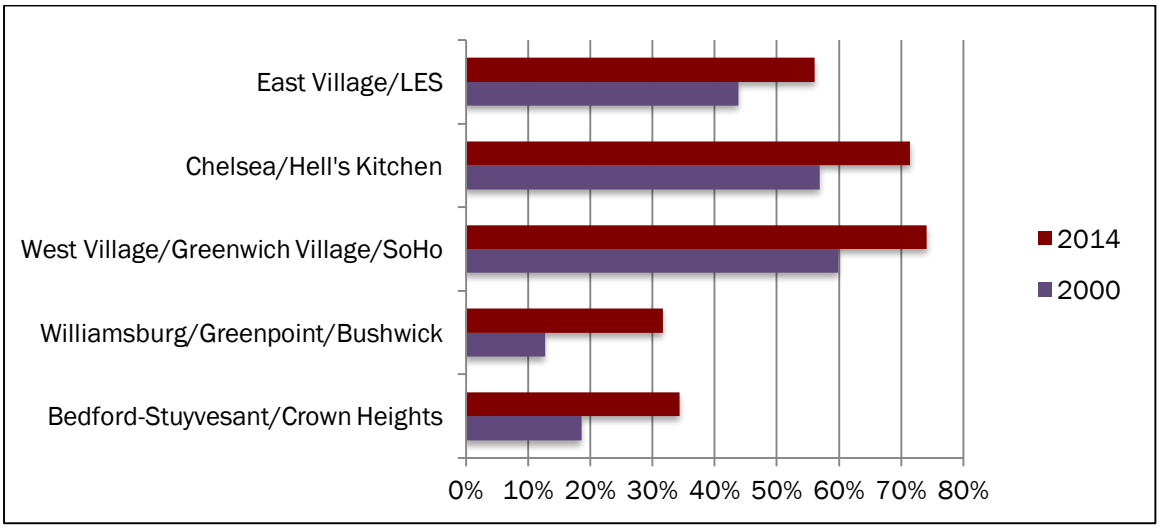


Source: Zillow, 2015; Airdna, 2015.

Increasing prices and severely low vacancy rates are often linked to changing neighborhood composition. The Furman Center identified "gentrifying neighborhoods" as those with extreme changes in median rent, as well as changes in the proportion of white residents, residents with a Bachelor's degree, household income, and other factors. The macro-neighborhoods demonstrating concentrated Airbnb listings reveal considerable changes in these indicators. The proportion of residents with a Bachelor's degree increased by 12 to 19 percentage points in each neighborhood.

[67] San Francisco Budget and Legislative Analyst's Office, Re: *Analysis of the Impact of Short-Term Rentals on Housing:* 10.

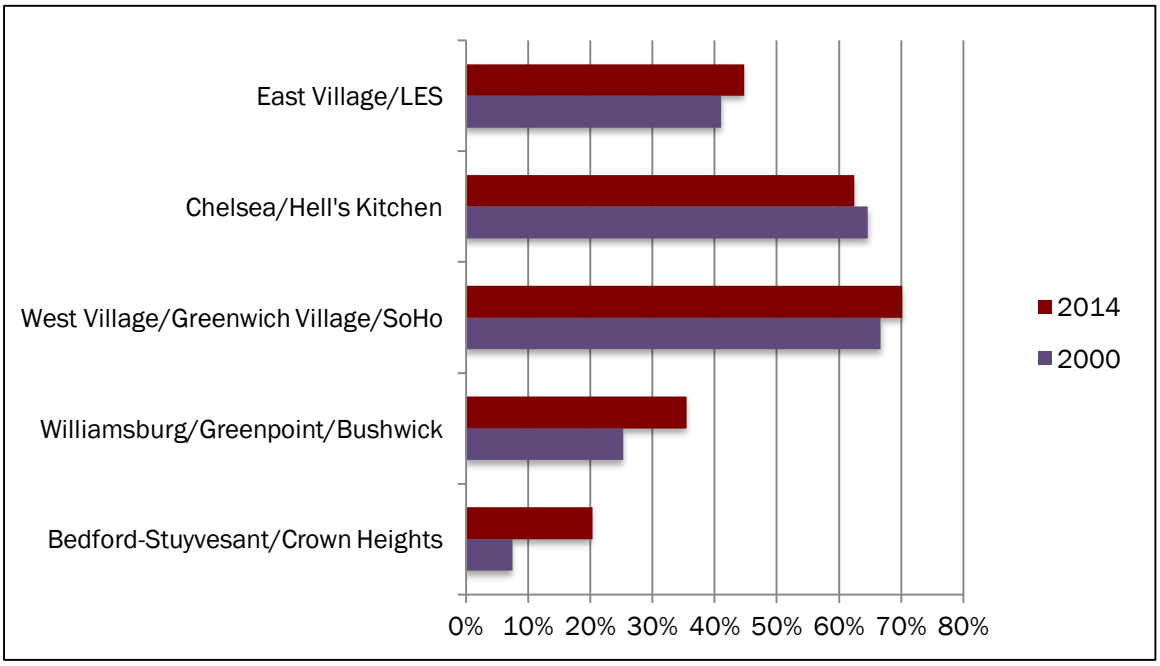
Figure 28: Change in the Proportion of Residents Over 25 Years of Age with a Bachelor's Degree or Higher (2000 – 2014)



Source: US Census, 2000; ACS, 2014.

In nearly every neighborhood, the proportion of white residents increased dramatically. This change was most apparent in the Brooklyn neighborhoods – Williamsburg/Greenpoint/ Bushwick and Bedford Stuyvesant/Crown Heights – which experienced increases of 10 percentage points and 13 percentage points, respectively. This increase in the proportion of white residents coincides with a decline in the proportion of non-white residents.

Figure 29: Change in the Proportion of White Residents (2000 – 2014)



Source: US Census, 2000; ACS, 2014.

5. Conclusion

Short-term rental activity is increasingly creating distortions in the residential rental market in New York City. If reintroduced into the permanent housing supply, the 8,058 Impact Listings on the Airbnb platform, alone, could increase the number of vacant residential units in New York City by 10 percent. Holding all else constant, this increase in vacant units could drive the vacancy rate up nearly one percentage point, alleviating some of the challenges that extremely low vacancy rates can cause.

Moreover, neighborhoods with concentrated Airbnb activity are also marked by increasing rental asking prices and changes in neighborhood composition, showing a strong correlation between the median asking prices and the number of Airbnb listings at the neighborhood level. While this finding does not indicate that concentrated Airbnb activity causes increases in prices, it does indicate these two phenomena are increasing at a similar rate.

Additionally, neighborhoods with the greatest number of Airbnb listings have experienced significant changes in demographic characteristics that are linked to gentrification, including the proportion of white residents, the proportion of residents over 25 years old with a Bachelor's degree, and median household income. Past research prepared by the New York Attorney General's Office found that the number of Airbnb listings in New York City is rapidly increasing over time. If this trend continues to occur, sustained rises in rental prices and neighborhood displacement are likely, as well. These findings, confounded by the already limited market for rental housing that is affordable in New York City, indicate that some measures are necessary to better monitor the short-term rental market, uphold laws that are regularly violated by short-term rentals, such as the Multiple Dwelling Law, and protect neighborhoods and residents from market pressures that may cause displacement.

Author's Note

Housing Conservation Coordinators Inc. (HCC) and MFY Legal Services Inc. (MFY) requested that BJH Advisors perform this analysis and provide this report. HCC and MFY are two New York City-based not-for-profit organizations that work to preserve affordable housing. The two organizations have studied the impact of short-term rentals for more than a decade and have witnessed firsthand the negative impact of short-term rentals on the communities that they serve.

Findings from the report are based in part on proprietary information provided by third party entities as well as from primary research and a variety of public data sources, as described in Section 2 of this report. BJH did not verify the accuracy of information provided to it by third parties. The analysis of the data, the conclusions and the report are the product of BJH Advisors.

Principle Authors: Héber Manuel Delgado-Medrano and Katie Lyon

SHORT-TERM RENTAL HOUSING RESTRICTIONS

White Paper

PREPARED BY

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ATTORNEYS AT LAW

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SHORT-TERM RENTAL HOUSING RESTRICTIONS

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PREFACE

This white paper on *Short-Term Rental Housing Restrictions* has been prepared by Robinson & Cole LLP in its capacity as national consultant to NAR. The paper is one in a series of white papers that NAR requests be prepared from time to time in order to focus on a particular smart growth-related issue that has arisen with sufficient frequency in communities around the country to merit a more in-depth analysis.

The analysis of short-term rental housing restrictions in this paper is provided by NAR under its Smart Growth program to help REALTORS® at the state and local level better understand the issues involved in these types of restrictions, and to tailor strategies, as appropriate, to address short-term rental housing regulatory initiatives in their communities.

Brian W. Blaesser
Robinson & Cole LLP
September 2011

SECTION 1: INTRODUCTION

1.1 PURPOSE AND SCOPE OF PAPER

This paper was prepared at the request of the National Association of REALTORS® (NAR). The purpose of this paper is to (1) explain the problem of short-term rental housing restrictions; (2) categorize and describe the different approaches taken by local governments to regulate short-term rental housing in their communities; (3) analyze the issues raised by these different regulatory approaches; (4) provide Realtors® with ways to address these issues; and (5) outline "best practices" approaches to short-term rental housing that Realtors® can use in discussing the issue with local government officials.

1.2 KEY TERMS

The term "short-term rental housing" typically means a dwelling unit that is rented for a period of less than thirty consecutive days. In general, short term rental housing differs from bed & breakfasts, hotels, motels, and other "lodging" uses by providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Although bed & breakfasts often are similar in appearance and location to many short-term rentals, they are distinguishable by the presence of the owner/operator on-site.[1] Boarding houses differ from short-term rentals by having multiple rooms or units for rent and common kitchen and dining facilities that are shared by the occupants.[2] Boarding houses also tend to be less transient than short-term rentals.[3] Similarly, hotels and motels are distinguishable from short-term rentals by having separate entrances and an on-site management office.[4] In some communities, short-term rental housing may be referred to as vacation rentals, transient rentals, or resort dwelling units.

Terms that appear in **bold typeface** are defined in the Glossary found at the end of this paper.

SECTION 2: OVERVIEW OF SHORT-TERM RENTAL RESTRICTIONS

2.1 PURPOSE – THE MUNICIPAL PERSPECTIVE

Many communities around the country, both vacation destination communities and non-vacation communities, have implemented some form of short-term rental housing regulation. Below is an overview of the most common reasons cited by communities for regulating short-term rental housing.

---

[1] *See* Nate Hutcheson, "Short-Term Vacation Rentals: Residential or Commercial Use?," *Zoning News* (March 2002, American Planning Association) (hereinafter "APA Report").
[2] *See* APA Report at 5.
[3] *See* APA Report at 5.
[4] *See* APA Report at 5.

2.1.1 Protection of Neighborhood Environment

The most commonly cited municipal purpose for regulating short-term rental housing is to protect the character of existing residential neighborhoods. Often these communities are responding to complaints from permanent residents about the disturbances that may be caused by short-term tenants, including excessive noise, late night parties, trespassing, increased traffic, and other disruptive activities. Generally speaking, the rationale is that vacationers and guests who do not have ties to the local community are more concerned with maximizing their fun than they are with being a good neighbor. This rationale is evident in the "resort dwellings" ordinance adopted by the City of Venice, Florida, which states:

> [The] City council finds that resort dwelling rental activities in single-family neighborhoods affects the character and stability of a residential neighborhood. The home and its intrinsic influences are the foundation of good citizenship. The intent of these regulations is to prevent the use of single-family residences for transient purposes in order to preserve the residential character of single-family neighborhoods.[5]

2.1.2 Protection of Physical Characteristics

Some communities also cite the need to protect the physical characteristics of their residential neighborhoods. The underlying rationale is that short-term rental properties generally are not owner-occupied and therefore are less likely to be cared for to the same degree as permanent residences. At least, in theory, absentee property owners are presumed to be less diligent about the types of regular and routine maintenance tasks typically associated with home ownership, such as lawn maintenance, tree and shrub pruning, and exterior painting.

2.1.3 Revenue

For many communities, particularly those with a robust tourist industry, short-term rentals represent a potentially significant source of tax revenue. In Texas, for example, the Hotel Occupancy Tax statute broadly defines the term "hotel" to include any building that offers sleeping accommodations for consideration, including a "tourist home" or "tourist house," and imposes a six percent tax on the price paid for such accommodations.[6] Moreover, the Municipal Hotel Occupancy Tax statute authorizes Texas cities, towns and villages to impose and collect an additional nine percent tax on hotels, including short-term rental properties.[7] The potential revenue available to municipalities with authority to tax short-term rentals is exemplified by a 2011 study prepared by the city auditor for Austin, Texas, which estimated that the city could gain $100,000 to $300,000 annually by collecting taxes on short-term rental properties.[8] Communities that desire to collect such taxes may impose registration or licensing requirements as a means of identifying properties that are being used for short-term rentals and are therefore subject to taxation.

---

[5] Venice, FL Land Development Code § 86-151.

[6] *See* Texas Code §§ 156.001, 156.052. Accommodations of "at least 30 consecutive days, so long as there is no interruption of payment for the period," are exempt from the tax. *Id.* § 156.101.

[7] *See* Texas Code § 351.003.

[8] *See* "City of Austin begins work on short-term rental regulations; Planning Commission to address safety, tax revenue concerns," (Source: impactnews.com: Central Austin, April 22, 2011).

2.1.4 Fairer Competition with Licensed Lodging

Short-term rental restrictions may also be viewed as a means of leveling the playing field between the short-term rental industry and competing overnight lodging uses that may be specifically regulated under state or local law, such as hotels and bed and breakfasts. In some cases, the hotel industry has lobbied for the adoption of such regulations on the grounds that short-term rentals are functionally the same as hotel units and therefore should either be taxed and regulated like hotels, or prohibited. At a June 2011 meeting of the Planning Board of Buncombe County, North Carolina, for example, several hoteliers cited unfair competition in arguing against the potential repeal of a ban on vacation rentals in the county's more restrictive residential zoning districts. One industry representative testified that hotels "spend many, many hours and many, many dollars abiding by all the regulations that [hotels] are require to abide by and that many do not apply to short-term rentals."[9]

2.1.5 Protection of Renter Safety

A less commonly cited reason for the adoption of short-term rental regulations is the protection of renter safety. The rationale is that operational restrictions (e.g., occupancy limits based on septic system capacity) and inspection requirements are necessary to ensure the safety of occupants of short-term rental units. The City of Big Bear Lake, California, for example, has a "transient private home rentals" ordinance that is intended, in part, "to ensure . . . that minimum health and safety standards are maintained in such units to protect the visitor from unsafe or unsanitary conditions."[10]

2.2 TYPES OF SHORT-TERM RENTAL RESTRICTIONS

2.2.1 Prohibition

From the perspective of a short-term rental property owner, the most severe form of restriction is an outright ban on short-term rentals. A short-term rental prohibition may be limited to specific neighborhoods or zoning districts, or may be community-wide.

2.2.2 Geographically-Based Restrictions

Communities that choose to allow short-term rentals often use their zoning authority to regulate the use on a geographic basis. For example, Venice, Florida regulates short-term rental properties (referred to locally as "resort dwellings") only in the city's Residential Estate (RE) and Residential Single Family (RSF) zoning districts.[11] Similarly, Maui County, Hawaii permits transient vacation rentals only within certain business zoning districts and certain designated

[9] "Buncombe planners wade into Asheville-area vacation rental issue again; County debates relaxing the rules," *The Asheville Citizen-Times*, June 6, 2011.
[10] City of Bear Lake, CA Municipal Code § 17.03.310(A).
[11] *See generally* Venice, FL Land Development Code § 86-151.

"destination resort areas," including the Wailea, Makena, Kaanapali, and Kapalua Resort Areas.[12]

2.2.3 Quantitative and Operational Restrictions

Other communities that allow short-term rentals may choose to implement a cap on the number of short-term rental permits that may be issued. Such an approach constitutes a compromise between short-term rental owners who argue that they have the right to rent their properties on a short-term basis, and opponents who argue that short-term rentals should be prohibited as an unlawful commercial use in a residential neighborhood. Quantitative restrictions may take the form of a fixed limit on the total number of short-term rental permits that may be issued at any given time. The City of Santa Fe, New Mexico, for example, authorizes the Land Use Director to issue "up to 350 short term rental permits" for residential properties that do not otherwise qualify for permits as an accessory dwelling unit, owner-occupied unit, or unit located within a "development containing resort facilities."[13] Similarly, the City of Cannon Beach, Oregon maintains a 92 permit cap on the number of transient rental permits that will be issued by the city.[14] Alternatively, a community may implement a proximity restriction that prohibits a short-term rental property from being located within a certain distance of another short-term rental property. The "Residential Vacation Rentals" ordinance of San Luis Obispo County, California, for example, provides:

> [N]o residential vacation rental shall be located within 200 linear feet of a parcel on the same block on which is located any residential vacation rental or other type of visitor-servicing accommodation that is outside of the Commercial land use category.[15]

Another type of quantitative restriction is that in the Mendocino County, California zoning ordinance, which requires the county to maintain a ratio of "thirteen (13) long term residential dwelling units to one (1) single unit rental or vacation home rental."[16]

Many short-term rental regulations incorporate performance-type standards for the operation of short-term rental properties. Below are examples of these types of standards that are frequently incorporated into short-term rental regulations:

- <u>Maximum Occupancy Limits</u>: This standard limits the maximum overnight occupancy of short-term rental properties based on the number of bedrooms in the home (for example, the Isle of Palms, South Carolina limits overnight occupancy to two persons per bedroom plus an additional two persons[17]) and/or on the septic capacity of the property. In Sonoma County, California, for example, the maximum overnight occupancy of a vacation rental property on a conditional septic system is "equal to the design load of the septic system."[18]

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[12] *See* Maui County, HA County Code § 19.38.030(B).
[13] *See* Santa Fe, NM City Code § 14-6.2(A)(6)(a)(i).
[14] *See* City of Cannon Beach, OR Zoning Code § 17.77.020(F).
[15] San Luis Obispo County, CA Code § 23.08.165(c).
[16] Mendocino County, CA Code § 20.748.020(A).
[17] *See* Isle of Palms, SC City Code § 5-4-202(1).
[18] *See* Sonoma County, CA Code of Ordinances § 26-88-120(f)(2).

- Rental Period Restrictions: This restriction places a limit on the number of times a property may be rented for short-term occupancy. The City of Santa Fe, New Mexico, for example, limits short-term rental units to a maximum of 17 rental periods per calendar year and permits no more than one rental within a seven consecutive day period.[19]

- Parking Requirements: This standard may require that the short-term rented property provide more off-street parking than comparable properties that are occupied by owners or long-term tenants. Santa Fe also specifically prohibits short-term rental occupants from parking recreational vehicles on site or on the street.[20]

- Noise Level Limits: This standard applies specific noise level limitations to activities associated with short-term rental properties. Sonoma County's vacation rental ordinance, for example, includes an "Hourly Noise Metric" table that imposes specific quantitative noise level limits on vacation rentals during "activity hours" (9:00 a.m. to 10:00 a.m.) and "quiet hours" (10:00 p.m. to 9:00 a.m.).[21]

- Required Postings: This standard requires owners to prominently display a copy of the operational restrictions and contact information for the owner, manager, or other representative of the rental property.[22] Owners may also be required to incorporate the operational restrictions in all rental agreements.

- Emergency Access Requirements: If located behind a locked gate or within a gated community, short-term rental units may be required to provide a gate code or lockbox with keys to local police, fire, or emergency services departments.[23]

- Mandatory Designated Representatives: This standard requires that the short-term renter provide a current 24-hour working phone number of the property owner, manager, or other designated representative to local officials and to property owners within a certain distance of the rental unit. Some communities also require that the designated representative be available during all rental periods within a certain distance (e.g., a one-hour drive) of the rental property.[24]

- Trash and Recycling Facility Storage: This standard requires that trash and recycling bins be stored in a location that is not visible from public rights-of-way. Section 5.25.070 of the City of Palm Springs, California vacation rental ordinance, for example, states: "Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the collectors and between the hours of five a.m. and eight p.m. on scheduled trash collection days."[25]

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[19] *See* Santa Fe, NM City Code § 14-6.2(A)(6)(a)(ii).
[20] *See* Santa Fe, NM City Code § 14-6.2(A)(6)(a)(ii).
[21] *See* Sonoma County, CA Code of Ordinances § 26-88-120(f)(6).
[22] *See, e.g.*, Venice, FL Land Development Code § 86-151(2)(b)(1).
[23] *See, e.g.*, Sonoma County, CA Code of Ordinances § 26-88-120(f)(14).
[24] *See, e.g.*, Sonoma County, CA Code of Ordinances § 26-88-120(f)(13).
[25] Palm Springs, CA Municipal Code § 5.25.070(g).

2.2.4 Registration/Licensing Requirements

Owners who intend to offer their property for use as a short-term rental unit may be required to register their property with the local government. Garrett County, Maryland, for example, requires owners to register their property with the Office of Licensing and Enforcement Management and to pay a one-time fee as condition precedent to receiving a "transient vacation rental unit license" from the County.[26] Short-term rental licenses often are valid only for a one- or two-year period, requiring property owners to renew the licenses—and to pay associated fees—on a regular basis.

Many communities require short-term rental properties to pass certain inspections prior to the issuance of a permit, license, or renewal. Tillamook County, Oregon, for example, as a condition to the issuance of a short-term rental permit, requires property owners to obtain a certification from a certified building inspector evidencing compliance with all applicable operational standards, including minimum fire extinguisher and smoke detector requirements, emergency escape and rescue standards, and structural requirements.[27]

2.3 ENFORCEMENT

Communities typically enforce their short-term rental regulations (a) in accordance with a generally applicable enforcement provision contained in the code of ordinances or zoning ordinance, or (b) through a specific enforcement provision incorporated into the short-term rental regulations. Article 9 of the Isle of Palms, South Carolina Code of Ordinances is one example of a short-term rental ordinance that contains no specific enforcement provision, but is enforced under a generally applicable penalty provision.[28] Under the Isle of Palms Code of Ordinances, violation of the short-term rental ordinance is subject to the same penalties and procedures as a violation of any other provision the zoning code. Potential penalties for a violation are established under Section 5-4-7 of the Code of Ordinances, which states:

> In case a structure or land is or is proposed to be used in violation of this chapter, the Zoning Administrator may, in addition to other remedies, issue and serve upon a person pursuing such activity or activities a *stop order* requiring that such person immediately cease all activities in violation of this chapter.
>
> Any person violating any of the provisions of this chapter shall be deemed guilty of a *misdemeanor* and shall for each violation, upon conviction thereof, be punished as provided in section 1-3-66. Each day that a violation continues shall constitute a separate offense.[29]

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[26] *See* Garrett County, MD Code of Ordinances § 160.03(A).
[27] *See* Tillamook County (OR) Short Term Rental Ordinances, Sections 6 (Standards) and 9.A.b (Short Term Rental Permit Application Requirements).
[28] *See generally* Isle of Palms, SC City Code §§ 5-4-201 to -206 (Short-Term Rentals) and § 5-4-7 (Violations and Penalties).
[29] Isle of Palms, SC City Code § 5-4-7 (Emphasis added).

By contrast, the short-term rental ordinances of Sonoma County, California and Santa Fe, New Mexico contain specifically applicable enforcement provisions. Under Section 26-88-120(g) of the Sonoma County vacation rental ordinance, individuals who register an initial complaint about a vacation rental property are directed to the contact person identified in the zoning permit or use permit issued for the property. Subsequent complaints are addressed to code enforcement officials who are responsible for conducting an investigation to determine whether there was a violation of a zoning or use permit condition. Code enforcement may accept neighbor documentation consisting of photos, sound recordings and video as proof of an alleged violation. If code enforcement verifies that a violation has occurred, then a notice of violation is issued and a penalty may be imposed in accordance with Chapter 1 of the Sonoma County Code. In addition, under Section 26-88-120(g)(1), code enforcement officers are also given the discretion to schedule a revocation hearing with the board of zoning adjustment. If a vacation rental permit is revoked, then a new zoning or use permit for a vacation rental may not be reapplied for or issued for a period of at least one year.[30] Santa Fe's short term rental unit ordinance includes a specific provision that authorizes the city to revoke a short term rental permit upon conviction for a third violation of the ordinance.[31]

SECTION 3: IMPACTS OF SHORT-TERM RENTAL RESTRICTIONS

3.1 IMPACTS ON RENTAL PROPERTY OWNERS

3.1.1 Rental Income

For some rental property owners, the adoption of short-term rental restrictions may result in the *loss* of rental income altogether. The most obvious example is an owner of property located in a zoning district where short-term rentals are no longer allowed under a local ordinance. In areas where short-term rentals are allowed, other property owners might face the loss of rental income due to their inability, for financial or other reasons, to satisfy the requirements for obtaining a permit, such as minimum off-street parking or structural requirements. As discussed in Section 5.3.6 below, some short-term rental regulations might also cause an owner to lose rental income because of suspension or revocation of a rental permit, even if the reason for suspension or revocation is beyond the owner's control (e.g., tenant behavior).

There are several ways in which a short-term rental restriction might also result in a *decrease* in rental income. An ordinance that restricts the number of times a property may be rented per year could have a significant impact on the property's income potential. Santa Fe, New Mexico, for example, limits short-term rentals to 17 rental periods per year.[32] A maximum overnight occupancy provision could also negatively affect the income potential of a rental property by reducing the number of guests to whom a home may be rented. Rental restrictions can also cause a reduction in rental income where they have the effect of narrowing the field of potential tenants or discouraging vacationers from renting a home. For example, an ordinance that prohibits

[30] *See generally* Sonoma County, CA Code of Ordinances § 26-88-120(g).
[31] *See* Santa Fe, NM City Code § 14-6.2(A)(6)(a)(iv).
[32] *See* Santa Fe, NM City Code § 14-6.2(A)(6)(a)(ii)(B).

short-term occupants from parking a recreational vehicle on site or on the street might deter families who travel by RV from renting a home in Santa Fe.[33]

3.1.2 Property Values

Short-term rental restrictions can affect property values in different ways. Generally speaking, all else being equal, if identified negative impacts of short-term rentals in a district or neighborhood are reduced or eliminated by short-term rental housing restrictions, property values may increase. On the other hand, the added limitations on the use of properties that short-term rental housing restrictions impose may cause property values in the district or neighborhood to decrease. The precise impact that short-term rental restrictions have on property values will depend on various factors, including the general character of the community (e.g., vacation destination versus non-destination community), the precise terms of the ordinance, local and national economic conditions, and local real estate market conditions.

3.1.2.1 Existing Short-Term Rental Properties

In general, the value of a home that was used as a short-term rental prior to the adoption of restrictions, but is either prohibited or restricted from future use as a short-term rental, can be expected to *decrease*. That is particularly true in vacation destination communities, where homeowners often purchase second homes as investment properties.[34] These potential buyers often plan to use the second home as a short-term rental property until they retire or otherwise become able to maintain the property as their full-time residence.[35] Such buyers would tend to be less interested in purchasing in an area where the short-term rental market is highly uncertain or is constrained by burdensome regulations.

In some circumstances, it is conceivable that a short-term rental ordinance could increase the value of those homes that were used as short-term rentals prior to the adoption of the restrictions *and* become lawfully licensed for use under the new regulations. Under the general economic principle of supply and demand, if an ordinance has the effect of reducing the *supply* of short-term rental properties and the *demand* for short-term rental properties rises or remains constant, then the value of individual properties licensed as short-term rental properties after the adoption of regulations, can be expected to rise.

3.1.2.2 Properties Not Previously Used as Short-Term Rental Properties

The impact of short-term rental restrictions on the value of properties that were not used as short-term rentals prior to adoption of the restrictions will also vary. The value of a property that becomes licensed as a short-term rental for the first time under a new ordinance conceivably could *increase* if the quantity of short-term rental properties on the market falls as a result of the

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[33] Section 14-6.2(A)(6)(a)(ii)(E) of the Santa Fe Short Term Rental Ordinance states: "Occupants shall not park recreational vehicles on site or on the street."

[34] *See* National Association of Realtors®, *Nearly One in Seven Homebuyers Owned or Bought A Second Home During First Quarter*, July 13, 2003 (accessed at http://www.realtor.org/publicaffairsweb.nsf/Pages/SecondHomeReport?OpenDocument).

[35] *See id*.

ordinance. In residential neighborhoods where the existence of short-term rentals is considered a negative, an ordinance that prohibits future short-term rental activity in those neighborhoods could positively affect the value of homes in these locations.

3.1.3 Operational Costs

Short-term rental regulations tend to increase the cost of owning and operating a rental property in a number of ways. The regulations typically require owners to pay an up-front registration or permit fee and may also require payment of additional licensing fees on an annual or other recurring basis. Inspection requirements also add to the cost of operating a short-term rental since, in most cases, the inspections are performed at the owner's expense. Performance standards may also require an owner to undertake costly improvements in order to obtain a short-term rental permit. An owner may be required to expand an existing driveway in order to satisfy a minimum parking requirement or to upgrade electrical or sewer systems in order to qualify for a permit. In addition, a rental property owner who resides out of state may have to hire a property manager in order to satisfy a requirement that a designated representative be available at all times and within a certain proximity of the unit during any rental period.

3.1.4 Nonconforming Use Status

A property that was used as a short-term rental prior to the adoption of an ordinance that no longer allows short-term rentals may become a **nonconforming use** under state and local zoning laws. Although state and local laws zoning laws typically allow nonconforming uses to continue, the right to alter or expand a nonconforming use is usually limited and often requires the issuance of a special permit, or an equivalent form of zoning relief, from the local planning commission or board of appeals. In addition, a nonconforming use that is discontinued for a specific period of time (typically one or two years) may be deemed abandoned, and thereafter prohibited from resuming at a future date.

3.2 COMMUNITY IMPACTS

3.2.1 Local Real Estate Market

In vacation destination communities, many property owners depend on the income gained from short-term rentals to pay their mortgages, real estate taxes, association dues, and other expenses. If that income is taken away or severely reduced by short-term rental restrictions, the only alternative for those homeowners might be to sell their homes immediately in order to avoid foreclosure or a distressed sale. A widespread ban on short-term rentals that results in a substantial number of homes being sold or foreclosed upon may flood the market, causing property values to fall and remain depressed for a period of time.

3.2.2 Tourism

Short-term rental restrictions may negatively impact local tourism in at least two ways. First, they may affect the occupancy rates of vacation rentals by increasing the per-person cost of short-term rentals because they limit the maximum occupancy of a short-term rental unit. Short-

term rental restrictions may also cause rental property owners to increase their rental rates and minimum security deposits in order to cover the increased cost of operating a short-term rental and the risk of incurring a fine or having their rental licenses revoked or suspended. All else being equal, the higher rental rates paid by smaller groups of tenants, increase the per-person cost of short-term rentals in communities with short-term rental ordinances.

Second, tourists who become aware of the new restrictions may perceive them as being motivated by, and evidence of, an "anti-tourist" sentiment among full time residents of the community. Regulations that single out short-term rentals for different treatment may implicitly brand short-term renters as being potentially disruptive even though an individual tenant may have done nothing wrong. Provisions that allow random inspections of short-term rentals without imposing reasonable restrictions on the time or manner of those inspections may be perceived as an invasion of privacy and an unreasonable disruption of a family vacation. A perceived anti-tourist sentiment may ultimately discourage tourists from vacationing in that community.

A January 2010 report prepared by the Napa Valley Vacation Rental Alliance, argued that the availability of short-term rental properties could determine where a family or groups of friends vacationing together chooses to stay. The report states:

> Throughout the world, some travelers prefer private dwellings to hotels. For instance, those traveling as a family or group of friends often want spacious accommodations and kitchens. This market segment will not substitute conventional lodging if vacation rentals are not provided, they will simply go elsewhere. Thus, by eliminating vacation rentals, Napa County would deter a substantial number of visitors who currently spend on restaurants, wine, attractions and services and who would instead spend for leisure outside our County.[36]

The 2008 study "Economic Impact of Transient Vacation Rentals (TVRs) on Maui County"[37] commissioned by the Realtors® Association of Maui (the "Maui TVR Study") reached a similar conclusion. Acknowledging that "the TVR industry is concerned about . . . the potential enactment of legislation meant to marginalize [the TVR] industry, and the potential economic consequences of such policies," the Maui TVR Study concluded:

> The extent of the loss of the TVR industry due to government regulations depends to what extent TVR visitors substitute an alternative Maui County accommodation type to TVRs if they are unavailable or not sufficiently available to meet the current and expected future demand level for their accommodation type. In a global market place with alternatives to Maui destinations offering a literal potpourri of accommodation experiences, the modern, well-informed and sophisticated visitor can find the accommodations experience that best fits their tastes and preferences.

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[36] Napa Valley Vacation Rental Alliance (NVVRA): A Coalition of Napa County Stakeholders (prepared for Napa County by Napa Valley Vacation Rental Alliance (NVVRA), Jan. 2010) (available on-line at http://wwwhite.com/nvvra/media/WHY%20CODIFYING%20VACATION%20RENTALS%20NOW%20IS%20GOOD%20PUBLIC%20POLICY.pdf).

[37] "Economic Impact of Transient Vacation Rentals (TVRs) on Maui County," prepared by Dr. Thomas Loudat & Dr. Prahlad Kasturi for the Realtors® Association of Maui (Jan. 8, 2008) (hereinafter the "Maui TVR Study").

> Based on the increasing market share of TVRs on Maui from 2000 to 2006 relative to other accommodation types one can reasonably surmise that the modern visitor increasingly prefers a TVR or its equivalent experience. Thus, even though elimination of Maui TVRs may not result in the loss of all TVR visitors who may substitute an alternative Maui County accommodation type yet available, we would still expect a significantly negative economic impact in Maui County if TVRs are eliminated or significantly reduced.[38]

3.2.3 Local Economy

Local economies that lean heavily on the tourist economy are more susceptible to the potential impacts of short-term rental restrictions. Even a slight impact on tourism in these communities can have a significant negative effect on the viability and success of restaurants, retail establishments, and other local businesses that provide services to tourists. The potential dollar impacts of a reduction in visitor numbers due to a short-term rental restriction is illustrated by the daily spending calculations of the Maui TVR Study, which calculated that transient vacation rental visitors spent an average of $159.16 per day in Maui County.[39] Based on 2006 transient vacation rental visitor data (105,967) and a 6.85 day average length of stay, the study concluded that transient vacation rentals produced more than $115 million in total revenue from lodging, food and beverage, entertainment, shopping, and other county businesses and services.[40]

3.2.4 Tax Revenue

Short-term rental restrictions can have a positive effect on tax revenue if communities are authorized by state law to impose and collect a tax on short-term rentals. Cities, towns and villages in Texas, for example, are authorized by the Municipal Hotel Occupancy Tax statute to impose and collect a nine percent tax on the price paid for short-term rentals.[41] In 2011, the City of Austin estimated that it could gain an additional $100,000 to $300,000 in tax revenue by taxing short-term rental properties.[42]

At the same time, however, short-term rental restrictions that negatively affect local tourism could cause sales tax revenue to decrease if restaurant and retail sales are down due to diminished tourism.

3.2.5 Affordable Housing

Short-term rentals can affect housing costs in a community. When property owners elect to rent their homes on a short-term basis rather than renting on a longer-term basis (e.g., by the season or by the year), "they essentially squeeze the supply of housing, pushing up the demand, and subsequently, the cost" of housing in the community.[43] In some cases, allowing short-term rentals may fuel speculation in rising housing markets by allowing investors to cover the

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[38] Maui TVR Study at 1-2.
[39] *See* Maui TVR Study at 16.
[40] *See* Maui TVR Study at 16-17
[41] *See* Texas Code § 351.003.
[42] *See* "City of Austin begins work on short-term rental regulations; Planning Commission to address safety, tax revenue concerns," (Source: impactnews.com: Central Austin, April 22, 2011).

carrying costs of a house for a period of time while the property appreciates in value and then sell it for a profit.[44] Tourist communities, in particular, may be affected if the workers in low-paying service and tourism related jobs can no longer afford to live in the community or within a reasonable commuting distance.[45]

3.2.6 Governmental Administrative Costs

Short-term rental restrictions create additional administrative burdens on local government, including the processing of permit, licensing and registration applications. Local building officials are likely to be faced with an increased volume of required inspections. Code enforcement personnel and the police officers may be required to assume additional enforcement duties under a short-term rental ordinance. The financial burden of administering a short-term rental ordinance may weigh heavily on vacation-destination communities, where the a high volume of short-term rental properties may require local government to hire additional staff or pay increased overtime costs to current staff in order to implement the short-term rental program.

3.3 IMPACTS ON RENTERS

3.3.1 Rental Fees

As discussed above, the adoption of short-term rental restrictions may cause rental property owners to increase rental rates as a means of recovering licensing and permit fees, inspection and other related costs. If regulations expose a property owner to the risk of incurring a fine or having the owner's rental license suspended or revoked, the owner may also increase the minimum security deposit as a means of deterring tenants from engaging in behavior that might violate the short-term rental regulations.

3.3.2 Inventory of Short-Term Rental Units

Short-term rental restrictions can also reduce the inventory of short-term rental units in a community in various ways. For example, zoning regulations may prohibit short-term rentals in single-family residential zoning districts or within certain areas or neighborhoods. An owner who successfully operated a short-term rental property without complaint prior to the adoption of licensing requirements may be barred from continuing the use if the property does not conform to the new licensing criteria. More generally, owners may simply decide they do not want to assume the increased cost and risk of continuing to use their property as a short-term rental, and withdraw their properties from the inventory of short-term rental in the community.

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[43] APA Report at 2.
[44] *See id*.
[45] *See id*.

3.4 UNINTENDED CONSEQUENCES OF SHORT-TERM RENTAL RESTRICTIONS

3.4.1 "Underground Market" for Short-Term Rental Units

Short-term rental restrictions that impose high permit and licensing fees, onerous inspection requirements, and performance standards that are difficult or costly for owners to satisfy might have the unintended effect of creating an underground market for short-term rentals, in which owners continue to rent their properties without obtaining the required permits. Owners who depend on rental income to pay their mortgages to pay the maintenance costs of a second home may be willing to risk incurring fines and other penalties if an ordinance creates obstacles that cannot be overcome or that may make it economically infeasible to obtain a rental permit.[46]

3.4.2 Uncertainty in the Short-Term Housing Market

A short-term rental regulation that authorizes the suspension or revocation of a short-term rental permit can also introduce a degree of uncertainty in the short-term rental housing market. Vacation travelers often reserve short-term housing accommodations several months in advance of a planned vacation, particularly when the stay is planned during a destination's peak visitation period. Under those circumstances, for example, it is conceivable that a family may make a reservation and pay a deposit several months in advance of a holiday ski vacation only to discover later that the home they had reserved is no longer available because its short-term rental permit was suspended or revoked. In some cases, by the time a vacation home renter makes that discovery, it may be too late to find suitable alternative short-term housing, leaving the vacationer with a negative impression of the local community—an impression that the vacationer is likely to share with others.

SECTION 4: LEGAL ISSUES RAISED BY SHORT-TERM RENTAL RESTRICTIONS

4.1 AUTHORITY TO REGULATE

In general, short-term rental restrictions are typically adopted under the specific authority of a state **zoning enabling statute** or the general **police power** delegated to local governments by the state constitution, or by statute. Zoning regulations that restrict short-term rentals in residential areas have been upheld where the restrictions are found to be substantially related to land use impacts in the area.[47] Prohibiting short-term occupancy in single-family areas has been held to be within the lawful scope of the zoning power.[48]

However, in 2011 the Florida State Legislature enacted legislation that specifically limits the authority of local governments to regulate or prohibit short-term rentals. Enacted as Chapter No.

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[46] *See* "More destinations shut the door on vacation rentals, *USA Today*, August 6, 2010 (commenting that the ban on short-term rentals in New York City apartments, most of which are already prohibited under many condominium and co-op bylaws, "will simply go further underground").

[47] 5 RATHKOPF'S THE LAW OF ZONING AND PLANNING § 81:11 (4th Ed 2011) (hereinafter "RATHKOPF") (citing to *Brown v. Sandy Bd. of Adjustment*, 957 P.2d 207 (Utah Ct. App. 1998) (finding that city has authority to prohibit short-term rentals in single-family neighborhood)).

[48] RATHKOPF § 81:11 (citing *Cope v. City of Cannon Beach*, 855 P.2d 1083, 317 Or. 339 (1993) and *Ewing v. City of Carmel-By-The-Sea*, 234 Cal. App. 3d 1579, 286 Cal. Rptr. 382 (6th Dist. 1991)).

2011-119 on June 2, 2011, the Florida law (entitled "An act relating to public lodging establishments and public food service establishments") states:

> A local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.[49]

As of the date of this paper, Florida appears to be the only state to have enacted legislation limiting the authority of local governments to regulate or prohibit short-term rentals. It is conceivable, however, that the Florida law may become a model for other states. This would appear to be the most likely in those states where short-term rentals comprise a meaningful segment of the tourist lodging industry.

4.2 TAKINGS

It is well established that a land use regulation that is excessively restrictive may constitute a "taking" of property for which compensation must be paid under the state constitution and the Fifth and Fourteenth Amendments to the United States Constitution.[50] The prevailing test for determining whether a regulatory taking has occurred was established in the landmark case of *Penn Central Transportation Co. v. City of New York*,[51] decided by the United States Supreme Court in 1978. The *Penn Central* test requires a balancing of the public and private interests involved in each case, weighing the following three factors: (1) the economic impact of the regulation on the property owner; (2) the extent to which the regulation interferes with the property owner's "distinct investment-backed expectations;" and (3) the character of the governmental action (i.e., physical invasion v. economic interference).[52]

The application of the *Penn Central* "balancing test" is illustrated in an Oregon case that concerned a takings challenge to a short-term rental ordinance. In that case[53] rental property owners challenged a City of Cannon Beach, Oregon ordinance that prohibited the creation of new transient occupancy uses and required existing transient occupancy uses to end by 1997. The petitioners claimed that Ordinance 92-1 constituted a taking of property without just compensation under the Fifth and Fourteenth Amendments.[54] The Supreme Court of Oregon, however, upheld Ordinance 92-1, focusing ultimately on the economic impact of the restrictions:

> We next consider whether Ordinance 92-1, by prohibiting transient occupancy, denies property owners economically viable use of their properties. We conclude that it does not. On its face, Ordinance 92-1 permits rentals of dwellings for periods of 14 days or more. The ordinance also permits the owners themselves to reside in the dwellings.

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[49] The enrolled version of House Bill No. 883 is available on the Florida State Legislature's website at: http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=_h0883er.docx&DocumentType=Bill&BillNumber=0883&Session=2011.

[50] PATRICIA E. SALKIN, 2 AMERICAN LAW OF ZONING § 16:1 (5th ed. 2008) (hereinafter "SALKIN").

[51] *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104, 98 S. Ct. 2646 (1978).

[52] SALKIN § 16:9 (citing *Penn Central*, 438 U.S. at 124).

[53] *Cope v. City of Cannon Beach*, 855 P.2d 1083 (Or. 1993).

[54] *See id*. at 1084.

> Although those uses may not be as profitable as are shorter-term rentals of the properties, they are economically viable uses.[55]

As the court's analysis indicates, plaintiffs who challenge a short-term rental restriction as a taking of property face an uphill battle. As a practical matter, it is difficult to argue that a short-term rental prohibition denies the owner of *all* economically viable use of his land, particularly where longer-term rentals are still allowed.

4.3 DUE PROCESS

The Fourteenth Amendment to the U.S. Constitution prohibits any governmental action that deprives "any person of . . .liberty or property, without **due process** of law." This clause imposes both substantive and procedural requirements. The substantive component of the due process clause, known as "substantive due process," tests the governmental purposes implemented by land use regulations. To satisfy substantive due process, a regulation must advance a legitimate governmental purpose.[56] In general, a local land use ordinance will survive a substantive due process challenge if there exists a rational relationship between the terms of the ordinance and a legitimate governmental interest.[57] A local ordinance may be challenged on due process grounds either on its face, or as applied to a particular case. When a landowner makes a *facial* challenge to a zoning ordinance, "he or she argues that *any* application of the ordinance is unconstitutional."[58] On the other hand, when a landowner makes an *as applied* challenge, he or she attacks "only the specific decision that applied the ordinance to his or her property, not the ordinance in general."[59]

In a California case,[60] the plaintiffs challenged the city of Carmel's transient rental ordinance on substantive due process grounds, arguing that the prohibition was "not rationally related to the goals sought to be achieved."[61] The California court of appeals rejected the substantive due process claim, finding that the ordinance was rationally related to the goals and policies set forth in the city's general plan, as well as the stated purpose of the R-1 district.[62] In support of its conclusion, the court explained that short-term rentals were inconsistent with the residential character of the community:

> It stands to reason that the "residential character" of a neighborhood is threatened when a significant number of homes—at least 12 percent in this case, according to the record—are occupied not by permanent residents but by a stream of tenants staying a week-end, a week, or even 29 days. Whether or not transient rentals have the other "unmitigatable, adverse impacts" cited by the council, such rentals undoubtedly affect the essential character of a neighborhood and the stability of a community. Short-term tenants have little interest in public agencies or in the welfare of the citizenry. They do not participate in local government, coach little league, or join the hospital guild. They

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[55] *Id*. at 1086-87 (internal citations omitted).
[56] *See* SALKIN § 15:2.
[57] *See id*.
[58] *WMX Technologies, Inc. v. Gasconade County*, 105 F.3d 1195, 1198-99 n.1 (8th Cir. 1997) (emphasis added).
[59] *See* SALKIN § 15:2.
[60] *Ewing v. City of Carmel-by-the-Sea*, 234 Cal. App. 3d 1579 (6th Dist. Cal. 1991).
[61] *Id*. at 1596.
[62] *See id*. at 1589.

> do not lead a scout troop, volunteer at the library, or keep an eye on an elderly neighbor. Literally, they are here today and gone tomorrow—without engaging in the sort of activities that weld and strengthen a community.[63]

Referring back to its discussion of Carmel's stated goals, the court summarily concluded:

> We have already determined that the ordinance is rationally related to the stated goal. Carmel wishes to enhance and maintain the residential character of the R-1 District. Limiting transient commercial use of residential property for remuneration in the R-1 District addresses that goal.[64]

The California state court decision illustrates the difficulty of challenging a short-term rental restriction on substantive due process grounds. In general, a short-term rental restriction seems likely to survive substantive due process scrutiny if the local jurisdiction articulates a legitimate governmental interest (e.g., the protection of residential character in predominantly single-family neighborhoods), and can produce some findings connecting short-term rental activity to the types of neighborhood and community impacts described in Carmel's transient rental ordinance.

4.4 EQUAL PROTECTION

The Equal Protection Clause of the Fourteenth Amendment commands that no State shall "deny to any person within its jurisdiction the equal protection of the laws," which states the basic principle that all persons similarly situated should be treated alike.[65] The general rule is that a state or local law is presumed to be valid and will be sustained if the classification drawn by the law is rationally related to a legitimate state interest.[66] If a local or state law does not involve a suspect classification (e.g., one that treats persons differently on the basis of race, alienage, or national origin) or a fundamental right (e.g., the right to vote, the right to interstate travel), then an equal protection challenge is analyzed under the rational basis test. The rational basis test is a very deferential test, under which an ordinance generally will be upheld if there is any "reasonably conceivable state of facts that could provide a rational basis for the classification."[67] Moreover, the rational basis test does not require a legislative body to articulate its reasons for enacting an ordinance, because "[i]t is entirely irrelevant for constitutional purposes whether the conceived reason for the challenged distinction actually motivated the legislature."[68] This means that a court may find a rational basis for a law, even if it is one that was not articulated by the legislative body.

A short-term rental ordinance may be vulnerable to an equal protection challenge on the ground that it treats similar properties differently based on whether a property is occupied by short-term tenants or longer term tenants. For example, take an ordinance that generally does not impose a

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[63] *Id*. at 1591.
[64] *Id*. at 1596.
[65] *See generally Plyler v. Doe*, 457 U.S. 202, 216 (1982).
[66] *See generally Schweiker v. Wilson*, 450 U.S. 221, 230 (1981); *United States Railroad Retirement Board v. Fritz*, 449 U.S. 166, 174-175 (1980); *Vance v. Bradley*, 440 U.S. 93, 97 (1979); *New Orleans v. Dukes*, 427 U.S. 297, 303 (1976).
[67] *United States Railroad Retirement Bd. v. Fritz*, 449 U.S. 166, 101 S. Ct. 453, (1980).
[68] *FCC v. Beach Communications, Inc.*, 508 U.S. 307, 113 S. Ct. 2096 (1993).

maximum occupancy limit on single family homes in a city's residential zoning districts, but does impose such a limit on homes that are used for short-term rentals. On its face, this ordinance treats similar properties (i.e., single family homes in the same zoning district) differently, based on whether they are used as a short-term rental. Because no suspect classification or a fundamental right is implicated, an equal protection claim against the ordinance would be reviewed under the deferential rational basis test. For the same rational basis reasons discussed above in connection with a substantive due process challenge, the short-term rental ordinance is likely to survive judicial scrutiny.

Since 2000, as a result of the U.S. Supreme Court decision in *Village of Willowbrook v. Olech*,[69] "selective enforcement" claims in land use cases may also be brought under the Equal Protection clause. Selective enforcement claims generally assert that a municipality arbitrarily applied its land use ordinance to a conditional use permit or other land use approval, or that enforcement of the ordinance was arbitrarily selective.[70] In *Olech*, the village refused to supply water to the plaintiffs unless they granted the village an easement that it had not required of other property owners. It was alleged that the village did so to retaliate for the plaintiffs having brought an earlier, unrelated suit against the village. The question before the Supreme Court was whether an individual who does not have a suspect classification or fundamental interest claim can nevertheless establish a "class of one" equal protection violation when vindictiveness motivated the disparate treatment. The Court held:

> Our cases have recognized successful equal protection claims brought by a "class of one," where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment. In so doing, we have explained that "'the purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.'"[71]

From a plaintiff's perspective, the difficult part of the *Olech* decision is its requirement that selective enforcement claims involve intentional treatment. Moreover, it is unclear whether the intentional treatment rule requires merely an intent to do an act or, more specifically, the intent to harm or punish an individual for the exercise of lawful rights.[72] Since *Olech*, most cases involving "class of one" equal protection claims that assert selective enforcement have not been successful.[73]

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[69] *Village of Willowbrook v. Olech*, 528 U.S. 562, 120 S. Ct. 1073 (2000).
[70] BRIAN W. BLAESSER & ALAN C. WEINSTEIN, FEDERAL LAND USE LAW & LITIGATION § 1:20 (Thomson-Reuters/West: 2011) (hereinafter "BLAESSER & WEINSTEIN").
[71] *Olech*, 528 U.S. at 564 (citations omitted).
[72] *See* BLAESSER & WEINSTEIN § 1:20.
[73] *See generally* BLAESSER & WEINSTEIN § 1:20, fn. 7.

SECTION 5: WAYS TO ADDRESS PROPOSALS TO ESTABLISH SHORT-TERM RENTAL RESTRICTIONS

5.1 QUESTION THE NEED FOR SHORT-TERM RENTAL RESTRICTIONS

One of the first questions that should be asked when a city or town proposes to adopt a short-term rental ordinance is whether there truly exists a need for the restrictions. In some cases, the perceived need for a short-term rental ordinance may be based solely on anecdotal evidence about the alleged problems caused by short-term rental tenants rather than on documented evidence that short-term rental tenants are causing problems. If nothing more than anecdotal evidence is provided in support of a proposed ordinance, it may allow opponents to later argue that it was adopted arbitrarily without any rational basis.

5.1.1 Empirical Analysis

Where proposed short-term rental restrictions appear to be supported solely by anecdotal evidence, Realtors® should question whether empirical studies using data from police call logs, code enforcement activity, and prosecutorial records have actually established the alleged adverse impacts to the community, and the degree to which those impacts are attributable to short-term rental properties. Below are some examples of the types of inquiries Realtors® can make of local government officials:

- What number of complaints logged by the local code enforcement and police departments were generated by short-term rentals? Does the data evidence an increase in the number of complaints attributable to short-term rentals over the last five years?

- How do the complaints concerning short-term rentals relate to the number of individuals occupying the short-term rental that is the subject of the complaint? Does the city or town have factual support to justify a proposed occupancy limit for short-term rental housing and to what extent does this limitation exceed the occupancy limits applicable to other types of housing?

- Does a specific type of complaint (e.g., noise disturbance, litter or trash, parking violations, or late night parties) constitute a large percentage of the total number of complaints recorded in the last five years? If so, does a provision of the local zoning or general ordinance already regulate the offending behavior? If it is possible to address the majority of the problems by enforcing existing nuisance regulations, rather than by imposing new maximum occupancy limits on short-term rentals, it may call into question the need for the proposed ordinance.

- Does a disproportionate number of complaints arise from a small number of rental properties? If yes, then a more appropriate response might be to adopt narrowly tailored regulations. An

example of this approach would be a regulation that would apply only after one or more violations are found on a property, rather than imposing the cost and disruption of new regulations on all owners of short-term rental property.

5.1.2 Stakeholder Input

Realtors® should also urge that local government officials seek and consider input from individuals and organizations with a stake in the short-term rental industry as early in the process as possible. Stakeholder groups should include representatives of local homeowner associations, rental property management associations, the local Realtor® associations, the chamber of commerce, local tourism bureau, and other organizations involved in the short-term rental industry.

5.1.3 Public Process

Realtors® should actively monitor and participate in the public hearing process. Early on, Realtors® should request an invitation to participate in any stakeholder groups formed by the local government prior to the public hearing process. Local governments often allow interested parties to discuss their concerns with local officials responsible for drafting and advising the local legislative body on a proposed ordinance at the beginning of the process. To the extent possible, Realtors® should take advantage of this opportunity to meet with the local planner or other staff members who may be drafting a proposed short-term rental ordinance.

State and local open public meetings laws generally require local legislative bodies to publish notice of scheduled public hearings, typically in the local newspaper, by posted notice at city or town hall, and/or on the official website of the city or town. If a draft of the proposed short-term rental ordinance is available prior to the public hearing, Realtors® should request a copy and review it thoroughly in advance of the hearing.[74] Realtors® should be prepared to submit written comments and/or to testify at the public hearing about their concerns with the proposal.

5.2 SUGGEST ALTERNATIVES TO SHORT-TERM RENTAL RESTRICTIONS

5.2.1 Enforcement of Existing Ordinances

Communities that wish to address the potential negative impacts of short-term rentals on residential neighborhoods likely already have regulations in place that are aimed at curtailing those types of impacts on a community-wide basis. In many cases the existing ordinances already address the types of behaviors and activity that would be the focus of short-term rental performance standards or operational restrictions. Below are some examples.

5.2.1.1 Noise Limits

Absent **preemption** by federal or state law, the control of noise is generally within the police power authority of local government. Communities commonly adopt noise control ordinances

[74] The Realtor® association may obtain assistance in this effort through NAR's Land Use Initiative program.

for the purpose of controlling unnecessary, excessive, and annoying noise within the community. In the City of San Luis Obispo, California, for example, the Noise Control Ordinance Noise Control Ordinance (Chapter 9.12 of the San Luis Obispo Municipal Code) expressly declares any noise in violation of Chapter 9.12 to be a **public nuisance**, punishable by civil or criminal action. The term "noise disturbance" is defined to mean:

> any sound which (a) endangers or injures the safety or health of human beings or animals, or (b) annoys or disturbs reasonable persons of normal sensitivities, or (c) endangers or injures personal or real property, or (d) violates the factors set forth in Section 9.12.060 of this chapter. Compliance with the quantitative standards as listed in this chapter shall constitute elimination of a noise disturbance.[75]

Additionally, specific types of noise violations that commonly arise in residential neighborhoods are regulated under Section 9.12.050, including the following:

- Noise disturbances that are "plainly audible at a distance of fifty feet from the noisemaker, unless the noise does not penetrate beyond the boundaries of the noisemaker's own premise.[76]

- Operating, playing or permitting the operation or playing of any radio, television set, phonograph, drum, musical instrument, or similar device between the hours of 10:00 PM and 7:00 AM in such a manner as to create a noise disturbance audible across a property line.[77]

- Operating, playing or permitting the operation or playing of any radio, television set, phonograph, drum, musical instrument, or similar device in a manner that creates a noise disturbance at any time in excess of noise levels defined in Section 9.12.060 (measured by decibel levels and duration of the disturbance).[78]

5.2.1.2 Public Nuisance

In general, cities and counties have the police power to declare and abate nuisances. The Boulder, Colorado nuisance abatement ordinance (Title 10, Chapter 2.5 of the Boulder Revised Code) defines a "public nuisance" to mean:

> [A]ny condition or use of any parcel on or in which two or more separate violations of the Boulder Municipal Code have occurred within a twelve-month period, or three or more separate violations have occurred within a twenty-four month period, if, during each such violation, the conduct of the person committing the violation was such as to annoy residents in the vicinity of the parcel or passers-by on the public streets, sidewalks, and rights-of-way in the vicinity of the parcel.[79]

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[75] City of San Luis, California Municipal Code § 9.12.020(U).
[76] *See* San Luis Municipal Code § 9.12.050(A).
[77] *See* San Luis Municipal Code § 9.12.050(B)(1)(a).
[78] *See* San Luis Municipal Code § 9.12.050(B)(1)(b).
[79] "Nuisance Abatement Information Sheet," City of Boulder, Colorado (available on-line at http://www.bouldercolorado.gov/files/PDS/Code%20Enforcement/nuisanceabat_info.pdf).

No violations or actions are designated as "public nuisance" acts. Instead, the determination whether a violation triggers the nuisance abatement process is made by the responding law enforcement agency. For instance, in some cases, a trash violation may trigger the nuisance abatement process, while in others the problem might be best handled with a municipal court summons. Legal remedies to abate public nuisances generally include the filing of a criminal complaint, or a civil action, or an administrative abatement.

5.2.1.3 Property Maintenance Standards

A property maintenance ordinance might be adopted for the purpose of maintaining, preserving, or improving a community's inventory of residential and non-residential buildings. To accomplish this, property maintenance ordinances typically establish standards for the exterior maintenance of affected structures, including basic structural elements such as foundations and supporting columns, exterior finish surfaces, and doors and windows. Property maintenance standards may also require property owners to maintain existing trees, shrubs and other significant vegetation, and to keep all exterior areas sanitary free of trash and refuse.

5.2.1.4 Unruly Public Gathering Ordinance

Some communities, particularly college towns, such as Berkeley, CA and Tucson, AZ, have adopted "unruly gathering" ordinances that create significant sanctions for residents and property owners who host gatherings that create a substantial disturbance, as well as for party attendees who contribute to the problem. A significant advantage that an unruly gathering ordinance would have over a general noise ordinance or short-term rental ordinance is that the individual responsible for the disturbance is also penalized, rather than the tenant and/or property owner alone. Since the penalties for violating a noise ordinance generally apply only to the residents of the property where the violation occurs, a noise ordinance is unlikely to deter party guests from violating its terms.

5.2.1.5 Nighttime Curfew

To the extent that under-aged drinking and juvenile crime are a significant contributors to excessive noise and party disturbances in short-term rental properties in residential neighborhoods, a nighttime curfew ordinance that prohibits persons under the age of 18 years from being on or about public streets and public places during specified hours of the day could be an effective deterrent. The effectiveness of nighttime curfews is evidenced by a 2002 survey published by National League of Cities, in which 97% of communities that have nighttime curfew ordnances reported that they help combat juvenile crime. It bears noting, however, that a juvenile curfew ordinance generally would not be applicable to college students and other youthful offenders over the age of eighteen. To the extent that parties hosted and attended by college-aged young people are perceived as causing the disturbances that are of greatest concern, a curfew ordinance would probably have little, if any, effect.

5.2.1.6 Parking Restrictions

Communities often address the problem of improperly parked vehicles and excessive numbers of vehicles parked in residential neighborhoods through off-street parking regulations. These regulations may include provisions that prohibit vehicle parking within front yard setback areas in residential zoning districts and that restrict vehicle parking to hard surface driveways or designated parking areas. Regulations may also prohibit parking on grass areas, sidewalks, or within a certain distance of side property lines.

5.2.2 Adoption of Ordinances that Target Community-Wide Issues

Communities that have not adopted general community-wide noise regulations or the other regulations aimed at curtailing the types of behaviors and activities that would be regulated under a short-term rental ordinance, should be encouraged to adopt such general regulations rather than to single out short-term rental properties for regulation.

5.3 SHORT-TERM RENTAL HOUSING REGULATION BEST PRACTICES

This section presents several types of "best practice" provisions that have been implemented in jurisdictions which have short-term rental restrictions and which Realtors® may find acceptable, depending upon local market conditions. Each section begins with a brief description of the type of best practices. This description is followed by one or more examples of the best practice technique as adopted by local jurisdictions.

5.3.1 Narrowly-Tailored Regulations

An effective short-term rental ordinance should be narrowly tailored to address the specific needs of the local community. The potential for over-regulation is a legitimate concern, particularly when a proposed ordinance is driven by the vocal complaints of one or more permanent residents about their negative experiences with nearby short-term renters. Residents often complain that short-term rentals are inherently incompatible with residential neighborhoods and demand an outright prohibition against the use. In those circumstances, the concern is that elected officials, in an effort to please their constituency, may acquiesce to those demands without carefully considering: (a) whether there truly exists a need for short-term rental restrictions; and (b) if a need exists, what regulatory approach is best-suited to addressing the particular needs of the community.

Short-term rental restrictions can be tailored to fit the specific needs of the community in several important ways. As a threshold matter, communities should consider the degree to which short-term rentals need to be regulated. If a community's overriding concern is that a significant number of residential properties that are being used as short-term rentals are failing to report and pay local and state transient occupancy taxes, then an ordinance requiring short-term rental owners to register their properties with the local government and penalizing noncompliance may be sufficient to address that concern. To the extent that short-term rentals are a problem only in certain residential neighborhoods, a rationally justified ordinance that applies only in those areas

would be a more appropriate response than one that regulates the use more broadly, even in areas where short-term rentals not only are accepted, but also are highly desired.

***Best Practice Example*: Clatsop County, Oregon**. In Clatsop County, the Comprehensive Plan/Zoning Map divides the county into nearly forty zoning district designations, including more than a dozen residential districts.[80] The county's short term vacation rental ordinance, however, applies only to properties within the Arch Cape Rural Community residential district.[81]

5.3.2 "Grandfathering" Provisions

Short-term rentals that lawfully existed prior to the enactment of a short-term rental ordinance, but are not allowed under the newly adopted ordinance—either because the use is prohibited outright or because the applicant is unable to satisfy the criteria for obtaining a permit—should be allowed to continue (i.e., "grandfathered") if the property owner is able to demonstrate that the short-term rental use pre-dated the ordinance. Zoning ordinances typically contain a general nonconformity provision that establishes the requirements for a use or structure to secure a legal nonconforming status. However, short-term rental ordinances may also contain specific grandfathering clauses that allow short-term rentals in existence on the effective date of the ordinance to continue even if the property cannot satisfy the applicable requirements.

***Best Practice Example*: Kauai County, Hawaii**. Under Section 8-3.3 of the Kauai County Code, transient vacation rentals are generally prohibited in the R-1, R-2, R-4, and R-6 residential zoning districts, except within the designated Visitor Destination Areas established under the Code. However, under Sections 8-17.9 and -17.10, single-family transient vacation rentals in non-Vacation Destination Areas that were in lawful use *prior* to the effective date of the ordinance are allowed to continue, subject to obtaining a nonconforming use certificate. To obtain a nonconforming use certificate, an owner must provide a sworn affidavit and demonstrate to the satisfaction of the Planning Director that:

> [the] dwelling unit was being used as a vacation rental on an ongoing basis prior to the effective date of this ordinance and was in compliance with all State and County land use and planning laws . . . up to and including the time of application for a nonconforming use certificate.[82]

The owner of operator of a transient vacation rental unit bears the burden of proof in establishing that the use is properly nonconforming based on submission of the following documentary evidence: records of occupancy and tax documents, including: State of Hawaii general excise tax and transient accommodations tax filings, federal and/or state income tax returns for the relevant time period, reservation lists, and receipts showing payment of deposits for reservations and fees for occupancy of the subject property by transient guests.[83]

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[80] *See* Clatsop County, OR Land and Water Development and Use Ordinance, Table 3.010.
[81] *See* Clatsop County, OR Ordinance No. 03-13.
[82] Kauai County Code § 8-17.10(c).
[83] Kauai County Code § 8-17.10(e).

***Best Practice Example*: Monterey County, California**. Monterey County's short-term rental ordinance grandfathers short-term rental units that were in operation before the ordinance was adopted. Section 21.64.280 of the Zoning Ordinance provides:

> Transient use of residential property in existence on the effective date of this Section shall, upon application, be issued an administrative permit provided that any such units devoted to transient use are registered with the Director of Planning and Building Inspection and the administrative permit application is filed within 90 days of the effective date of this Section. . . . The owner/registrant shall have the burden of demonstrating that the transient use was established. Payment of transient occupancy taxes shall be, but is no the exclusive method of demonstrating, evidence of the existence of historic transient use of residential property.[84]

5.3.3 Quantitative and Operational Restrictions

Quantitative Restrictions. The use of quantitative restrictions (i.e., fixed caps, proximity restrictions, and maximum short-term to long-term occupancy ratios) as a means of mitigating the impacts of short-term rentals can be viewed in two ways. On the one hand, such limitations on the number of short-term rentals allowed in a community are preferable to an outright prohibition on the use. On the other hand, for property owners desiring to enter the short-term rental market after the effective date of a short-term rental ordinance, a quantitative restriction may act as a barrier to entry. Quantitative restrictions therefore may constitute a reasonable compromise position in circumstances where community support is divided on a proposed short-term rental ban.

Jurisdictions considering a quantitative restriction should carefully consider which technique is best suited to further the needs and goals of the community. For example, if a community finds that the negative impacts of short-term rentals are manifested only when they exist in clusters or in close proximity to one another in a residential neighborhood, then a *proximity restriction* would be a more effective technique than a fixed cap or ratio. On the other hand for a community seeking to maintain a balance between its long-term housing needs and visitor-oriented accommodations, a maximum *ratio* of long term residential dwelling units to short-term rental permits would be more effective than a fixed cap or proximity restriction.

***Best Practice Example*: Mendocino County, California.** Section 20.748.005 of the Mendocino County Code states that the county's "single unit rentals and vacation rentals" ordinance is intended, in part, "to restore and maintain a balance between the long-term housing needs of the community and visitor oriented uses." To maintain that balance, the ordinance requires the county to "maintain, at all times, for new vacation home rentals or single unit rentals approved after the effective date of this ordinance, a ratio of thirteen (13) long term residential dwelling units to one (1) single unit rental or vacation home rental."[85] While the ordinance does not require any reduction in the number of single unit rentals and vacation rentals in existence on the effective date of the ordinance, no new applications may be approved unless and until

[84] Monterey County, CA Zoning Ordinance § 21.64.280(d)(1)(b).
[85] Mendocino County, CA Code § 20.748.020(A).

thirteen new residential dwelling units have been completed since the single unit rental or vacation home rental permit was approved.[86]

***Best Practice Example*: San Luis Obispo County, California.** The vacation rental ordinance adopted by San Luis Obispo County was adopted for the general purpose of ensuring that short-term rental uses "will be compatible with surrounding residential uses and will not act to harm and alter the neighborhoods they are located within."[87] More specifically, the county found that "residential vacation rentals have the potential to be incompatible with surrounding residential uses, especially when several are concentrated in the same area, thereby having the potential for a deleterious effect on the adjacent full time residents."[88] Accordingly, rather than prohibiting vacation rentals in county neighborhoods, San Luis Obispo County adopted the following proximity restriction on the use:

> [N]o residential vacation rental shall be located within 200 linear feet of a parcel on the same block on which is located any residential vacation rental or other type of visitor-servicing accommodation that is outside of the Commercial land use category.[89]

Operational Restrictions. Although short-term rental restrictions commonly include some operational restrictions, the restrictions often unnecessarily duplicate generally applicable regulations already adopted by the local jurisdiction. Several of these types of regulations are discussed in Section 5.2 above. In general, the types of negative impacts most commonly cited by communities with short-term rental restrictions—late-night music and partying, garbage left out on the street on non-pickup days, illegal parking, and negligent property maintenance—are community-wide concerns that are best regulated with a generally applicable ordinance rather than one that singles out short-term rentals for disparate treatment. It stands to reason that the impacts that these types of activities have on residential neighborhoods are the same regardless of whether they are produced by long-term residents or short-term renters. Therefore, the best practice technique for addressing those concerns is to adopt a general ordinance that governs the activity or behavior in all areas of the community.

5.3.4 Licensing/Registration Requirements

Virtually all short-term rental ordinances require owners who intend to offer their property for use as a short-term rental to obtain a license or permit prior to commencing the use. In general, licensing and registration requirements enable local governments to create and maintain a database of dwelling units being operated as short-term rentals for code enforcement and transient occupancy tax collection in jurisdictions authorized to collect such taxes. The procedures and criteria for obtaining a short-term rental license or permit should be clearly set out in the local ordinance. Short-term rental licensing and registration applications should be processed administratively and without need for a public hearing. Such licensing/registration requirements should not require a conditional use permit or a similar-type zoning permit.

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[86] *See* Mendocino County, CA Code § 20.748.020(A)-(B)..
[87] San Luis Obispo County, CA Code § 23.08.165(a).
[88] *Id*.
[89] San Luis Obispo County, CA Code § 23.08.165(c).

***Best Practice Example*: City of Palm Springs, California**. In the City of Palm Springs, residential property owners are required to register the property as a vacation rental prior to commencing the use. Section 5.25.060 of the Palm Springs Municipal Code requires owners to submit a registration form that is furnished by the city and that requires certain information to be provided, including, for example: (a) the name, address, and telephone number of the owner and his agent, if any; (2) the address of the vacation rental unit; (3) the number of bedrooms in the rental unit; and (4) evidence of a valid business license issued for the business of operating vacation rentals, or submission of a certificate that owner is exempt or otherwise not covered by the city's Business Tax Ordinance for such activity. Vacation rental registration also requires the owner to pay a fee in an amount to be established by the city council, subject to the limitation that the registration fee "shall be no greater than necessary to defer the cost incurred by the city in administering the [vacation rental registration]."[90]

***Best Practice Example*: City of Encinitas, California**. In the City of Encinitas, short-term rental permits likewise require submittal of an application form and payment of a fee no greater than necessary to defer the cost incurred by the city in administering the short-term rental permit program. Short-term rental permits will be granted "unless the applicant does not meet the conditions and requirements of the permit, or fails to demonstrate the ability to comply with the Encinitas Municipal Code or other applicable law."[91]

5.3.5 Inspection Requirements

As noted in Section 3.1.3, many communities require short-term rental properties to pass certain inspections prior to the issuance or renewal of a short-term rental permit. However, mandatory inspection requirements arguably do not advance a community's interests in protecting and maintaining residential character or preventing the adverse effects of transient occupancy on residential neighborhoods. Therefore, if a short-term rental ordinance is specifically adopted for reasons related to protection of residential character, then a mandatory inspection requirement is unnecessary and should not be imposed upon rental property owners.

***Best Practice Examples*: Douglas County, Nevada; City of Palm Springs, California; and Sonoma County, California.** The short-term rental ordinances adopted by these communities were generally adopted for reasons related to the impacts of short-term rental uses on residential neighborhoods. However, none of these ordinances include a mandatory inspection requirement, either at the time of initial permit issuance or thereafter.

Mandatory inspection requirements may be justified in cases where a short-term rental ordinance is adopted for the purpose (at least in part) of ensuring the safety of short-term rental tenants. For example, one of the stated purposes of the transient private home rental ordinance adopted by the City of Big Bear Lake, California is "to ensure . . . that minimum health and safety standards are maintained in such units to protect the visitor from unsafe or unsanitary conditions."[92] It stands to reason that a provision requiring inspection of transient private rental

[90] City of Palm Springs, CA Municipal Code § 5.25.060(b).
[91] *See* City of Encinitas, CA Municipal Code § 9.38.040(A)(3).
[92] City of Bear Lake, CA Municipal Code § 17.03.310(A).

homes in Big Bear Lake to determine compliance with such minimum health and safety standards would further that purpose.

However, even if a mandatory inspection requirement can be justified, the scope of the inspection program should be limited to the initial permit issuance and thereafter only on a reasonable periodic basis. Provisions requiring short-term rental units to be inspected annually (typically as a condition precedent to the issuance of a permit renewal), such as Section 17.03.310(D)(2) of the Big Bear Lake ordinance, are unnecessarily burdensome on owners and the local government alike.

***Best Practice Example*: City of Cannon Beach, Oregon**. The short-term rental ordinance adopted by the City of Cannon Beach provides an example of a more reasonable periodic inspection requirement. Under Section 17.77.040(A)(2) of the Cannon Beach Zoning Code, at the time of application for a new transient rental permit (or new vacation home rental permit) the dwelling is subject to inspection by a local building official to determine conformance with the requirements of the Uniform Housing Code. Thereafter, twenty percent of the dwellings that have a transient rental or vacation home rental permit are inspected each year, so that over a five-year period, all such dwellings have been re-inspected.[93]

5.3.6 Enforcement Provisions

When short-term rental restrictions are adopted pursuant to a local government's zoning authority and incorporated into the jurisdiction's zoning code, it is reasonable to expect the ordinance to be enforced in accordance with the generally applicable enforcement provisions of the zoning code, if one exists. Similarly, it is reasonable to expect that short-term rental registration and licensing provisions that are incorporated into a community's general (non-zoning) code to be enforced pursuant to the generally applicable code enforcement provision. The short term rental regulations adopted in Tillamook County and Clatsop County, Oregon and Monterey County, California, for example, are enforced in accordance with generally applicable enforcement and penalty provisions.

It is not uncommon, however, for communities to enact special enforcement and penalty provisions in their short-term rental ordinances. Many short-term rental ordinances contain enforcement and penalty provisions that penalize violations more severely than other types of code violations. In Palm Springs, California, for example, a first violation of the Vacation Rental Ordinance is subject to a $250 fine and subsequent violations are subject to a fine of $500.[94] By contrast, under Section 1.06.030 of the Palm Springs Municipal Code, the general penalties for code violations are $100 for the first administrative citation and $250 for the second. The Vacation Rental Ordinance does not explain why violations of that ordinance are penalized more severely than other types of code violations.

Enforcement provisions should not penalize short-term rental property owners (or their agents) for violations beyond their control. For example, if a short-term rental *tenant* violates a noise level restriction, the property owner should not be held responsible for the violation.

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[93] *See* City of Cannon Beach, OR Zoning Code § 17.77.040(2)(a).
[94] *See* City of Palm Springs, CA Municipal Code § 5.25.090(a).

***Best Practice Example*: Douglas County, Nevada.** Chapter 5.40 of the Douglas County Code regulates vacation home rentals in the Tahoe Township. Although the vacation home rental ordinance imposes certain operational restrictions on permitted rental units (e.g., parking and occupancy limitations and trash/refuse container rules), Section 5.40.110 states that a permit may be suspended or revoked only for a violation committed by the owner.

> **5.41.110 Violation and administrative penalties.**
>
> A. The following conduct is a violation for which the permit [sic] suspended or revoked:
> 1. The owner has failed to comply with the standard conditions specified in section 5.40.090(A) of this code; or
> 2. The owner has failed to comply with additional conditions imposed pursuant to the provisions of section 5.40.090(B) and (C) of this code; or
> 3. The owner has violated the provisions of this chapter; or
> 4. The owner has failed to collect or remit to the county the transient occupancy and lodging taxes as required by Title 3 of this code.
> 5. Any false or misleading information supplied in the application process.

Prior to the imposition of fines or other penalties, a short-term rental ordinance should conform to the due process requirements established under state law and/or the local jurisdictions charter or code of ordinances. At a minimum, before fines or other penalties are imposed, property owners should be given notice of, and an opportunity to cure, any alleged violation, except where exigent public safety concerns exist. As demonstrated in the best practice examples below, property owners should be given the opportunity to request a public hearing and have the right to appeal a local government's decision to suspend or revoke a short-term rental permit.

***Best Practice Example*: City of Encinitas, California.** Under Section 9.38.060 of the City of Encinitas short-term rental ordinance, penalties may be imposed and permits may be suspended only in accordance with the following provisions:

> A. The City Manager shall cause an investigation to be conducted whenever there is reason to believe that a property owner has failed to comply with the provisions of this Chapter. Should the investigation reveal substantial evidence to support a finding that a violation occurred, the investigator shall issue written notice of the violation and intention to impose a penalty, or penalty and suspend the permit. The written notice shall be served on the property owner and operator or agent and shall specify the facts which in the opinion of the investigator, constitute substantial evidence to establish grounds for imposition of the penalties, or penalties and suspension, and specify that the penalties will be imposed and/or that the permit will be suspended and penalties imposed within 15 days from the date the notice is given unless the owner and/or operator files with the city clerk the fine amount and a request for a hearing before the City Manager.
>
> B. If the owner requests a hearing within the time specified in subsection (A), the City Clerk shall serve written notice on the owner and operator, by mail, of the date, time and place for the hearing which shall be scheduled not less than 15 days, nor more

than 45 days of receipt of request for a hearing. The City Manager or his or her designee shall preside over the hearing. The City Manager or his or her designee shall impose the penalties, or penalties and suspend the permit only upon a finding that a violation has been proven by a preponderance of the evidence, and that the penalty, or penalty and suspension are consistent with this Chapter. The hearing shall be conducted according to the rules normally applicable to administrative hearings. A decision shall be rendered within 30 days of the hearing and the decision shall be appealable to the City Council if filed with the City Clerk no later than 15 days thereafter, pursuant to Chapter 1.12.[95]

***Best Practice Example*: City of Cannon Beach, Oregon.** Section 17.77.050(B) of the Cannon Beach Zoning Code provides another example of the notice and public hearing process afforded to short-term rental property owners prior to the imposition of fines or the revocation of a permit.

5. The city shall provide the permit holder with a written notice of any violation of subsection (A)(4) of this section that has occurred. If applicable, a copy of the warning notice shall be sent to the local representative.

6. Pursuant to subsections (B)(4)(b) through (d) of this section, the city shall provide the permit holder with a written notice of the permit suspension and the reason for that suspension. The permit holder may appeal the suspension to the city council by filing a letter of appeal with the city manager within twenty days after the date of the mailing of the city manager's order to suspend the permit. The city manager's suspension shall be stayed until the appeal has been determined by the city council. The city council shall conduct a hearing on the appeal within sixty days of the date of the filing of the letter of appeal. At the appeal, the permit holder may present such evidence as may be relevant. At the conclusion of the hearing, based on the evidence it has received, the council may uphold, modify, or overturn the decision of the city manager to suspend the permit based on the evidence it received.

7. Pursuant to subsection (B)(4)(e) of this section, the city shall provide the permit holder with a written notice that it intends to revoke the permit and the reasons for the revocation. The city council shall hold a hearing on the proposed revocation of the permit. At the hearing, the permit holder may present such evidence as may be relevant. At the conclusion of the hearing, based on the evidence it has received, the council may determine not to revoke the permit, attach conditions to the permit, or revoke the permit.

8. A person who has had a transient rental occupancy permit or a vacation home rental permit revoked shall not be permitted to apply for either type of permit at a later date.[96]

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[95] City of Encinitas, CA Municipal Code § 9.38.060.
[96] City of Cannon Beach, OR Zoning Code § 17.77.050(B)

GLOSSARY OF TERMS

Common law: Law developed by judges through decisions of courts and similar tribunals rather than through legislation (statutes) or executive actions.

Due Process: The constitutional protections given to persons to ensure that laws are not unreasonable, arbitrary, or capricious. When such laws affect individuals' lives, liberty, and property, due process requires that they have sufficient notice and opportunity to be heard in an orderly proceeding suited to the nature of the matter at issue, whether a court of law or a zoning board of appeals. Essentially, due process means fairness.

Equal Protection: The right of all persons under like circumstance to enjoy equal protection and security in their life, their liberty, and their property and to bear no greater burdens than are imposed on others under like circumstances.

Nonconforming Use: A use that lawfully existed prior to the enactment of a zoning ordinance, and that is maintained after the effective date of the ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated, is commonly referred to as a "nonconforming use."[97]

Police Power: The power that resides in each state to establish laws to preserve public order and tranquility and to promote the public health, safety, morals, and other aspects of the general welfare.

Preemption: A doctrine based on the Supremacy Clause of the U.S. Constitution that holds that certain matters are of such national, as opposed to local, character that federal laws preempt or take precedence over state laws on such matters. As such, a state may not pass a law inconsistent with the federal law. The doctrine of *state law* preemption holds that a state law displaces a local law or regulation that is in the same field and is in conflict or inconsistent with the state law.[98]

Public Nuisance: At common law "public nuisance" generally consists of "an unreasonable interference with a right common to the general public, including activities injurious to the health, safety, morals or comfort of the public."[99]

Zoning Enabling Statute: State legislation "authorizing local governments to engage in planning and the regulation of activity on private land."[100]

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[97] PATRICIA E. SALKIN, AMERICAN LAW OF ZONING § 12:1 (5th ed. 2010).
[98] Article VI, Section 2, of the U.S. Constitution, commonly referred to as the "Supremacy Clause," provides that the "Constitution, and the Laws of the United States … shall be the supreme Law of the Land."
[99] ZONING AND LAND USE CONTROLS § 16.02[2].
[100] *See* ZONING AND LAND USE CONTROLS, Ch. 1, Introduction and User's Guide § 1.02[2] (LexisNexis Matthew Bender) (hereinafter "ZONING AND LAND USE CONTROLS").

Economic Impact of Transient Vacation Rentals (TVRs) on Maui County

January 8, 2008

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Executive Summary

Background

This study was commissioned by the Realtors Association of Maui (RAM) to update a previous study conducted by the Kauaian Institute addressing the economic contribution to Maui County of the Transient Vacation Rental industry (TVR). The intended purpose of our results is to not only inform policy makers of the TVR economic contribution to the County but also to scrutinize the industry itself in the context of the overall Maui lodging industry. The TVR industry is concerned about the apparent existence of an uninformed anti-TVR bias in Maui County government; about an ongoing enforcement of unreasonable rules; the potential enactment of legislation meant to marginalize this industry; and the potential economic consequences of such policies. This research effort is to inform the County policy makers of the level of these potential negative economic consequences. Informed policy-making can reduce both government and community concerns related to TVR operation while minimizing negative consequences of any new policy or enforcement of an existing policy.

Our study uses the 2002 Input-Output Tables to study the economic impact of transient vacation rentals (TVRs) on Maui County. Data from the American Community Survey conducted by the US Census Bureau, the Hawaii Visitor Research Report published by the Department of Business Economic Development and Tourism (DBEDT) State of Hawaii and UHERO EIS portal have been used in the analysis. A review of relevant studies and other information sources investigating the impact of TVRs provides an information backdrop for our analysis results and conclusions, which may also prove useful to policy makers.

Research Conclusion

Our essential research conclusion is that the TVR accommodation industry generates significant, positive economic benefits to Maui County and the State of Hawaii. At the high end of our estimation range, our results indicate positive economic benefits approaching: $318.8 million in total output (i.e. sales), $100.6 million in labor income, 3,478 jobs, $19.7 million in Hawaii State taxes and $191.1 thousand for Maui County's share of the TAT (transient accommodations tax). These are significant economic values being generated by an industry utilizing only 1.7 percent of all housing units available in Maui County.

Elimination of the TVR industry could result in the full loss of the TVR industry's economic value. The extent of the loss of the TVR industry due to government regulations depends to what extent TVR visitors substitute an alternative Maui County accommodation type to TVRs if they are unavailable or not sufficiently available to meet the current and expected future demand level for their accommodation type. In a global market place with alternatives to Maui destinations offering

a literal potpourri of accommodation experiences, the modern, well-informed and sophisticated visitor can find the accommodations experience that best fits their tastes and preferences.

Based on the increasing market share of TVRs on Maui from 2000 to 2006 relative to other accommodation types one can reasonably surmise that the modern visitor increasingly prefers a TVR or its equivalent experience. Thus, even though elimination of Maui TVRs may not result in the loss of all TVR visitors who may substitute an alternative Maui County accommodation type yet available, we would still expect a significantly negative economic impact in Maui County if TVRs are eliminated or significantly reduced. That the mere threat of elimination appears to be a significant cause of the reduction of TVR numbers from 2005 to 2006 (11.0 percent) supports this contention.

Even with substitution of alternative accommodation types by the TVR visitor if TVRs are no longer available in Maui County there are economic impacts. These impacts are the redistribution of income from TVR property owners primarily to institutional accommodation (i.e. hotels, condos and timeshares) property owners. These are negative or positive depending on whether you lose or gain this income. Additionally, for the TVR visitor who yet comes to Maui utilizing an alternative accommodation type because of TVR unavailability, this visitor will have reduced satisfaction (i.e. utility) due to the fact that they have to choose a second-best accommodation alternative.

There exist policy means whereby the negative perceptions of TVRs leading to their current regulatory scrutiny can be addressed such that the negative economic consequences can be mitigated. For example, Maui could stand to gain tax revenues through increased property taxes if TVRs could operate as legitimate businesses and be required to pay their due share of taxes. Some of these additional funds can then be used to provide additional public goods and services such as water, sewer and parking in support of the visitor industry and for negative externality (i.e. unintended negative impacts on a local community from the operation of TVRs) mitigation. Negative externality mitigation may involve up-dating community zoning laws taking into account current realities, citations or loss of permits to operate for rowdy behavior and disturbing the peace in residential neighborhoods where TVRs may be permitted, fines for illegal and inappropriate parking, higher property taxes on TVR establishments to compensate residents, increased responsibility for TVR operators for the safety and security of the guests and mandatory evacuation plans in case of emergencies.

It is informative and appropriate to note aside from their economic contribution TVRs have positive externalities (i.e. unintended positive economic benefits on a local community). TVRs are generally associated with ADUs (accessory dwelling units). ADUs may be used for transient vacation rentals but they could also be used for housing local residents if need be. The character of Ohanas and local lifestyles need to be preserved as learning local customs and being exposed to native culture is one of the reasons why visitors choose to come to Hawaii. It is an irrefutable fact in resource economics that it is most efficient to let land gravitate to highest and best use, such as for TVRs.

Finally, we feel it relevant and appropriate to state that before the TVR issue is subjected to short shrift and TVR closure, it might be prudent for county officials to work in concert with state officials and TVR operators to improve data gathering regarding TVR visitors. Additionally, an

extended cost-benefit analysis could also be undertaken exploring every option simultaneously addressing community concerns fairly and equitably.

Corollary Conclusion

A corollary conclusion to our overall research conclusion that merits elaboration for policy makers relates to the operation of the Maui lodging industry market and government intervention into this market. Economic theory and empirical research suggest that any government market intervention requires a rationale other than anecdotal opinions oftentimes relied upon to justify regulation or perfect knowledge of the preference of future generations. Without such justification or perfect knowledge**,** government market intervention transfers the resource use decision from the property owner to the legal/political authority. It is akin to centrally planning a market. Simultaneously, government intervention distorts market mechanisms which require no government prodding to operate efficiently and effectively to supply products and services to meet consumer demand.

Regulation of the TVR segment of the Maui lodging industry market will distort the naturally occurring economic activity of the TVR industry meeting the naturally occurring consumer demand for the lodging services it provides. Government intervention into a market in any form**,** however, is warranted when there is either: insufficient allocation for a public good (e.g. a beach,), there are significant negative externalities (i.e. undesirable impacts), or there is insufficient competition. Our analytical assessment indicates that there is no basis to conclude that the Maui lodging industry market and in particular the TVR segment of this market is operating other than optimally if the negative and positive externalities we elaborate on balance offset each other. It is beyond the scope of our research assignment to make this determination. We can state, however, that if the negative and positive externalities do offset one another, at least according to economic theory related to efficient markets, there is no basis for government market intervention into this market. A policymaker determination that negative externalities exceed both any positive externalities plus the positive economic impacts elaborated above then again, according to economic theory, government market intervention would be warranted. As a criterion to determine the nature and extent of regulation, the level warranted in the face of negative externalities would be that level required mitigating the negative externality without diminishing the positive benefits (i.e. economic + positive externalities) derived from the operation of the TVR lodging industry. This would be similar to what ahs occurred with the tobacco industry. Such a policy making outcome would preserve the economic and social benefits that accrue when the TVR market is allowed to operate freely without (or with a minimum) of government intervention with the simultaneous exercise of private property rights. When this occurs it is not possible to make some one better off without making some one else worse off by intervening with market forces.

Detailed Summary of Research Findings

A summary of our detailed research findings leading to the above conclusions follows.

Our review of relevant TVR studies and information revealed the following.

- TVRs are part of a worldwide growing, home-based business trend serving the tourist industry.

- Home-based businesses afford greater sense of freedom and choice to visitors, provide earnings for proprietors and have become a significant source of employment generation in the country.
- TVRs on Maui as well as elsewhere have been subject to government review to enforce existing regulations and to assess regulatory policy to mitigate perceived negative impacts (externalities) of TVRs on the communities where they operate.
- Potential negative externalities of TVRs include:
    - increased tax burden on property owners
    - increase noise, traffic congestion and other (non-local) intrusions into local neighborhoods where TVRs operate
    - reduced housing and rental availability for residents
    - increase rent process for residents
    - devaluation of properties adjacent to TVRs
    - increased stresses on local infrastructure
    - the conversion of residential neighborhoods into resort neighborhoods
    - a decreased sense of "localness"
    - the urbanization of agricultural and rural areas
    - a profusion of illegal structures
- Potential positive impacts (externalities) of TVRs include:
    - economic growth and development
    - increased property value
    - improvements in the quality of life
    - employment, particularly in more remote areas
    - tax revenues
    - income and induced investments
    - provision of low cost, more affordable vacation lodging especially for families
    - provision of vacation lodging in areas without other lodging options
    - an income source for individual property owners
    - diversification of the visitor industry ownership, to include middle-class residents as owner-operators.
    - improvements in the visitor experience, allowing more direct interaction between visitors and the "real" Maui.
- Policy measures to mitigate negative TVR impacts
    - measures to manage the number of TVR occupants and vehicles
    - higher property and/or personal tax rates for TVRs
    - programs to improve the safety of residents and guests where TVRs operate
    - provide remedies for unruly and unlawful overnight uses
    - encourage currently unregistered rentals to become licensed
    - provide residents with notice of each proposed commercial use of a residence in their neighborhoods to solicit community feedback
    - fines to force regulation compliance.

Data show the following for the TVR industry and the broader visitor industry within which it operates from which various inferences about the industry can be made.

- In percentage terms, TVR units accounted for 1.71 percent of all housing units available in Maui County or 2.28 percent of all occupied Housing Units.

- Maui Lodging Demand by Visitors shows:
    - Total visitors to Maui County increased from 2,246,253 visitors to 2,477,316 visitors, a gain of 10.3 from 2000 to 2006.
    - The number of visitors staying in transient vacation rentals (TVRs) increased from 59,115 visitors in 2000 to 105,967 visitors, a gain of 79.3 percent over the period.
- The size of the absolute increase in Maui visitors staying in TVRs and the increase in the visitor percentage of total Maui visitors staying in TVRs (i.e. lodging market share) suggest an increasing visitor preference of TVR accommodations on Maui with time when viewed in the context of a much smaller (10.3 percent) increase in total Maui visitors over this same period.
- Lodging Supply
    - TVR lodging units declined from 2005 to 2006 with the Maui declines (11 percent) being less in percentage terms than statewide (17.3 percent). These TVR declines statewide as well as in Maui County can reasonably be considered the result of regulatory threats by governing authorities, as well as normal attrition due to fledgling businesses failing to perform.
    - Maui County TVRs accounted for 3.4 percent of total visitor lodgings which is slightly less than the statewide percentage of 3.6 percent
    - The institutionalized lodging supplier (i.e. hotels, condos and timeshares taken collectively) percentage statewide and for Maui County are the same.
    - TVRs are the largest non-institutionalized providers of lodging units in Maui County as well as statewide.
- Efforts to aggressively regulate the TVR industry could restrict the supply of Maui (non-institutionalized) accommodations such that there is insufficient supply to service the increasing demand for this accommodation type with potential negative and other economic impacts.

Our analysis of the economic impacts of the Maui TVR industry indicated the following.

- Average daily TVR visitor spending totals $159.16 per day with the following distribution.
    - 47 percent on lodging
    - 19 percent on food and beverage
    - 10 percent each on entertainment, transportation and shopping
    - 4 percent on all other expenditures
- The average TVR visitor stay values used for the analysis are the following:
    - 6.85 days estimated from DBEDT data for Mixed and TVR accommodations
    - 7.36 days estimated from DBEDT data for all types of accommodations
    - 9.5 days estimated by RAM from anecdotal observations
- Based on the total number of Maui TVR visitors, the visitor length of stay and TVR visitor daily expenditures, we estimate the <u>direct</u> TVR visitor expenditures for lodging and total expenditures range from:
    - $54.2 million to $75.2 million for lodging
    - $115.5 to $160.2 million for total TVR visitor expenditures.
- Using the 2002 Input-Output multipliers we estimate the total (direct + indirect + induced) economic impact of the Maui TVR industry to range from:
    - output (i.e. sales)
        - $107.9 million to $160.2 million from lodging expenditures

        - $229.9 million to $318.8 million from total expenditures
    - labor income (earnings)
        - $34.2 million to $47.4 million from lodging expenditures
        - $72.5 million to $100.6 million from total expenditure
    - Maui County jobs
        - 966 to 1,339 jobs from lodging expenditures
        - 2,508 to 3,478 jobs from total expenditure
    - Hawaii State taxes generated
        - $7.4 million to $10.3 million from lodging expenditures
        - $14.2 million to $19.7 million from total expenditure
    - Maui County share of the TAT (transient accommodations tax)
        - $72.0 thousand to $99.8 thousand from lodging expenditures
        - $137.8 thousand to $191.1 thousand from total expenditure
    - Maui County tax revenues could be increased from the operation of TVRs with an appropriate taxation policy which distinguishes TVRs from non-TVR residential properties.
- Elimination of Maui County TVRs with no substitution by TVR visitors to an alternative, available Maui County accommodation type would result in negative economic impacts equivalent to the full values of the TVR industry economic impact just presented.
    - Substitution by the TVR visitor to an alternative Maui County accommodation type due to the unavailability of TVRs would mitigate the negative economic impacts of elimination of the TVR industry the extent to which substitution occurs.
    - The economic impacts of substitution to an alternative to a TVR of lodging type in Maui County would result in income redistribution effects from TVR owners to non-TVR accommodation type owners, and the loss of utility (i.e. satisfaction) of the TVR visitor due to their inability to stay in their first preference accommodation type.

I. Introduction:

Following a national trend, home-based businesses grew in Maui County during the 1990s. Some Maui County residents engaged in the vacation rentals business in order to serve the tourism industry. They did this by renting their homes or part of their homes as transient vacation rentals (TVRs). According to a former Mayor of Maui County, the discussions in the Maui County Council in the early nineties focused on growing the home-based vacation rental segment of tourism. This was seen as a part of an expanding worldwide trend. The public then clearly and enthusiastically supported incorporating the industry into the community as a growth industry. [1]

However, under current rules, all home occupations have had to go through a lengthy, difficult permitting process to bring their TVR businesses in compliance with existing law. Only a very few of the TVRs operating in Maui County are currently registered and have the necessary special use permits. For various reasons, including past assurances from the Maui County Government to not enforce outdated regulations pending passage of a new vacation rental ordinance, many TVR businesses have not gone through the permitting process.

The former Chairman of the Maui County's Land Use Committee produced a new bill proposing legitimatizing of TVRs in 2006. However, this bill was rejected by the County Council in February 2007. According to a news story, the current Maui Planning Department's draft bill for Bed & Breakfast rentals and TVRs being reviewed by various planning commissions on the islands of Maui, Molokai and Lanai, is more restrictive and if passed will likely eliminate many TVRs operating in Maui County.[2]

This study on the economic impact of TVRs on Maui County commissioned by the Realtors Association of Maui (RAM) is aimed at informing the debate on the Planning Department's draft bill and underlining the economic consequences of the Department's announced intent to enforce existing law and shut down TVRs without permits by January 1, 2008. Since TVRs are essentially small businesses, it is important to recognize the potential adverse effects and unintended consequences of regulation. Thus this study is also consistent with the enactment of Senate Bill 188 (Act 217) which was signed into law earlier this year by the Governor of the State of Hawaii. It may be noted that small businesses in Hawaii employ about 60 percent of the workforce. [3]

There has been only one previous documented study regarding the Transient Vacation Rentals on Maui by The Kauaian Institute in 2005 [4]. That market segment assessment study provided a comparative analysis of the geographic and economic footprint of transient vacation rentals on Maui. The two significant findings from this study were a count of 1095 TVR units in Maui following an intensive search process (which shows an under count of TVRs in official figures reported by DBEDT) and an estimate of $38 million in lodging revenues received by TVRs in 2003.

This study updates the earlier study by using officially reported data for 2006 and uses the Hawaii Input-Output Table also used by The Kauaian Institute to measure the impact of TVR lodging revenues on output, earnings and employment in Maui County. There has been no attempt to develop a new separate estimate of TVR lodgings in Maui County either through an intensive or extensive search process given the limitation on time in developing this research report. Section II provides a discussion of various externalities associated with vacation rentals in various parts of the US Mainland as well as in Maui County. In the third section the results of the present study are

examined and analyzed. The last section discusses the policy implications of our research investigation.

II. Externality Impacts of Transient Vacation Rentals (TVRs)

According to the Travel Industry Association of America, in 2003, the U.S. travel industry garnered approximately $554.5 billion from domestic and international travelers excluding international passenger fares. The estimated impact of these travel expenditures, resulted in 7.2 million jobs with over $158 billion in payroll income for Americans, as well as $94.7 billion tax revenue for federal, state and local governments [5] .

It is not surprising, then, that given the vast potential of the tourism industry and its growth trend, many home-based businesses have turned their attention to serving travelers through either operating travel agencies or by offering lodgings as either bread & breakfast establishments or transient vacation rentals in their homes. Since the 1990s, the spread of the internet, e-commerce, web-based advertising and growth in the number of firms providing specialized software for home-based businesses and facilitating monetary transactions on-line have all contributed to increasing this segment of home-based businesses. As mentioned earlier, home-based businesses afford greater sense of freedom, provide earnings for proprietors and have become a significant source of employment generation in the country.

However, in many resort areas of the country, short-term vacation rentals are also having externality impacts on the local community. In economic theory, an externality occurs if the benefits or costs of a good are passed on to or 'spill over" to someone other than the buyer or seller of the good. The presence of externalities signifies market failure. This means that either the market produces "wrong" amounts of the goods or services in question or fails to allocate any resources to producing such goods or services even when fully justified economically through a consideration of benefits and costs. If costs of the good or service are inflicted on a third party without compensation it is referred to as a negative externality. Relative to market allocation of resources which is 'efficient' (in the absence of externalities), there is over allocation of resources to the production of the good or service in the presence of a negative externality.

Likewise, sometimes externalities associated with some goods or services are beneficial to other producers and consumers. These uncompensated spillovers accruing to third parties or the community at large are called positive externalities. Typically, the presence of beneficial externalities indicates under allocation of resources for goods and services that generate them.

One of the earliest studies on the issue of vacation home development was regarding rural Vermont [6]. In Vermont, rural areas with natural amenities have a history of using the tourist industry as a means of importing economic development. Since the 1950s urbanites from southern New England and New York sought recreational facilities in Vermont. The tourist industry promoters focused on the beneficial impacts such as improvements in the quality of life, additional employment, tax revenues, income and induced investments in a state that had traditionally high levels of poverty. Furthermore, it was felt that the impact on the tax base would be positive so local land owners would face lower property taxes. The argument was also advanced that the physical quality of life would improve due to an increase in local public goods and services demanded by vacationers without an increase in the property tax paid by landowners. The study by Fritz (1982) investigated

the residential tax burden in about 240 Vermont towns. The study showed that problems may exist when attempting to rely on vacation home development as a method for inducing regional development. Under certain circumstances, increase in town land allocated for vacation homes was significantly associated with increasing tax burden on residential property. The incidence of occurrence was most apparent for smaller towns (less than 1000 population) although this result was significant for all 240 towns tested. It was also suggested by the author that positive effects such as increased property values may offset the disadvantage of increased tax burden.

In the City of Encinitas, California a proposed Major Amendment No. 2-05 (Short Term Vacation Rentals) to the City's Local Coastal Program would have served to prohibit short-term vacation rentals in all residential zones throughout the city [7]. The amendment cited conflicts between residents and visitors involving late night disturbances, excessive noise, parking problems and trash especially in areas near the shoreline. In this case, the staff recommendation from the California Coastal Commission to the Commissioners (dated January 25, 2006) was to reject the amendment as this would have eliminated a significant source of overnight visitor-serving accommodations and therefore inconsistent with the Coastal Act.. The Coastal Act promotes and preserves a full range of public access opportunities along the coast, including provision of accessible and affordable visitor-serving commercial facilities which serves and support coastal visitors. The staff recommendations had noted that the City had performed an internet search for vacation rentals and found at least 112 residences or condominiums that were advertised for short-term rentals. The majority of the identified residential units were located on the bluffs overlooking the ocean in the northern section of Encinitas in the community called Leucadia. The rental rates varied from $750-$3,750 per week in the low season (average $1564) to $850-$6000 per week in the high season (average$2414). However, the staff recommendations noted that despite the fact that the upper limits of these ranges could not be classified as low cost lodgings, short term rentals still offered a more affordable and desirable accommodation for many parties, especially families.

Another major reason provided for the Staff's recommendation to reject the Amendment was its inconsistency with the California Environmental Quality Act (CEQA) as the amendment would have an adverse impact on visitor serving accommodations and low-cost recreational facilities. Provisions of CEQA also state that amendments will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant impact the activity may have on the environment.

In other significant actions, the Staff recommendations pointed out that the Commission had approved a Local Coastal Program (LCP) amendment to allow short-term rentals in residential and mixed residential zones within the Shelter Cove community in Humboldt County affecting approximately 2,300 lots. This was accompanied by approval of suggested modifications to the Humboldt County LCP Amendment request that required specific regulations for vacation rentals in terms of managing the number of occupants, parking and other related impacts, so as to not unduly impact local residents. The Commission previously rejected an LCP amendment to ban vacation rentals in all residential zones in the City of Imperial Beach in 2002 noting that the proposal was excessively restrictive discouraging tourist related uses and visitor accommodations.

Renting out a home as a vacation rental is not considered a commercial use in San Juan County in Washington and is allowed in residential areas. However, homeowners must obtain a conditional use permit. [8]. A concern over accessory dwelling units (ADUs) that may be attached or detached

was noted. Detached ADUs were more likely to be used for vacation rentals and provide housing for caregivers. Attached ADUs were more likely to be used for family and other personal guests. On the positive side, transient rentals earn income for the owners such that changing the rules could cause "economic harm." Conversely, on the negative side, transient rentals limited housing to residents, devalued surrounding properties and impacted water systems due to increased density. There was general consensus that ADUs historically had provided affordable housing [9]. In 2005, in order to mitigate the TVR problem, property owners with transient rental permits were assessed taxes 15 percent higher than similar buildings without a permit. In addition, all of the personal property in the transient rental properties is now subject to personal property tax. The transient rentals are also subject to sales and hotel/motel taxes. [10] Property owners of transient vacation rentals must also provide a contact number that is available 24 hours a day and the number does not have to be local. [11]

Big Bear nestled in the San Bernardino Mountains in California has a current 2008 Ballot Measure initiative which seeks to improve the quality of transient rentals by improving the safety and security of guests, provide remedies for unruly and unlawful overnight uses and encourage currently unregistered rentals to become licensed and provide residents with notice of each proposed commercial use of a residence in their neighborhoods [12].

The discussions over Transient Vacation Rentals in Hawaii to some degree mirror the various concerns expressed by various communities and towns on the US mainland.

On Oahu, a significant concern over Transient Vacation Rentals is that it destroys the residential character of neighborhoods and turns them eventually into resort areas [13]. Other concerns include the fact that TVRs introduce a constant flow of strangers into the neighborhood and impacts rental housing availability, rent prices, property taxes and the property rights of neighbors [14].

In Maui, there is concern over the long run stock of housing for residents due to transient vacation rentals, Ohana units being converted to TVRs and their impact on local lifestyles. [15] There is also fear that TVRs would urbanize agricultural and rural areas [16].

A record of Maui county zoning complaints from January 1999 through August 2005 shows that noise, late parties, traffic congestion, illegal structures or illegal modeling, disturbances and parking on street are some of the negative externalities associated with TVRs on Maui. [17]. The most frequent complaint (10) was regarding disturbances from TVRs during the above period. According to testimony provided before the County's planning Committee on February 13, 2007, Planning Director Jeff Hunt stated on the record that the complaints against TVRs to his department were quite low. It amounted to 3 percent of all complaints on zoning matters.

In sum this literature review clearly indicates that there could potentially be a number of externality related issues with respect to transient vacation rentals. Whereas the impacts on output, employment, earnings and tax revenues are generally positive, there are other costs associated with the operations of TVRs related to disturbances, parking, water and sewer services, pressures on the long run stock of housing, on the character of residential neighborhoods, and the urbanization of agricultural and rural lands. There is also concern over the safety and security of the guests as well as the residents.

An extended cost-benefit analysis, which incorporates valuation of both positive and negative externalities often used for social decision making, is beyond the scope of this report. However, it may be noted that there are a number of management tools in economic theory to manage externalities and make the social and economic outcome more efficient. As referenced above, these involve tools such as legislation, fines and specific taxes to deal with negative externalities and subsidies for consumers and producers and provision of public goods and services in the case of positive externalities.

III. Economic Impacts of Transient Vacation Rentals (TVRs) on Maui County

The only other documented research regarding the impact of TVRs on Maui was done by The Kauaian Institute in August 2005. Although some definitional and legal differences exist between Bed & Breakfast Rentals and other private homes available for short-term rentals, in this study, all such rentals are considered to be Transient Vacation Rentals (TVRs).

Data Sources:

1. We used American Community Survey, for Maui County Hawaii done by the US Census Bureau for 2006. This provides a Population and Housing Narrative Profile and is an up-date over the US Census Bureau figures for 2000.

2. Information regarding total number of visitors, average length of stay, demand for lodging types, total visitor expenditures, visitor plant inventory by islands was all found through perusing DBEDTs Annual Visitor Research Reports from 2000-2007. We also used the input-output tables to make impact estimates using 2006 data consistent with The Kauaian Institute estimates that used data for 2003. This study, in essence, up-dates the impacts from the previous study for a year for which complete data exists.

3. Information on TVR visitor expenditures was derived by means of private communication with DBEDT officials.

4. The Kauaian Institute conducted searches over the internet and in the print media to provide the best available estimate of TVRs in Maui County. We have reported the total counts of B&Bs and other TVRs from both sources, namely, DBEDT and The Kauaiian Institute as we did not investigate the numbers ourselves. There is no district-wise information regarding TVRs in Maui County in our report due to time constraints.

Data Comparability

DBEDT reported 653 transient vacation rentals (TVRs) in Maui County and 617 on Maui Island in the 2006 Annual Visitor Report. The study done by The Kauaian Institute estimated the number of TVRs on Maui Island alone to be 1095 units (295 Bread & Breakfast units and 800 Single-family units) by July 2005. The Kauaian Institute estimate of the number of TVRs on Maui Island thus exceeds that estimated by DBEDT by 478 or 77%.

It is beyond the scope of this analysis to reconcile the difference between the DBEDT and Kauaian Institute estimates via primary research. It seems likely that the DBEDT numbers are from the

optional survey on the back side of the Agricultural Declaration Form all inbound travelers fill out. Since the survey is optional, any TVR estimate based on this data could only accurately estimate the TVR number if there was 100% compliance. This is highly unlikely. Thus, the DBEDT TVR number is conservative, in all likelihood excessively so. In contrast, the Kauaian Institute Study's inventory lists were reviewed area by area by a small group of reliable, professional TVR booking agents specializing in those areas. The review:

1. eliminated duplicates (same property, different website, possibly different property name, etc.)
2. confirmed the number of rental units on the property
3. confirmed if it was B&B or TVR
4. provided additional (below the radar) units that were not initially found.

In our opinion, the comprehensive nature of this primary data collection process performed by the Kauaian Institute would result in a more accurate count of the (2003) TVR number than the (optionally reported) DBEDT data. Thus, the Kauaian Institute's estimated Maui County TVR number is used for our analysis purposes.

In estimating the market share for visitor lodgings by accommodation types in Maui County we had to drop the data for 2000 and 2001 as information on TVRs are not strictly comparable with information given for most recent years.

Maui County Housing Characteristics

The American Community Survey of Maui County done by the US Census Bureau in 2006 reported 64,000 housing units in the county. Of these, 48,000 were occupied dwellings.[1] The number of owner-occupied dwellings was 28,000 and the number of renter-occupied dwellings was 19,000.[2]

The Maui County Census survey data suggests that 25 percent (16,000) of the 64,000 housing units are unoccupied dwellings. It is not clear how many of those unoccupied homes are "seasonal" homes. Approximately, 64 percent of the housing units are single-unit structures and the other 36 percent multi-unit structures. This implies that in percentage terms, TVR units accounted for 1.71 percent of all housing units available in Maui County or 2.28 percent of all occupied Housing Units.

Number of Maui Visitors

Table 1 shows the Maui County Lodging Demand by Visitor Lodging Choice. Table 1 show that between 2000 and 2006, total visitors to Maui County increased from 2,246,253 visitors to 2,477,316 visitors, a gain of 10.3 percent. The figures for the total number of visitors were down for years 2001 through 2004 compared to a 2000 base year, but recovered in 2005 and posted a successive gain in 2006. Economic forecasts are for visitor numbers to remain relatively flat for the 2007-2008 period before resuming an upward trend in 2009.

[1] RAM estimates that 23,000 of the 64,000 are condos.
[2] These are considered (by RAM) to generally be long-term, (non-vacation) rentals.

Table 1: Maui County Lodging Demand by Visitor Lodging Choice (Source: Hawaii Visitor Research Reports 2000-2006, DBEDT)

Lodging Type	2000	2001	2002	2003	2004	2005	2006
Hotel*	1,273,679	1,102,568	1,099,959	1,097,701	1,088,990	1,077,167	1,040,891
Condo*	498,425	447,965	434,100	478,093	473,284	504,137	522,327
Timeshare*	65,471	87,474	108,050	111,191	127,455	147,042	178,568
Bed & Breakfast	65,471	27,746	28,737	29,082	27,469	28,924	30,599
Friends / Relatives	124,978	119,190	143,309	144,866	141,700	151,341	169,752
Mixed**	252,483	263,824	325,272	335,514	348,928	437,869	535,179
Total Visitors	2,246,253	2,048,768	2,139,427	2,196,447	2,207,826	2,346,480	2,477,316

* These accommodations only. **Staying in multiple accommodations

TVR Share of Maui Visitors

Table 2 shows that the number of visitors staying in transient vacation rentals (TVRs) increased from 59,115 visitors in 2000 to 105,967 visitors in 2006, a gain of 79.3 percent over the period. The number of visitors staying in TVRs as a share of all visitors to Maui County (including those staying with families and friends) was 4.3 percent in 2006, up from a 2.8 percent level in 2000 (derived from Tables 1 & 2). This 2000 to 2006 increase in the percentage of total Maui visitors staying in TVRs equals 53.5 percent. The size of the absolute increase in Maui visitors staying in TVRs and the increase in the visitor percentage of total Maui visitors staying in TVRs suggests an increasing visitor preference of TVR accommodations on Maui with time when viewed in the context of a much smaller (10.3 percent) increase in total Maui visitors over this same time period.

Table 2: Maui County TVR Demand by Visitor Number

Year	Rental Houses	B&B	TVR Total
2006	75,368	30,599	105,967
2005	65,195	28,924	94,119
2004	54,624	27,469	82,093
2003	49,232	29,082	78,314
2002	17,220	28,737	45,957
2001	23,061	28,780	51,841
2000	26,558	32,557	59,115

Visitor Demand and Market Share of Lodgings by Accommodation Type for Maui County

Table 3 combines Tables 1 and 2 data to more clearly reflect the TVR demand segment of the lodging market. Table 3 also eliminates the "Friends and Family" category as this category of visitor does not constitute demand for market lodgings. We characterize the lodging market serviced by hotels, condos and timeshare as the "institutional" market as these lodging providers are generally managed by third party institutions, not the lodging owner as is the case for a TVR. Table 3 clearly shows that these institutional lodging providers service the largest absolute number of visitors on Maui. However, Table 3 also shows that the market share of visitors they accommodate declined from 86.6 percent in 2000 to 75.5 percent in 2006. Figure 1 shows that of these 3 institutional accommodation types, only timeshare registered any market share gain from 2000 to 2006 (37.6 percent). Mixed accommodations also registered a market gain over this period (55.1 percent) but both gains are significantly less than the market share gain of TVRs, which showed a

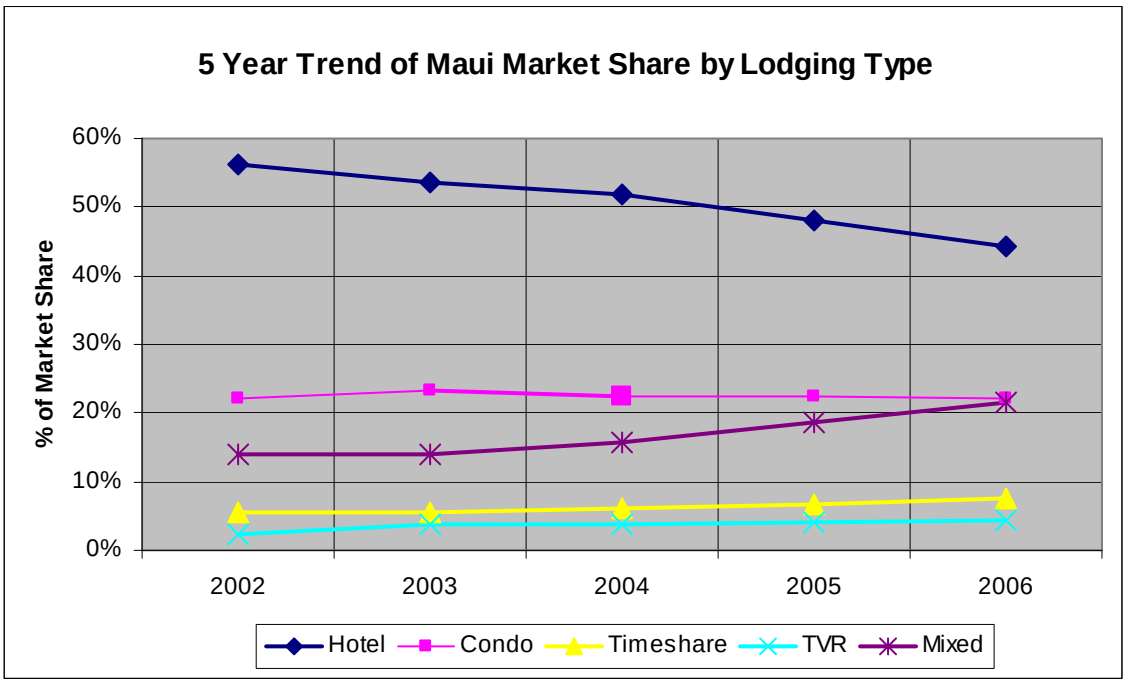
91.6 percent market share increase from 2000 to 2006. This market share gain reinforces the observation just noted. That is, there appears to an increasing visitor preference for TVR-type accommodation services with time.

Table 3: Adjusted Maui County Lodging Demand by Visitor Lodging Choice

Lodging Type	2000	2001	2002	2003	2004	2005	2006
Hotel*	1,273,679	1,102,568	1,099,959	1,097,701	1,088,990	1,077,167	1,040,891
Condo*	498,425	447,965	434,100	478,093	473,284	504,137	522,327
Timeshare*	65,471	87,474	108,050	111,191	127,455	147,042	178,568
TVR	59,115	51,841	45,957	78,314	82,093	94,119	105,967
Mixed**	177,733	197,452	271,916	286,282	330,440	414,952	506,663
Total	2,074,423	1,887,300	1,959,982	2,051,581	2,102,262	2,237,417	2,354,416
Market Share	86.6%	84.9%	82.3%	82.2%	81.8%	78.7%	75.5%

Market share is the sum of that for hotels, condos and timeshares.

Figure 1: Market Share by Accommodation Type



Supply of Lodging by Accommodation Type for the State of Hawaii and by Islands

Table 4 provides information regarding the supply of visitor lodgings by accommodation type for Maui and Statewide. Statewide, the total number of hotel units declined by 0.8 percent and TVRs (i.e. B&Bs + individual vacation units) by 17.3 percent over 2005 levels. In contrast, for Maui County the total number of units declined by only 0.2 percent and the total number of TVRs declined by only 11.0 percent over 2005 levels. It seems reasonable to conclude that the TVR declines statewide as well as in Maui County are the result of regulatory threats by governing authorities.

Table 4 also shows that TVRs accounted for 3.4 percent of all lodging types in Maui, 7.1 percent on Molokai and 1.1 percent on Lanai. In total for Maui County, TVRs accounted for 3.4 percent of

total visitor lodgings which is slightly less than the statewide percentage of 3.6%. Hotel lodgings were less on Maui (42 percent) than statewide (60 percent) but taken with the (institutionalized lodging) categories of condominium hotels and timeshares the percentages are the same (94 percent). These 3 categories would seem to interchange given the condominium and time share conversion of hotel lodging units, the category of which declined accordingly from 2005 to 2006.

It is informative to note that TVRs are the largest non-institutionalized providers of lodging units in Maui County as well as statewide. If efforts to regulate the TVR industry are too restrictive the supply of Maui (non-institutionalized) accommodations may be insufficient to service the increasing demand for this accommodation type with potential negative economic impacts.

Table 4: Supply of Lodgings by Type of Accommodations, State of Hawaii, 2006

Island	Type	Available Units	Properties	Change From 2005
Maui	Apartment/Hotel	37	5	-8
	Bed & Breakfast	122	30	6
	Condominium Hotel	7830	114	321
	Hostel	37	3	0
	Hotel	7595	27	-379
	Individual Vacation Unit	495	71	-75
	Timeshare	1959	16	107
	Other	366	15	0
	Total	18441	281	-28
Moloka'i	Bed & Breakfast	3	2	0
	Condominium Hotel	259	6	0
	Hotel	141	3	0
	Individual Vacation Unit	29	22	-1
	Timeshare	15	0	0
	Other	4	1	0
	Total	451	34	-1
Lana'i	Apartment/Hotel	1	1	0
	Bed & Breakfast	3	1	0
	Hotel	362	3	0
	Individual Vacation Unit	1	1	-2
	Total	367	6	-2
Statewide	Apartment/Hotel	347	21	-14
	Bed & Breakfast	598	179	-27
	Condominium Hotel	17235	232	1988
	Hostel	342	13	-5
	Hotel	43637	141	-2424
	Individual Vacation Unit	2014	531	-424
	Timeshare	7271	45	344
	Other	1072	54	-48
State Total	**Total**	**72516**	**1216**	**-610**

Daily Spending of TVR Visitor

On average, a TVR visitor spent $159.16 per day in Maui County. Approximately, 47 percent of the amount expended was on lodgings which was equal to $74.70.[3] Expenditures on lodgings were followed by expenditures on food and beverage ($30.72), transportation ($16.79), shopping ($15.38), entertainment ($15.28) and all other ($6.29) in order of importance. Thus the average TVR visitor spent $84.46 daily on other items besides lodging while visiting Maui County.

We perform the estimation of the economic impacts on TVR lodging expenditures as well as total TVR visitor expenditures to highlight the fact that the full economic impact of the TVR industry exceeds the TVR visitor expenditure solely on lodging.

Estimated TVR Lodging & Total Related Revenues from TVR Visitors in Maui County

The formula for calculating revenues from TVR visitor stays on Maui is:
Lodging (Total) Revenues for TVRs = Total Annual Number of TVR Visitors X TVR Visitor Length of Stay X TVR visitor daily lodging (total) expenditures.
Where:

- Maui TVR visitor number (2006) = 105,967 (see Tables 3 or 4)
- Maui TVR visitor daily expenditure
    - Lodging = $74.70 (as noted above)
    - Total = $159.16 (as noted above)
- Average length of stay in Maui County per visitor range of estimates:
    - 6.85 days estimated from DBEDT data for Mixed and TVR accommodations
    - 7.36 days estimated from DBEDT data for all types of accommodations
    - 9.5 days estimated by RAM from anecdotal observations.[4]

We calculate annual lodging expenditures and total (i.e. lodging + other expenditures) annual expenditures of Maui visitors staying in TVRs. The lodging expenditure indicates spending directly related to Maui property owners willingness to supply TVR services to accommodate this visitor market segment. Total expenditures more broadly measure the overall direct economic impact of serving the TVR market segment by TVR property owners. As such, total expenditures more accurately measure the overall economic impact of the TVR industry in Maui County. The economic impact of any reduction of TVR visitors to Maui due to any policy or regulation reducing the number of TVRs on Maui should use these impact estimates.

[3] Information regarding daily expenditures of TVR visitors in Maui was gleaned from personal communication with Cy Feng, Economist, DBEDT October 30, 2007.

[4] It is beyond the scope of our research efforts to substantiate the RAM visitor length of stay value for TVRs. It's ultimate credibility and any estimates we derive using this value rests with RAM. We can state, however, that a lower lodging rate per day does afford the average visitor a greater ability to stay longer (i.e. a greater length of stay) than higher priced accommodation types. The average TVR lodging rate ($74.4) is less than average rates for other accommodation types. For example, the average daily Maui lodging expenditure across all lodging types in 2006 was $93.4 and for hotels it was $130. Additionally, a 9.5 day TVR length of stay estimate implies a TVR occupancy rate of 80 percent with an average visitor number per stay of 3 persons using the 2006 TVR visitor number. This would seem within the realm of reasonableness in the context of a UHERO reported 2006 average Maui occupancy rate of 80%, a DEBDT reported average party size across all lodging types on Maui of 2.17 in 2006 and the fact that individual TVRs may have multiple accommodation units which would not be accounted for in the TVR count used for our analysis.

- Direct lodging expenditures
    - $54.2 million for a 6.85 average length of stay
    - $58.3 million for a 7.46 average length of stay, and
    - $75.2 million for a 9.5 average length of stay
- Direct total expenditures
    - $115.5 million for a 6.85 average length of stay of
    - $125.8 million for a 7.46 average length of stay, and
    - $160.2 million for a 9.5 average length of stay

Economy-wide Impacts of TVR Lodging and Total Expenditures on Maui County

We used multipliers (Type II) from the 2002 State of Hawaii Input-Output Tables to estimate the economic impacts of Maui TVR visitor lodging and total expenditures. These dollar impacts which include direct, indirect and induced effects for each economic variable are as follows.

- Total output
    - For lodging expenditures[5]
        - $107.9 million from a 6.85 day length of stay
        - $124.1 million from a 7.36 day length of stay
        - $160.2 million from a 9.5 day length of stay
    - For total expenditures[6]
        - $229.9 million from a 6.85 day length of stay
        - $247.0 million from a 7.36 day length of stay
        - $318.8 million from a 9.5 day length of stay
- Labor income (earnings)
    - For lodging expenditures
        - $34.2 million from a 6.85 day length of stay
        - $36.7 million from a 7.36 day length of stay
        - $47.4 million from a 9.5 day length of stay
    - For total expenditures
        - $72.5 million from a 6.85 day length of stay
        - $77.9 million from a 7.36 day length of stay

[5] The Type II multiplier category used for determining the indirect and induced effects of direct TVR lodging is for "accommodation."

[6] The total expenditure Type II multiplier categories used for determining the indirect and induced effects of direct TVR total expenditures is the weighted average per the total expenditure distribution as shown in the following table.

Expenditure Category	Multiplier Category	% of total	Multipliers: Output	Earnings	State Tax	Jobs
Total Lodging	Accommodation	46.9%	1.99	0.63	0.137	17.81
Total Food and Beverage	Eating and drinking	19.3%	2.06	0.60	0.095	27.24
Total Entertainment	Arts and entertainment	9.6%	1.97	0.77	0.09	34.97
Total Transportation	Transportation	10.5%	2.03	0.57	0.078	15.35
Total Shopping	Retail trade	9.7%	1.85	0.57	0.205	20.96
All Other	Other services	4.0%	2.08	0.69	0.095	27.5
	Weighted Average	100.0%	2.00	0.63	0.12	21.71

        - $100.6 million from a 9.5 day length of stay
- Maui County jobs
    - For lodging expenditures
        - 966 jobs from a 6.85 day length of stay
        - 1,038 jobs from a 7.36 day length of stay
        - 1,339 jobs from a 9.5 day length of stay
    - For total expenditures
        - 2,508 jobs from a 6.85 day length of stay
        - 2,694 jobs from a 7.36 day length of stay
        - 3,478 jobs from a 9.5 day length of stay
- Hawaii State taxes
    - For lodging expenditures
        - $7.4 million from a 6.85 day length of stay
        - $8.0 million from a 7.36 day length of stay
        - $10.3 million from a 9.5 day length of stay
    - For total expenditures
        - $14.2 million from a 6.85 day length of stay
        - $15.3 million from a 7.36 day length of stay
        - $19.7 million from a 9.5 day length of stay

Fiscal Impacts of TVRs on Maui County

According to Hawaii Statutes, 44.8 percent of TAT (Transient Accommodation Tax) revenues belong to counties [18]. Maui's share of the TAT revenues meant for the counties is 22.8 percent [19]. According to the Annual Report of the Hawaii State Department of Taxation, Total Transient Accommodations Tax (TAT) for fiscal year 2006 was $217,008,000 in the State of Hawaii which comprises 4.26% of total State tax revenues for 2006. Thus, the percentage of total state taxes generated by TVRs that would be paid to Maui for its share of the TAT equals 0.971%. Based on this percentage we estimate that Maui County's share of the additional revenues would be as follows.

- Maui TAT from State
    - For lodging expenditures
        - $72.0 thousand for a 6.85 day length of stay
        - $77.3 thousand for a 7.36 day length of stay
        - $99.8 thousand for a 9.5 day length of stay
    - For total expenditures
        - $137.8 thousand for a 6.85 day length of stay
        - $148.0 thousand for a 7.36 day length of stay
        - $191.1 thousand for a 9.5 day length of stay

There may be other Maui County-level tax consequences due to the current operation of TVRs. Based on the review of other studies presented above it is uncertain if these (property) tax consequences would be positive or negative.

A possible revenue opportunity for Maui County would be to increase property tax collections due to increased assessments of TVR building structures, improvements and associated land value in case TVRs are allowed to operate legitimately. It may be noted that Maui county government has already moved in this direction by imposing on the timeshare industry a much higher real property tax rate by creating a new tax category called timeshares in 2004. [20]

The justification for a new property tax category is that the Transient Accommodations Tax or TAT is determined on the basis of the "fair market value." In the case of time share units it has been defined as "an amount equal to one-half the gross daily maintenance fees that are paid by the owner." An equivalent type of category could be created for TVRs.

Visitor Reductions and Substitutions Due to TVR Regulation

A reduction in TVRs could reduce the Maui visitor number if TVR visitors cannot or choose not to use an alternative lodging type if TVR lodgings are unavailable due to regulatory impacts. It is beyond the scope of this research report to address the issue of any TVR reduction on the Maui visitor number. However, one can reasonably surmise that in a competitive global market place with the capacity to provide a potpourri of lodging types, informed budget-conscious visitors would find alternative destinations to Maui if Maui lodging choices do not meet their specific lodging tastes and preferences, most specifically a TVR experience. It is safe to assume that this source of exogenous (out-of-state) expenditures would cease if TVR visitors make the choice to go to an alternate resort destination outside of the State of Hawaii.

If some of the TVR visitors do retain Maui as their resort destination using alternate forms of lodgings such as hotels, condos or timeshares because TVRs are forced to cease Maui operations, the economic impact in Maui County from this segment of visitors will likely be reduced due to the netting out effect. However, there would yet be a redistribution of income from TVR owners to non-TVR accommodation owners and a loss of utility (satisfaction) to TVR visitors who must use a “second best” accommodation type during their stay in Maui County. It is again beyond the scope of this analysis to determine the extent of the substitution and income redistribution impacts of any policy eliminating or reducing TVRs.

It is informative to note that it appears that the simple threat of TVR regulation has reduced their number from 2005 to 2006 as discussed above in Maui County by 11.0 percent. If this reduction resulted in a proportionate reduction in visitors to Maui and their total expenditures the economic impact would be a reduction ranging from:

- $25.3 million to $35.1 million in output
- $8.0 million to $11.1 million in labor income
- 276 to 251 Maui jobs
- $1.6 million to $2.2 million in Hawaii State taxes
- $15.2 thousand to $21 thousand in TAT revenues to Maui County.

Again as noted, it is beyond the scope of this research effort to determine whether visitors whose first preference is a TVR lodging experience substitute another Maui lodging type due to their unavailability, or choose an alternative resort destination. The extent to which the TVR visitor lacking his/her first lodging preference substitutes an alternative lodging type on Maui the

economic impact of a reduction in TVR numbers will be less than the numbers just reported. Similarly, if TVRs are eliminated altogether in Maui County and there is no substitution by the TVR visitor of an alternative lodging type, the economic impacts will be the full economic impact amount of the TVR industry estimated and presented above.

IV. Policy Implications

Opponents of TVRs have attempted, through the political process, to prohibit the operation of TVRs in Maui County, limit them to commercial or resort areas where permitted through the use of outdated zoning ordinances and/or deny them needed permits to operate legitimately.

A current policy proposal being debated in Maui has the potential to deny needed permits to TVRs and cause approximately 90 percent of them to cease operations. No grandfathering of existing TVRs would be permitted. Our study has shown that there are significant positive economic impacts of TVR operations in Maui. There is *prima facie* evidence that the TVR sub-sector of the lodgings industry has grown into an industry of significant size over the last 15-16 years and that it is providing significant economic benefits to the populace of Maui County. These include contributions to economic output between $222.9 and $318.8 million, contributions to earnings between $72.5 million and $100.6 million with the generation of 2,508 to 3,478 jobs in the county.

According to a Mayor of a previous Maui County administration, there were written assurances to concerned people that an appropriate bill legitimizing the activities of TVRs in Maui County would be brought forward and passed at which time the TVRs would be provided the necessary permits to operate legally. Some TVRs that were applicants for the permit withdrew their applications and were told they could continue to operate and the County would not enforce the existing law till revised. Others are still waiting for hearings on their applications made as long as six years previously. A possible alternative to a legal operation is an illegal one. As many TVRs are currently operating outside of the law, we estimate that some portion of the range of total state tax revenues generated by TVRs (i.e. $14.2 and $19.7 million) are being lost to the State of Hawaii with a consequent, though much lower, loss of TAT revenues to Maui County. Maui could stand to gain tax revenues through increased property taxes if TVRs could operate as legitimate businesses and be required to pay their due share of taxes. Some of these additional funds can then be used to provide additional public goods and services such as support of affordable housing, water, sewer and parking in support of the visitor industry and for negative externality mitigation.

There are a number of negative externalities that have been associated with the transient vacation rental business. These need to be addressed to ameliorate citizen concerns. Fortunately, there are a number of policy instruments to mitigate the problems of negative externalities. These may involve up-dating community zoning laws taking into account current realities, citations for rowdy behavior and disturbing the peace in residential neighborhoods where TVRs may be permitted, fines for illegal and inappropriate parking, higher property taxes on TVR establishments to compensate residents, increased responsibility for TVR operators for the safety and security of the guests and mandatory evacuation plans in case of emergencies.

The possible impact on long term availability of housing is not a major concern given the large number of unoccupied housing in Maui. It has been shown that in other places outside of Hawaii, accessory dwelling units (ADUs) whether attached or detached have contributed to an increase in

affordable housing and also generated important family income. These ADUs may be used for transient vacation rentals but they could also be used for housing local residents if need be. The character of Ohanas and local lifestyles need to be preserved as learning local customs and being exposed to native culture is one of the reasons why visitors choose to come to Hawaii. It is an irrefutable fact in resource economics that it is most efficient to let land gravitate to highest and best use.

Future trends in the tourism business in Hawaii will be determined by many factors not discussed in this study such as Hawaii's Tourism Strategic Plan, Small Business Policy, land use policy, availability of sufficient plant inventory, infrastructure policy and the recreational choices of baby boomers. However, based on our empirical investigations, we can state that there is a growing trend for transient vacation rentals (TVRs) in the Hawaii market as in other resort areas of the mainland and worldwide. Before the issue is subjected to short shrift and TVR closure, it might be prudent for county officials to work in concert with state officials and TVR operators to improve data gathering regarding TVR visitors and do an extended cost-benefit analysis and explore every option to address community concerns fairly and equitably.

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White Paper

June 2016

Short-Term Vacation Home Rentals Impacts on Workforce Housing in Breckenridge

Rees Consulting, Inc.

Introduction and Purpose

With the explosive growth in short-term vacation home rentals available through websites such as VRBO, AirBnB and other online hosting sites, many communities have been trying to understand the extent of the impact of short-term rental activity on workforce housing. Community leaders have become increasingly concerned about:

- Potential loss of community character through acceleration of the shift from homes occupied by local residents and to second/vacation homes;
- Economic sustainability and the extent to which growth in vacation rentals is adding jobs at a time when labor is in short supply; and
- The costs and consequences of a commuting labor force on traffic, parking, transit, quality of life and the environment.

Questions being asked in resort towns throughout the Mountain West include:

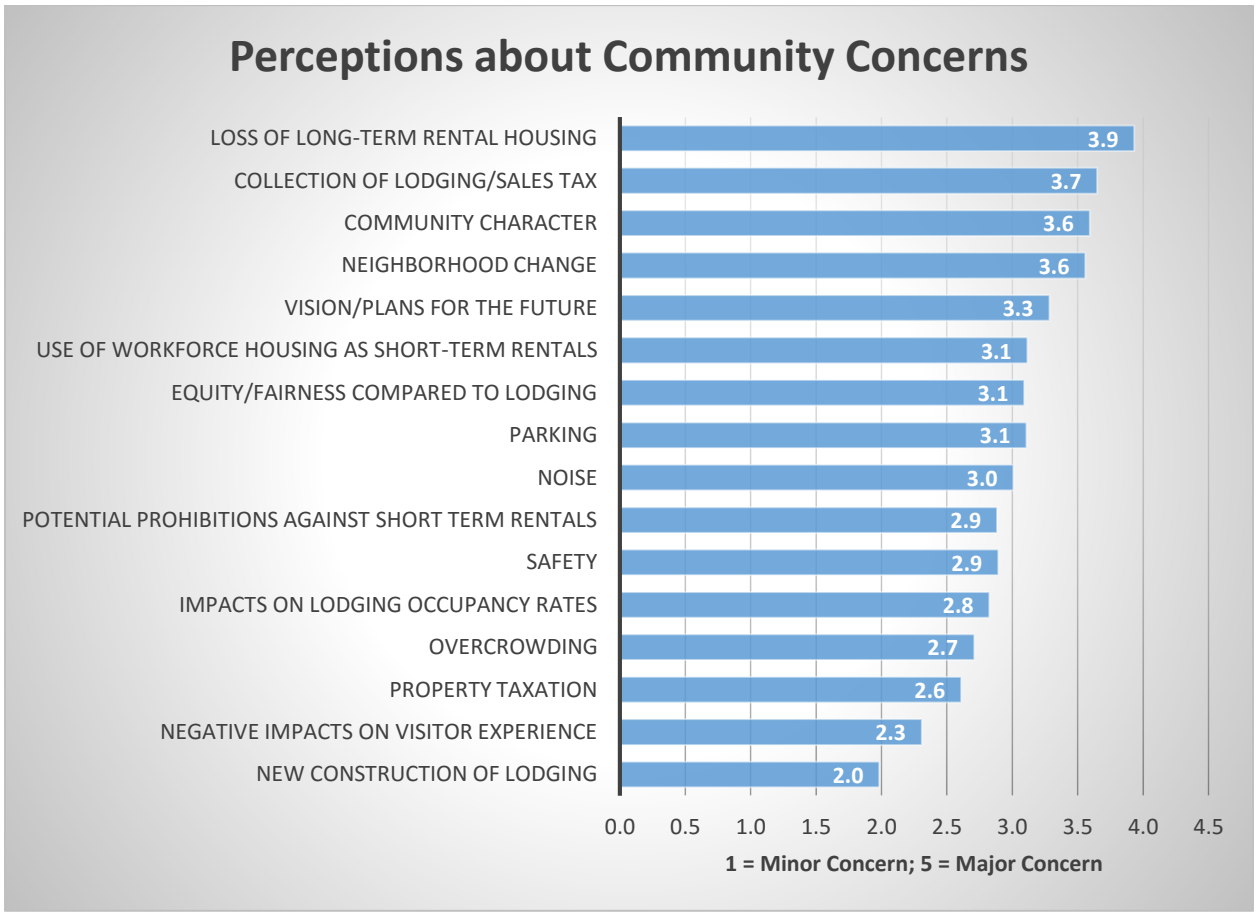
- How many homes previously occupied by the local workforce have been converted into short-term rentals?
- To what extent have our workforce housing needs grown from the low-wage jobs associated with short-term rentals?
- How should our regulation of short-term rentals be adapted to address the impact on workforce housing in our community?
- How can a fee, tax or other type of impact mitigation be enacted to help address the loss of, and increased demand for, workforce housing?

While communities are also seeking additional information on many other issues related to short-term rentals including licensing, tracking, sales/lodging taxes, neighborhood impacts and visitor safety, concerns about workforce housing have grown in importance over the past two years.

A study commissioned by the Colorado Association of Ski Towns (CAST) in 2015 found that the loss of long-term rental housing topped a list of 16 community concerns.[1] Based on a survey of elected officials and town staff in 10 resort

[1] Vacation Home Rentals: Issues, Emerging Trends and Best Practices, Rees Consulting, WSW Consulting and RRC Associates, 2015. Contact CAST for the report, https://coskitowns.com/

communities,[2] the loss of long-term rental housing received an average rating of 3.9 on a scale from "1 – minor concern" to "5 – major concern." These results validate the need for communities to better understand the impact of short-term rental activity on workforce housing.



With an inventory of over 3,000 short-term vacation home rentals and a shortage of workforce housing despite continued development of affordable for-sale and rental homes, the Town of Breckenridge is sponsoring this examination of the impacts of short-term vacation rentals on workforce housing in the community. This paper addresses two categories of impacts on the workforce including:

- The decrease in the supply of workforce housing from the conversion of homes and individual bedrooms that were previously occupied by employees into short-term vacation rentals.

[2] The communities participating in the CAST study and survey included: Breckenridge, Crested Butte, Durango, Estes Park, Frisco, Jackson, Mt. Crested Butte, Ouray, Park City and Steamboat Springs.

- The increase in the demand for workforce housing from the jobs that short-term rental activity generates.

This paper presents the general magnitude of these impacts to the extent available from existing data, which is currently not sufficient to quantify the impacts with the level of reliability needed to address them. It identifies the additional information needed to more precisely determine short-term rental impacts on workforce housing, including quantifying the amount of additional workforce housing needed to replace lost units and calculating how much housing is needed by employees generated by short-term rentals to support impact mitigation if desired.

Key Findings

Although more targeted data collection is needed to quantify specific impacts, it is apparent from existing information that the growth in short-term vacation rentals has simultaneously both decreased the supply of workforce housing and, through job creation, increased the demand for workforce housing by the workforce.

Decrease in Supply

Estimates from Breckenridge, Crested Butte and Estes Park confirm that, with the growth in short-term rentals, there has been a loss of workforce housing. More units have been lost in recent years through conversion from local occupancy to short-term vacation use than any of these towns have produced through their housing programs.

- The number of licensed short-term rentals in Breckenridge increased by 154 units between 2011 and 2014 and added another 44 units between 2015 and 2016. Since 2014, a 58-unit decrease has been recorded in the number of long term rentals based solely on reports provided by new owners at the time of purchase. This figure is indicative of a declining trend toward fewer new owners choosing to rent their homes long-term, but it does not represent the total number of residential units that were once primary residences but are now second homes and/or short-term rentals.

- In Crested Butte, 3.5% of all homes in the community converted from local occupancy to short-term rentals between 2012 and 2105;

- About 9% of renters (200 households total) have been displaced in the Town of Estes Park over the past five years due to short-term rental conversions; and

- The rental of individual bedrooms to visitors rather than long-term renters is often overlooked yet significant. In Breckenridge, 200 bedrooms are advertised on AirBnB, many of which were likely previously occupied by local renters who must now find housing elsewhere.

Increase in Demand

Workers needed to fill jobs created by the short-term rental industry increases the demand for homes. In Breckenridge, direct job generation likely creates demand for between 400 to 800 housing units. Assumptions used to produce this estimate are reasonable but not sufficiently documented to be considered sound and defensible.

The methodology, however, is straightforward and similar to that used to support commercial and residential linkage/mitigation requirements in place in many mountain resort towns.

Next Steps

Breckenridge and similar communities that are struggling to preserve community character, sustain its economy and retain a local workforce must address both the loss of homes and the demand for additional workforce housing directly due to the increase in short-term vacation rentals. The solutions will be challenging and costly.

Additional data will be needed to support this effort. Modifying existing requirements and developing additional ways to address impacts on workforce housing will be complex and possibly challenged by the industry and/or individual homeowners. Information needs to be adequate for analyzing options and consequences, and to stand the test of a challenge.

A local census should be conducted to determine the number of residential units that now house local residents and to monitor changes in occupancy/use over time. No other source will provide the data needed to adequately quantify changes in the use of Breckenridge's housing supply.

Short-term vacation homes should contribute to the solutions. Impact fees, other types of mitigation, incentives and modifications to the Town's zoning code could be part of a comprehensive, multi-faceted effort to lessen the loss and address the need for additional workforce housing. Other types of commercial uses have long contributed to workforce housing in Breckenridge.

Improvements to the Town's tracking system, which was originally designed for the collecting real estate transfer tax, are needed. An annual license application could be used to obtain information not now gathered. Specific suggestions for both tracking and licensing are provided at the end of this report.

I. Decrease in Workforce Housing Supply

Short-term rental activity affects the availability of workforce housing in different ways and at various rates in each community. This section uses information collected in several communities to illustrate:

- Various factors that contribute to the conversion of workforce housing into short-term rentals;
- Comparative rates of the growth in short-term rentals; and
- The extent of the loss of locally-occupied units and bedrooms to short-term rentals.

This paper concludes with a description of additional information that is needed to more precisely understand the impact of short-term rental activity on individual communities.

Factors Influencing Short-Term Rental Growth

Based on interviews with property managers and Realtors in several communities, the extent to which the short-term rental of residential units affects an area is a factor of many components. These includes:

- Nightly/weekly/monthly rental rates and occupancy/utilization rates that impact the potential return to the owner;
- Purchase prices relative to cost potential rental revenues;
- The relative ease of advertising and managing units; and
- The amount of time the owner plans to occupy the unit.

The combination of these factors in a community contribute to the rate at which units convert to short-term rentals, the location of these conversions in a community and the attractiveness of an area to investment buyers seeking to profit from owning short-term units.

The influence of these factors is illustrated by the variation in short-term rental markets in the towns of Winter Park, Estes Park and Breckenridge, discussed below.

Winter Park

- In the town of Winter Park, the base of the ski area is the primary location where owners can demand nighty/weekly rates high enough to justify short-

term rental of their units. Downtown Winter Park and Fraser are less desirable locations; owners/managers must play the "rate game" to compete with the resort properties.

- Investment buyers seeking to purchase properties to short-term rent are not common because nightly rates, other than at the base of the mountain, do not provide sufficient return.
- Some managers have noted a reverse in the conversion direction, from short-term renting to long-term leases in town where occupancy and rental rates are lower. Owners who desire to use their homes for occasional vacations require their long-term tenants to vacate temporarily.

Estes Park

- Most second-home buyers are in their pre-retirement years and plan to retire to Estes Park in the future. In the interim years, many short-term rent their second homes. Short-term renting has permitted some pending retirees to purchase homes sooner than they would have absent this revenue generation.
- Purchases of homes purely based on the investment return of short-term rental activity (so-called "investment buyers") does not appear to be prevalent.
- Many short-term rented units were previously vacant much of the year, aside from when the owner occupied the home. A survey of the local workforce in 2015, however, showed that about 200 renters – or about 9% of all renters in the area - were forced to vacate their units within the past five years because of conversion to short-term rental.[3] In a housing market with insufficient supply of long-term rentals, such as Estes Park, this has a noticeable impact.

Breckenridge

- Investment buyers are more prevalent in Breckenridge than in either Winter Park or Estes Park. In 2013, about 10% of all real estate buyers in Summit County were investment buyers; a ratio that is estimated to have increased in Breckenridge since that time. Short-term rental rates provide decent returns on investment and it is not uncommon for owners to own multiple short-term rentals.
- Many short-term rental units are located in timeshare complexes or units with central property management structures. The ease of advertising of units on rental-by-owner websites through AirBnB, Homeaway and other

[3] Estes Park Area 2016 Housing Needs Assessment; https://www.colorado.gov/esteshousing

sites, combined with access to management assistance, makes this an attractive option for many owners.

The Growth in STR's

Resort communities have seen more growth and impacts from STR's than larger cities because the local housing stock and commercial lodging options are more limited. The growth in short-term rentals has been particularly high in resort communities in part due to the fact that the ease and popularity of renting homes online had made owning a second home more affordable. This has increased the number of second home buyers and pushed home prices upward at even steeper rates of appreciation.

Although short-term rentals have existed in these communities for many decades, the rise of the sharing economy over the past four years has resulted in significant growth in short-term rental units and their impacts, albeit at different rates within each community. This is illustrated below based on data from the towns of Crested Butte and Breckenridge.

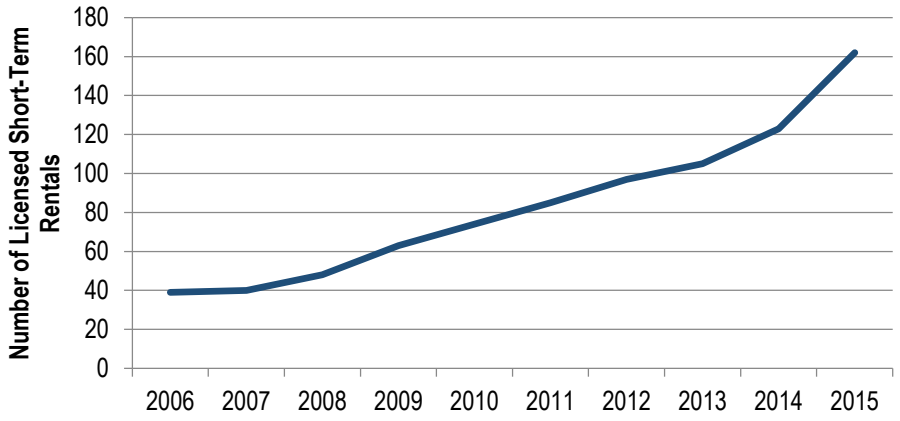
Town of Crested Butte

In Crested Butte the number of licensed short-term rentals increased from about 40 in 2006 to 162 in 2015 – a four-fold increase in nine years.[4] The increase has been faster over the past two years, during which 35% of units have been added (57 units). "Crested Butte is one of the 10 fastest-growing markets in the nation for short-term rentals according to HomeAway, the online Goliath in the vacation rental market," stated the Denver Post in a February 2015 article.

About 15% of all homes in the town of Crested Butte are licensed as short-term rentals (162 of 1,122 total housing units).

[4] Based on a recent report released on the short-term rental inventory and changes of home usage in Crested Butte titled "Short-term Rentals – Vacation Home Rentals, Crested Butte, Colorado, May 2016." Information is collected from short-term rental licensing and a yearly census of home usage conducted by the town. The last date the full census was completed was in 2012.

Growth in Licensed Short-Term Rentals:
Town of Crested Butte, 2006 to 2015



Town of Breckenridge

The number of short-term rentals has been increasing at a more modest rate in the town of Breckenridge, averaging about a 5% increase between 2011 and 2014. Given the large number of units in Breckenridge, however, this equates to an additional 154 units – slightly under the total number of units existing in Crested Butte in 2015 (162 total).

About 41% of housing units in Breckenridge were licensed as short-term rentals in 2014 (2,900 of 7,200[5] total units) based on information from the town's finance office.[6] While commercial lodging availability has fluctuated in recent years, with no new units being built since the recession, the short-term rental inventory has been increasing.

Number of Short-Term Rental Licenses:
Town of Breckenridge, 2011 - 2014

	Short-term rental units	Total housing units*	% of housing units that are short-term rentals
2011	2,757	6,958	39.6%
2012	2,733	-	-
2013	2,882	-	-
2014	2,911	7,187	40.5%

*Housing unit estimates from Colorado State Demographer

[5] Colorado Department of Local Affairs housing unit estimates.
[6] Interviews with Finance Office. It is estimated that at least 90% of short-term rentals in town are licensed through this office. The estimated license rate is based on cross-checking licensed short-term rentals with periodic scans of short-term rental advertising sites.

Loss of Workforce Housing Units

Resort communities are well-known for having tight housing availability for the local workforce, whether for purchase or for rent. While the rise of short-term rental activity in recent years has contributed to this tight housing market, the current shortage is a culmination of several factors. Other contributors to the housing shortage include:

- Home construction nearly halted in many resort communities during the recession. In recent years, new home construction in these same communities has been on the rise, but is severely lagging the fast recovery of tourism and jobs in these areas. Most housing markets were undersupplied pre-recession; many are now severely under-supplied with the development imbalance.

- Home prices have been recovering. Some owners who were unable to sell their homes during the recession leased them long term to local residents. Now that the market has recovered, owners are selling their homes at prices just below or near pre-recession highs, and their tenants are forced to move.

- Owners looking to retire in mountain communities continue to convert their second-homes to primary residences at retirement, potentially displacing locals who were formerly tenants in these homes.

The rising popularity of short-term rentals, however, is significant and conversion from long-term to short-term rentals has had a definite impact on workforce housing availability in many communities. These various impacts are illustrated below based on information on the towns of Estes Park, Crested Butte and Breckenridge.

Town of Estes Park

A recent survey of the workforce in the Estes Park area showed that conversion of homes to short-term rentals has displaced local long-term renters, but not to any greater extent than units being sold to new owners or current owners moving into their previously-rented homes.[7] Combined, about 700 renters have been displaced over the past five years, with about 200 each being evicted or forced to move due to homes being converted to short-term rentals, owners moving in or owners selling their homes.

[7] Estes Park Area Housing Needs Assessment, January 2016, by Rees Consulting, Inc. and WSW Consulting.

"Have you been evicted or forced to move within the past 5 years due to:"

	% of renters affected	# of renters displaced
Rental home was sold	9%	205
Flood damage - renters	9%	205
Rental converted to short-term/vacation rental	9%	197
Owner moved in	7%	159
Rental home was foreclosed upon	1%	15
TOTAL respondents affected*	32%	700

Source: 2015 Household and Employee Survey
*Column totals add to more than the "TOTAL respondents affected" because some renters have been forced to move multiple times.

Town of Crested Butte

The town of Crested Butte estimates that about 40 homes (3.5% of the housing stock) have converted from full-time resident-occupied homes to short-term rentals since 2012. This includes 23 homes that were previously rented long-term and 17 homes that were owner-occupied.[8]

Of homes that are short-term rented, about 82.5% are owned by out-of-town owners, with 17.5% owned by locals who either rent their primary residence occasionally while they vacate or own a short-term rental as an investment property.

Town of Breckenridge

Definitive data on the number of long-term rentals that have been converted to short-term rentals in Breckenridge is not yet available. While 154 units were added to the short-term rental inventory between 2011 and 2014, as stated above, it is uncertain how many were previously occupied by local owners or leased as long-term rentals.

The Breckenridge Finance Office started collecting information on long term rental usage by new homeowners in the fall of 2012. The Breckenridge Finance Office sends new homeowners a letter upon purchase with a questionnaire seeking property information, including the new owner's intended use of the property as being either a short-term rental, long-term rental, owner-occupied or second home. The number of new homeowners stating that they intend to rent their units on a long-term basis has been decreasing since 2014. The reported decrease in long-

[8] See "Short-term Rentals – Vacation Home Rentals, Crested Butte, Colorado, May 2016."

term rentals between 2014 and 2016 (58 units) does not, however, accurately quantify how many long term rentals have been lost to short term rentals during this period.

- First, data on long-term rentals reports the usage of homes only upon sale to a new owner – it is based on a limited sample of homes in Breckenridge.
- Second, it only reports the intended usage of the home by the owner at their time of purchase; it does not track the change in use of individual units over time.

The data reported in the below table simply indicates a declining trend in new owners stating that they intend to rent their homes long-term upon purchase, but does not reflect how many have been lost due to conversion to short-term rental usage. More data is needed to quantify the loss of all long-term rentals (not just a sample of sold properties) and conversion into some other use (local owner occupancy, second home and/or short term rental).

Uses Declared by Buyer at Time of Purchase

	Lodge rooms (hotels, lodges, B&B's)	**Short-term rental units**	**Long-term rental units****
January 2014	482	2,911	580
January 2015	533	3,341*	568
January 2016	463	3,385	522

*Timeshares were classified as short-term rentals in 2015, accounting for most of the increase between 2014 and 2015.
**Long-term rental data reflects the use of the property upon sale to a new owner. It does not necessarily reflect the current use of the property (I.e., if the same owner converts the unit from being a long-term rental to owner-occupied or second-homeowner occupied then this change is not tracked).

Loss of Individual Bedrooms

Of additional concern, and harder to measure, is the loss of rooms available to locals, as opposed to entire units. Locals displaced from rented rooms must find housing elsewhere.

Rooms that owners or renters previously leased to roommates may now be rented to short-term visitors, reducing employee housing opportunities in town. Information available from AirDNA.co[9] shows that of about 1,500 units advertised on AirBnB, about 7% (just over 100) are rooms rather than entire units. It is likely that some of these rooms had been rented to locals.

[9] More information on this site is discussed in the "Increase in Demand for Workforce Housing" section, below.

AirBnB Listings, Breckenridge: February 2016

	# of Listings
Shared room	11
Private room	101
Entire unit:	
Studio	45
1-bedroom	266
2-bedroom	462
3-bedroom	288
4+ bedrooms	329
Total	1,502

Source: AirDNA.com Market report for Breckenridge

II. Increase in Demand for Workforce Housing

Demand for workforce housing is increased by short-term rentals through the jobs they generate. Jobs are directly generated by the need for property management, housekeeping and maintenance workers. Jobs are also indirectly generated by the increased services demanded by visitors occupying the short-term rentals, such as for food, retail and recreation. The workers filling these jobs need housing, increasing the demand for homes within these communities.

This section presents a method by which the number of direct housekeeping and maintenance jobs generated by short-term rentals and the respective demand for additional workforce housing can be evaluated. This analysis introduces and builds upon:

- Data provided on AirBnB rentals;
- An approach used to quantify monies spent by short-term rentals on cleaning and maintenance in Estes Park;
- Rates from a job generation database for lodging and property management; and
- Key indicators from the most recent Summit County Housing Needs Assessment (2013).

Calculations are presented for Breckenridge based on available data and general assumptions. While the resulting estimates are likely not sufficient for a defensible nexus, they provide a sense of the extent to which short-term vacation rentals are increasing the demand for workforce housing. This exercise also highlights the primary data needed to calculate the number of jobs generated and the factors and assumptions that will result in unique job generation rates among communities.

Estimating Workforce Housing Demand

Data and Assumptions

To quantify the number of direct on-site jobs created by short-term rental activity and the housing units demanded by workers filling these jobs, reliable estimates are needed on:

- The number of short-term vacation rentals by number of bedrooms or unit size. The size of the unit will impact cleaning and maintenance costs;

- Occupancy level and average lengths of stay to understand turnover rates. This affects, for example, how often units are cleaned and the amount of oversight/property management needed. It is likely that these factors could be used as a basis for variations in fees charged or other mitigation.

- The average cost per cleaning and the average wage of house cleaners.

- Monies spent on maintenance/management – yard work, snow removal, repairs and property management expenses - and the average wage for these workers.

- An assumption on the number of hours worked per employee; the full-time equivalent (FTE) definition is 2,080 hours per year.

- An assumption on the number of employees per housing unit, which was 1.8 in both Summit County and the town of Estes Park based on their most recent housing needs assessments.

The number of on-site jobs can be converted to the number of additional housing units needed by workers that fill these jobs by applying an average number of employees per housing unit.

Estes Park Analysis

The Town of Estes Park prepared a white paper in 2015, the goal of which was:

> "To spur an informed community discussion of vacation home rentals that ultimately leads to positive and equitable changes in governmental policies and processes."

An economic impact analysis was prepared as part of this effort titled *Vacation Rental Homes Ongoing Yearly Revenue Contribution to Estes Park Economy.* Utilizing many of the above variables, this analysis estimated that over $1.4 million is spent employing house keepers and maintenance workers for short-term rentals in Estes Park. With an inventory of 519 short-term rentals, this equates to about $2,800 per unit per year.

Several assumptions regarding short-term rental occupancy, cleaning and maintenance were made, including:

- A total of 519 short-term rented units in the area;

- Unit occupancy averaging 105 days of the year (or 29% of the year);

- An average of 16 cleanings each year. This equates to an average length of stay of about 6.6 nights based on 105 days of occupancy;
- An average cleaning cost of $100 per turnover; and
- An average annual cost of $1,200 per year for property maintenance and repair.

The analysis did not include an estimate for property management by third parties. While some owners handle their short-term rentals, many are managed by professionals who list their portfolio on one or more online sites.

Estimates for STR-Generated Workforce Housing Demand in Breckenridge

Two methods are used to produce approximate estimates for the number of employees who clean, maintain, repair and operate STR's and the demand for workforce housing units that these employees generate:

1. Utilization of data obtained on Airbnb units in combination with assumptions gleaned from the Estes Park analysis; and
2. Application of job generation rates for lodging and property management produced through employer surveys conducted as part of housing needs assessments in mountain towns over the past 25 years.

AirDNA Data for Breckenridge

Information available through AirDNA.com on Airbnb listings provides insight into several variables needed in the analysis of impacts on workforce housing demand. Detailed reports may be purchased that are well documented with data definitions, such as what constitutes an active listing, and tips on the relevancy of the data provided.

Exploring the AirDNA.com site for multiple communities shows wide variation in short-term rental usage and rental fees. Information on yearly rental trends, changes in occupancy rates and unit availability, unit pricing by bedroom and revenues collected, among other data, are provided. Data reported for Breckenridge that is relevant to calculating direct job generation include:

- A total of 1,502 active listings in February 2016, identified by unit type and number of bedrooms.
- An average annual occupancy rate of 30%.

- Cleaning fees that average as little as $25 for a private room up to $400 for a four-bedroom unit.

- Minimum length of stay ranging from one up to seven or more nights, with the bulk falling at three nights or less.

The AirDNA report also contains information that could be of use in other applications and provides insight into the growth of AirBnB rentals in Breckenridge including:

- Overall annual median occupancy, which was reported at 30% for Breckenridge.

- The most recent month compared with the Colorado median.

- Historical listing counts – the previous 12 months, during which time Breckenridge listings dramatically increased – from 569 at the end of March 2015 to 1,686 at the end of February 2016.

- Revenues by month and number of bedrooms for the previous year, which show a large spike during the ski season in Breckenridge. July and August generate about one-third of the revenue during the winter peak.

- RevPAR, which is a standard used by the lodging industry to measure demand by comparing utilization to availability.

- Average daily rate by number of bedrooms, number of guests and month. In Breckenridge, a private room in a house averages $146 per night, while a four-bedroom unit averages $801 per night. The average daily rate is much higher during the ski season, registering $654 per night in December compared with just over $200 per night in May and September.

- Various statistics helpful for potential hosts to list their units including discounts and the top 10 performing listings by address for each size category.

Caution should be used when working with this data, however, since it only represents AirBnB listings. Vacation homes listed through VRBO and other sites may vary in performance.

1. Workforce Housing Demand from Airbnb and Estes Park Assumptions

While the following estimates are approximate, they provide a sense of the magnitude of the impact on demand for workforce housing in Breckenridge. The following assumptions were used in this analysis.

- Town of Breckenridge licensing records show there are about 3,300 short-term rentals in town.
- Frequency of cleaning is based on an assumed average length of stay of about three-days; 90% of AirBnB listings in Breckenridge are available for stays of three nights or shorter.
- The average cleaning cost is $168 per turnover. This is the weighted average of the AirDNA published cleaning rates taking into account the size of units listed on AirBnB.
- The average annual cost for property maintenance and repair is $1,200 per year, as assumed in Estes Park.
- Average hourly wages for housekeepers and maintenance workers are approximations. Further refinement of repair maintenance costs is needed.
- On average there are 1.8 employees per housing unit, based on the 2013 Summit County Housing Needs Assessment.

This calculation is shown for both a 30% and a 50% occupancy rate to illustrate the extent to which this variable changes the bottom line. Based on this analysis, short-term vacation rentals generate demand for approximately 490 to 795 housing units, averaging between 0.3 and 0.4 FTE per unit per year.

Demand for Workforce Housing from Short-Term Rentals in Breckenridge

Approximate Estimates Using Airbnb & Estes Park Assumption

Occupancy Rate (% of days units occupied/year)	**30%**	**50%**
Number of short-term rental units	3,300	3,300
Average days occupied	361,350	602,250
Cleaning Jobs		
Times cleaned (Every 3 days)	120,450	200,750
Avg cost per cleaning	$168	$168
Total spent on cleaning	$20,235,600	$33,726,000
Avg wage of housekeepers/hour	$12	$12
Total hours worked per year	1,686,300	2,810,500
Full time equivalent jobs*	811	1351
Maintenance/Repair Jobs		
Annual maintenance costs - $1,200/unit	$3,960,000	$3,960,000
Avg wage of maintenance workers	$25	$25
Total hours worked per year	158400	158400
Full time equivalent jobs*	76	76
Total FTE	887	1427
Employees per housing unit	1.8	1.8
Demand for Workforce Housing Units	493	793

*FTE = 2080 hours per year.

2. Estimates of Workforce Housing Demand from Lodging Job Generation Rates

An alternative method for cross checking the above involves use of a proprietary database on job generation associated with various commercial uses in mountain communities, including lodging, developed by Rees Consulting, Inc. and RRC Associates, LLC. This database was developed starting in 1990 with housing needs assessments in mountain towns and counties in Colorado, Idaho and Wyoming.

As part of these studies, public and private sector employers were surveyed concerning the number of jobs they offer and the amount of space they occupy. The merged database contains a total of 1,995 cases from surveys conducted in Colorado, Idaho and Wyoming from 1990 through 2008. Of these cases, 135 were

from hotels, other types of lodging establishments and property managers. These employers estimated they hire approximately ½ employee per unit counting both full-time and part-time jobs.

Rees/RRC Commercial Job Generation Database

	Employees per Room/Unit	# of Cases
Lodging/hotel/housekeeping	0.53	102
Property Management	0.42	33

Many of these units are in full service hotels with nightly cleaning and on-site restaurants. The job generation rate for short-term vacation home rentals would be less.

Ballpark estimates are shown below for three assumed employee generation rates: 100%, 50% and 25% of the lodging rate. These rates are applied to the roughly 3,300 licensed short-term rental units in Breckenridge.

Demand for Workforce Housing from Short-Term Rentals in Breckenridge

Approximate Estimates Using Lodging Job Generation Rates

	Job Generation Database	50% Rate	25% Rate
# of Short-term Rental Units	3,300	3,300	3,300
Job Generation Rate per Unit	**0.5**	**0.25**	**0.125**
Jobs Generated	1,650	825	413
Employees Generated (1.2 jobs/employee*)	1,375	688	344
Housing Demand Generated (1.8 employees/unit*)	764	382	191

*From 2013 Summit County Housing Needs Assessment

The result is a range of 191 to 764 units needed to house employees directly generated by the short-term units, averaging between 0.1 and 0.4 employees per unit. These estimates are very similar to those produced for Breckenridge by the previous analysis using occupancy rates and assumptions for cleaning and maintenance.

II. Conclusions and Next Steps

With workforce housing demand generated by short-term vacation rentals likely in the range of 400 to 800 housing units, Breckenridge's shortage of workforce housing is impacted to a greater extent by an increase in demand from employees needed to service short-term rentals than by a decrease in the supply of units that were previously occupied by locals. In combination, the impact is significant. The growth in the short-term rental industry is a major factor in the increased need for workforce housing.

While information now available is not sufficient for a more precise estimate, information availability is changing. Efforts to obtain needed information from hosting sites are underway on multiple fronts. Even if these efforts are successful, however, the need to collect and maintain information at the local level with likely not diminish.

Information collected by the town of Breckenridge on short-term rentals is as extensive as any comparative resort community, additional information could be collected that could help the town track the loss of units available to locals. This could include:

- Creating a local census to provide current information on the occupancy/use of all housing units in Breckenridge and to monitor use as it changes. The 2020 Census will report on units identified as occupied by local residents who rent or own but will not distinguish among various "vacant" uses (for sale, for rent, for occasional/recreational/seasonal use) and only reports on changes every 10 years, which is insufficient given the pace at which changes have occurred in recent years.

- Enhancing the tracking system with continued monitoring of hosting sites and increased use of photo recognition and capture of historical data so that successive changes over time are tracked.

- Creating a notification website – renters can log when "forced to move," neighbors can report short-term rented units/bedrooms, etc.

- Tracking changes in the use of properties over time. As properties can in use, retain records on the previous ways by which the units were occupied.

The next step should be collection of information with license applications to provide the type and quantity of data to calculate precise estimates and support potential impact mitigation measures. License applications should be completed online so that data can be easily captured (manual entry not required).

The information such applications could capture includes:

- Address
- Host site(s) where listed
- Type of unit
- Number of bedrooms
- When available for rent
- Number of days rented in prior year in categories (weekly, nightly, by the month)
- Turnover – number of individual parties renting per year
- Cleaning cost per turnover
- Frequency extra cleaning is provided
- Maintenance/repair costs per unit - annual
- Photo (main online photo)

The Impact of Vacation Rentals on Affordable and Workforce Housing in Sonoma County

The Economics of Land Use

Prepared for:

The Sonoma County Community Development Commission

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INTRODUCTION AND SUMMARY

This Research Paper was commissioned by the Sonoma County Community Development Commission as part of its broader efforts to address homelessness, the inadequate supply of rental housing, and the rapidly increasing rents in Sonoma County. This Paper explores one aspect of housing supply constraints and increasing costs—the rapid expansion and emerging effects of "vacation rentals," some of which compete directly for available housing by shifting housing units from residential use to visitor-serving use. Vacation rental use of housing units has increased rapidly in recent years due to the advent of web-based vacation rental marketing platforms such as AirBnB and VRBO; the growth of the industry is expected to continue in the coming years. This Paper quantifies and locates this shift of housing from residential use to visitor-serving use that has already occurred, and recommends ways of minimizing and mitigating the impacts of vacation rentals that impinge on the County's housing supply.

Homelessness and lack of an adequate supply of affordable housing in Sonoma County have many causes. This Paper concludes that expansion of vacation rentals in Sonoma County, especially the component of the market involving rental of whole housing units in areas not historically associated with vacation rentals, is reducing the supply of housing available to the resident workforce market. This reduction in housing supply, in turn, has and will continue to contribute to upward pressure on residential rents and prices.

The research conducted in support of this paper included review of the substantial literature on the topic of vacation rental impacts, assessment of the current vacation rental market based upon "webscrapes" of the data available from the largest vacation rental platform (AirBnB), obtaining housing data from US Census sources and commercial sources, and finally, use of data and mapping resources developed by Sonoma County Permit & Resource Management Department (PRMD) as part of their broader research on the topic.

Background

History of Sonoma County as a Visitor Destination

Sonoma County has been a recreation and resort-destination since the late 19th century. At that time, the burgeoning growth of San Francisco and other more central Bay Area cities created demand for close-by destination recreation and resorts. Simultaneously, the expanding San Francisco Bay ferry system and railroads made access to the Russian River area and the hot springs resorts in the Sonoma Valley an easy day-trip for San Francisco residents. Over the years, as the advent of the automobile, improved highway access, bridges, and air travel provided easier access to more distant recreation and resort venues, the old resort communities of Sonoma County lost their luster. Beginning in the post-war years' suburban expansion of Sonoma County, its historical resort communities increasingly shifted to serving local residents, both as a source of housing and local recreation.

In recent decades, with the continued population growth of the Bay Area region and the expansion of the wine industry, Sonoma County has once again emerged as a significant visitor destination. Visitors are attracted to the County's lovely coastline and coastal communities; its expanded and improved State and regional park system; its scenic highways; and its lodging and resort properties concentrated along the Sonoma Coast, the Russian River corridor, the Sonoma

Valley, and the north County wine region. At the present time some 7.5 million visitors arrive in Sonoma County each year [1] driving continued expansion of the County's tourist-serving businesses.

Increasing Destination Visitors and the new Web-Based Marketing Platforms

While vacation rentals have historically been a part of lodging supply in the Russian River resort areas, short-term vacation rentals have expanded rapidly in recent years mirroring the national and international trend. With the new web-based platforms, hosts can now make a spare room, an entire apartment, or a house available to potential visitors through websites such as AirBnB, Homeaway, Flipkey and other vacation rental "platforms." These platform companies have varying business models but generally earn fees when bookings occur and/or when listings are posted by hosts. Unlike a hotel, bed and breakfast inn, or a traditional vacation rental unit, making residential owner's space available for short-term rentals is a low-cost and flexible undertaking for a host. The host can earn income by renting their space for as few or as many nights as they wish and that the market will bear. Using web-based vacation rental platforms, visitors to the County can select from a variety of lodging options and have the experience of staying in a home and neighborhood not traditionally oriented to tourist accommodations.

The advent of the new web-based marketing platforms coincides with considerable growth in visitors to the County and a corresponding increase in related economic activity and tax income to local governments. Over the past five years, as the economy has been recovering from the Great Recession, the transient occupancy taxes (TOT) by Sonoma County (unincorporated County lodging) increased to $12 million in 2014, a nearly 60 percent increase in five years. TOT gains recorded by the cities were more modest during this period. Total visitor spending is estimated at $1.6 billion, total related local tax revenues at $143 million and total employment supported at 19,350 jobs.[2]

Visitors to Sonoma County are estimated to be 90 percent of domestic origin with the largest fraction arriving from other Bay Area counties. An increasing number of visitors are international, corresponding to the substantial growth in international tourism globally and specifically to the growth in California's attractiveness to international tourists.[3] These growth trends suggest potential for continued expansion of the County's tourism business, including lodging demand and further expansion of the vacation rentals as a component of the County's lodging supply.

Increasing Investment in Housing for Second Home and Vacation Rental Purposes

The increasing visitor demand and the improved ability to market homes as vacation rentals has made homes in visitor-serving areas a target for investment by companies and individuals seeking investment opportunities. These investors include an increasing number of international investors, dominated by those from Asia and Canada. The National Association of Realtors has recently reported that foreign investment in housing in the United States is expected to top

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[1] Annual Tourism Report 2014, Sonoma County Economic Development Board

[2] Ibid

[3] Ibid

$100 billion in 2015 with this investment focused in the coastal metropolitan areas and high-amenity locations such as Sonoma County. Over 50 percent of this investment appears to be for second home or vacation rental purposes (not primary residence).[4] This information conforms to data, discussed later in this Paper, showing an increasing shift of housing units in Sonoma County to second homes and seasonal (vacation rental) uses.

Workforce Housing Supply Constraints

While the tourism sector has rebounded from the Great Recession, overall economic indicators in the County, including increases in household income and new employment, have been less strong. While employment increased by about 10 percent (18,800 jobs) between 2009 and 2015, most new jobs were created in the lower wage categories of the service sector whose average earnings per employee in 2014 were less than $30,000.[5] Meanwhile median household income in the County, at approximately $64,000, has remained essentially flat during this period. Adding to the existing housing supply constraints, the new service sector workers affiliated with the expanding visitor-serving businesses (lodging, food service, recreational services, etc.) will need housing. These housing demand trends, along with supply constraints including capacity and development-cost-related constraints and tightened credit and lending standards, have resulted in a weak rebound of the real estate sector in the County. As a result and mirroring trends throughout California, Sonoma County residents have shifted away from ownership housing toward rentals, resulting in additional demand for the limited rental housing stock. This shift can be explained by limited production of for-sale housing, as well as by tenure preferences related to both the aging population and the lower income profile of new household formations. Sonoma County needs more rental housing than ever to keep up with its changing demographics and workforce expansion.

As a result of the increasing demand for rental housing and only limited production of new housing units in the County, rents have increased by 30 percent or more in the County over the past few years and rental vacancy rates, currently estimated to be below 2 percent, are well below a "normal" market vacancy rate of 5 percent. Even though home prices and rents have increased substantially in recent years following the contraction that occurred during the Great Recession, they have not, as evidenced by the very limited housing production in the County, been sufficient to stimulate substantial new construction (other factors including limited land availability and proportionately high entitlement costs and development impact fees charged individually by the County in unincorporated areas and the nine cities may also contribute to the poor rebound of the home construction industry). These housing supply trends underscore the need to preserve the existing housing stock otherwise available to the County's working families.

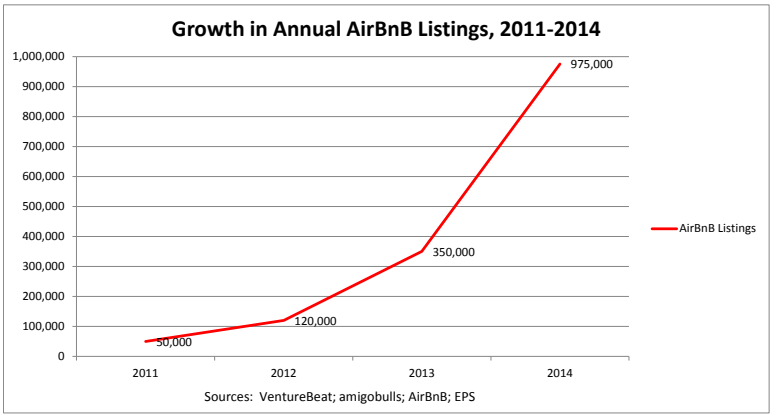
[4] National Association of Realtors, 2015

[5] Ibid

Findings

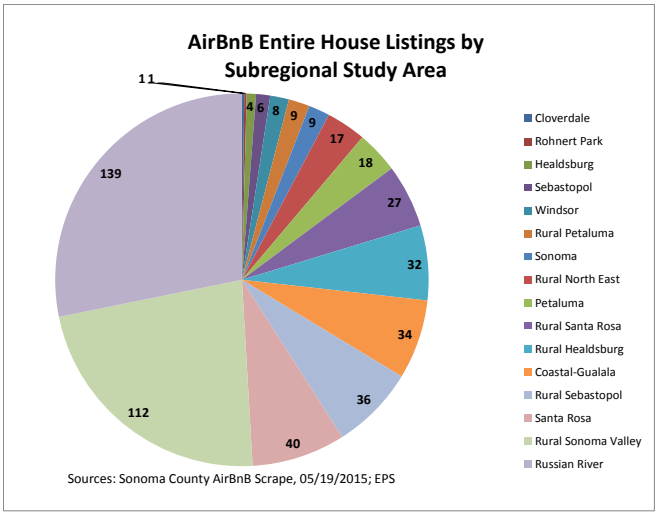
1. ***Vacation rentals are a rapidly increasing component of visitor accommodations nationwide and in Sonoma County.***

   Since its advent in 2008 AirBnB, now joined by other competing web-based vacation home marketing platforms, has grown very rapidly with no sign of the growth slowing down. This lodging business trend is caused by a variety of factors including an improving economy and related increases in tourism, a substantial price advantage to vacation home rentals by comparison to traditional lodging properties in the same market area, and the convenience offered by the web-based searching and transaction marketing platforms. While precise time-series data is not available, growth of AirBnB in Sonoma County appears to have mirrored the rate of national growth.

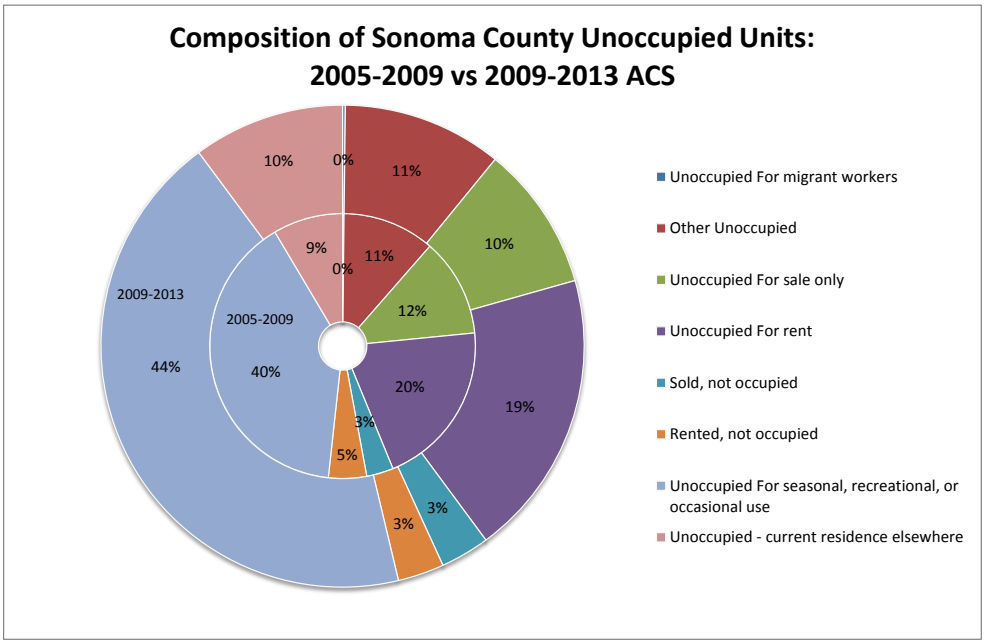


2. ***The vacation rental marketing platforms have effectively incorporated single-family homes in residential neighborhoods to the County's lodging rental unit pool, thus competing with local residents for these units.***

   While vacation rentals have long been a component of the County's lodging industry, especially evident along the Sonoma Coast in places such as Sea Ranch and Bodega Harbor, the web-based marketing platforms have extended the reach of the industry to the County's other visitor-serving areas, including encroaching into traditionally residential neighborhoods in the Russian River area, in the Sonoma Valley, and in the north County surrounding Healdsburg.



3. ***There is a measurable shift in housing supply, otherwise available to the County's working families, to vacation rentals and other nonresident serving uses.***
While precise current statistics are not available tracking units in the vacation rental pool, trends in "unoccupied housing units" as reported by the US Census American Community Survey (ACS), indicate that the number of units so identified increased by 1,800 units between 2005 and 2103. Within the components of "unoccupied housing units," the two categories closely aligned with vacation rentals, the unoccupied/owner living elsewhere and seasonal units equaled 54 percent of all unoccupied units in the County in 2013, a total of over 10,400 units. Given the rapid increase in vacation rental listings it is likely that these categories of "unoccupied housing units" continued to increase since 2013. The very limited amount of new housing construction during this period means that these increasing "unoccupied housing units" have been drawn from housing supply otherwise available to the County's working families.



4. ***Additional regulation and mitigation can limit the loss of housing units otherwise available to the County's working families.***
The shift of workforce housing to vacation rentals that has already occurred along with the expectation for the continued rapid growth of the vacation rental industry in Sonoma County suggests that additional regulations and mitigation measures are in order to protect the County's supply of housing available to local working families. The County should consider both new regulations to reduce future shifts of workforce housing to vacation rentals and also establish mitigation efforts to offset the existing and future impacts of vacation rentals on the County's housing supply.

- Regulatory changes (changes to the County's Zoning Ordinance regulations) can reduce the conversion of housing stock in neighborhoods where single-family housing otherwise available to local working families is susceptible to vacation rental conversion. A multi-pronged regulatory approach is recommended, as outlined in the final section of this Paper.

- Providing County funding to programs that stimulate production of workforce housing can offset housing losses that have and will occur in the future. Dedicating a portion of existing (or an additional increment of) transient occupancy taxes levied upon vacation rentals in the County could provide such a funding source. For example, such a program could be created to pre-pay certain development costs (i.e., permit and development impact fees) and invest in measures that increase development readiness of designated housing sites.

Vacation rentals and the hospitality industry

Short-term Rental Market

The short-term rental market has three participants: 1) the host who rents their property, 2) the guest who rents the property on a short-term (e.g., vacation) basis, and 3) the web-based rental platform that serves as a clearing house and rental agency for the hosts and guests. The host may be a property owner, lease holder, or a third party management company that owns or offers individual private rooms or whole houses or apartments. The guests rent out these lodging units based on their needs and preferences, and the rental platform company facilitates the exchange between the hosts and guests and also earns a fee from the hosts for the services rendered.

Short-term rentals are a substitute to traditional lodging, offering a new lodging product that includes amenities such as full kitchens, easy access to different neighborhoods, and an opportunity for a more local and familiar experience of the destination. While vacation rentals offer occupant-owners of housing units the opportunity to gain income from renting out spare rooms or secondary units, the industry has also attracted investors who have focused on acquiring and renting out whole residential units, including single-family homes and multifamily units.

The web-based rental platforms generate revenue in a variety of ways. AirBnB, the predominant web-based rental platform in Sonoma County, generates revenue by charging hosts a 3 percent commission on each booking and by charging travelers a commission of between 6 and 12 percent, thus generating a yield of anywhere between 9 and 15 percent in commission for every booking. Other vacation rental platforms such as HomeAway and FlipKey offer a pay-per-booking option and also a subscription model, which charges hosts for advertising rentals. This report focuses on AirBnB due to its predominance in the short-term rental market and the availability of public data on its activities.

Web-based rental platforms are now a global industry which has grown rapidly from the creation of AirBnB in San Francisco in 2008. In the past year AirBnB has raised nearly $800 million from global investment firms including TPG Capital, T. Rowe Price and Dragoneer Investment Group. AirBnB has been valued at $13 billion, placing the company in the upper echelons of the hospitality industry. At this valuation, AirBnB has a higher market value than both Hyatt ($8.4 billion) and Wyndham ($9.3 billion). According to media reports, the company has been responsible for booking 10 million guest nights since 2008, and its own estimates indicate the company may have booked more room nights in 2014 than major chains like Hilton and Intercontinental.

Classification of vacation rental units

Vacation rentals offer a variety of lodging products, expanding upon the historical supply of second homes and other units dedicated to the vacation rental market such as those located as Sea Ranch, Bodega Harbor, or in the Russian River area. It is this expansion of vacation rentals into historically residential neighborhoods that creates neighborhood conflicts and competition

with the rental housing market. The AirBnB website offers three types of rentals: 1) entire homes where the guest has access to the entire unit and the host is generally not present, 2) private rooms where the host is often present in the home, and 3) shared rooms, where hosts or others guests may sleep in the same room.

Of these three types of rentals it is the first type (the entire homes are rented without the host being present) that has the most potential to compete for the workforce housing supply. At the present time these entire home vacation rentals comprise 51 percent of AirBnB's listings in Sonoma County.

Benefits and Costs of Vacation Rentals

Numerous studies have been prepared in recent years addressing the benefits and costs of the short-term rental market.[6] On the "benefit" side, some say that the short-term rental market can 1) increase tourism and its related economic and fiscal benefits; 2) provide additional income for hosts, particularly those who could not otherwise rent their home or rooms; and 3) extend the economic benefits of tourism (increased sales, etc.) to neighborhoods traditionally not visited.

On the "cost" side, the literature indicates that short-term rentals can: 1) shift existing scarce local resident housing to the lodging sector, 2) encourage tenant evictions if a landlord concludes that they can earn more money from short-term rentals than from a long-term tenant, 3) violate local zoning and other ordinances, 4) negatively affect the quality of life in residential areas due to nuisances caused by visitors, and 5) cause loss of household population in given neighborhoods thus reducing the number of school children and residents available for volunteer services such as fire protection. It is the first two of these impacts, where short-term rentals exacerbate the housing shortage in Sonoma County by offering a more lucrative alternative to offering a unit on the long-term rental market that is the concern of this Paper.

Location of Sonoma County's Vacation Rentals

The nature of the vacation rental industry in the wake of the web-based rental platforms can make it difficult to measure the actual number and types of properties offered for rent. While the County (and some cities) require registration of vacation rental units pursuant to local ordinances, such as Sonoma County's Ordinance 5908, registration and compliance with these ordinances is by no means universal, as it tends to be with the traditional lodging sector. Given this data gap, this Paper relies upon AirBnB as a source of data and proxy for the total number and distribution of the vacation rental units in the County.

Figure 1 shows the geographic distribution and quantity of vacation rentals derived from webscrapes of AirBnB's website in May 2015. The three classes of vacation rentals offered by AirBnB are shown. While it is likely that there are more vacation rentals than indicated through this single data source, it is likely that the pattern of their distribution will be consistent.

[6] See Bibliography

Figure 1 AirBnB Listings for Sonoma County, Mid-May 2015

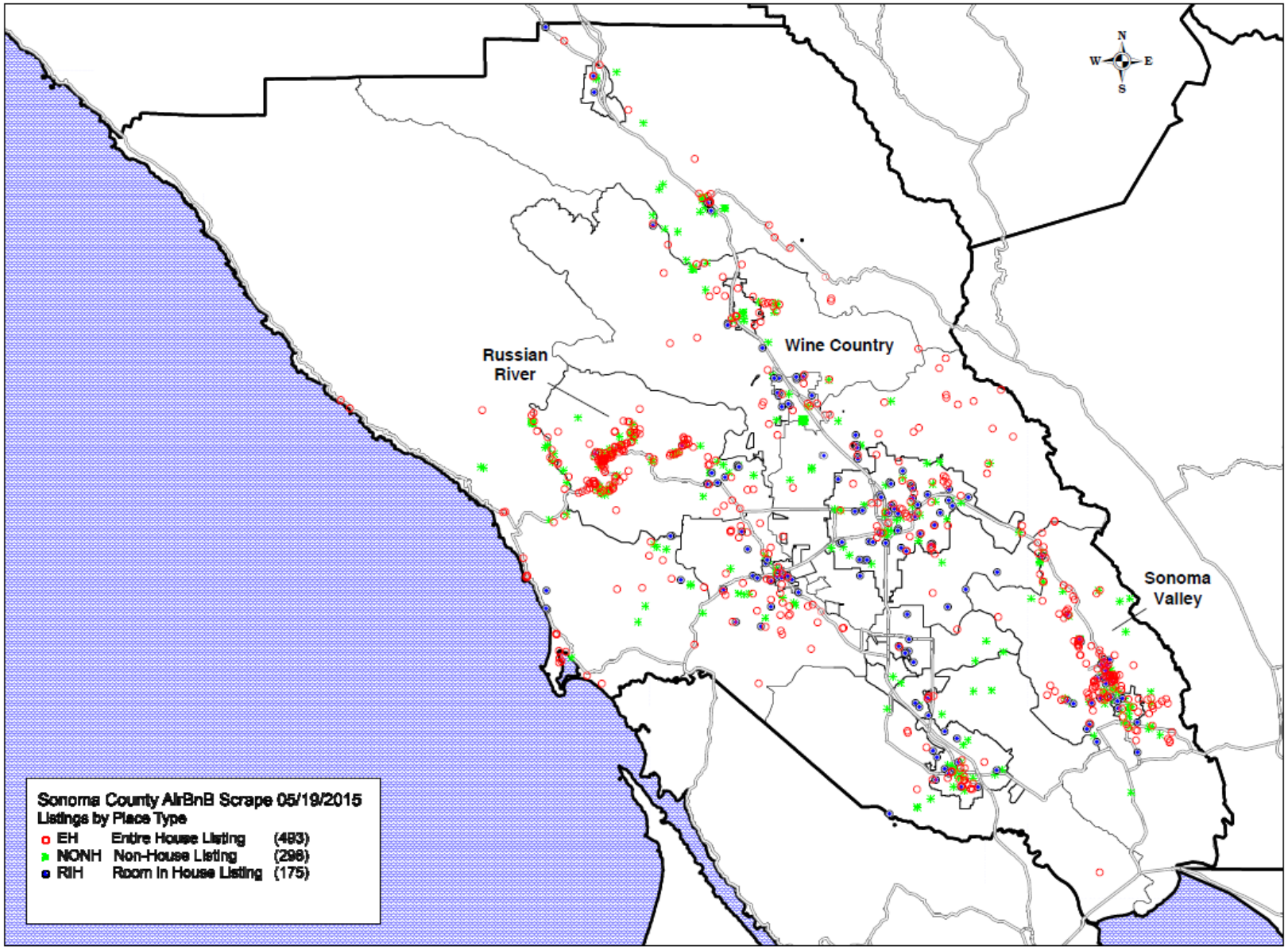


Table 1 shows the numbers of AirBnB-listed vacation rental units by County sub-areas. It is notable that the AirBnB vacation rental listings (excluding the Coastal communities) are concentrated in three locations: the Sonoma Valley, the Russian River, and the north County "wine country" surrounding Healdsburg. This distribution is very relevant to impact upon residential supply because these areas are the location of stable residential neighborhoods that provide housing for the County's working families. While the Russian River resort area has attracted visitors with vacation homes in the past, many river-area homes provide long-term housing that is more affordable than in many other areas of the County. Similarly, the incursion of vacation home rentals into the traditional residential neighborhoods in the Sonoma Valley and areas surrounding Healdsburg has caused a loss of housing stock that was formerly available for working residents; a loss that is likely to increase given the rapid growth trends of web-based vacation rental marketing.

Table 1 AirBnB Listings by Sonoma County Subregional Study Area

Geography	Estimate; Total AirBnB Listings		Estimate; Entire House Listings		Estimate; Room in House Listings		Estimate; Non-House Listings	
	#	%	#	%	#	%	#	%
Russian River	207	21%	139	14%	12	1%	56	6%
Rural Sonoma Valley	179	19%	112	12%	26	3%	41	4%
Santa Rosa	110	11%	40	4%	41	4%	29	3%
Rural Sebastopol	58	6%	36	4%	10	1%	12	1%
Coastal-Gualala	59	6%	34	4%	4	0%	21	2%
Rural Healdsburg	50	5%	32	3%	4	0%	14	1%
Rural Santa Rosa	55	6%	27	3%	13	1%	15	2%
Petaluma	45	5%	18	2%	11	1%	16	2%
Rural North East	54	6%	17	2%	12	1%	25	3%
Sonoma	26	3%	9	1%	5	1%	12	1%
Rural Petaluma	23	2%	9	1%	6	1%	8	1%
Windsor	49	5%	8	1%	12	1%	29	3%
Sebastopol	18	2%	6	1%	7	1%	5	1%
Healdsburg	12	1%	4	0%	0	0%	8	1%
Cloverdale	5	1%	1	0%	2	0%	2	0%
Rohnert Park	9	1%	1	0%	8	1%	0	0%
Cotati	1	0%	0	0%	0	0%	1	0%
Rural Rohnert Park-Cotati	6	1%	0	0%	2	0%	4	0%
Sonoma County Totals	**966**	**100%**	**493**	**51%**	**175**	**18%**	**298**	**31%**

Sources: Sonoma County AirBnB Scrape, 05/19/2015; ABAG Subregional Study Area Map

Current Regulation and Taxation

The County adopted a Vacation Rental Ordinance in 2010 that became effective on the first day of 2011. The Ordinance established regulatory requirements including the need to obtain a zoning permit, limits on per room occupancy, controls on nuisance, and subjecting the vacation rentals to the County's 9 percent Transient Occupancy Tax.

More recently, in October 2014 the Board of Supervisors received a report on the TOT Program that included an audit report prepared by the County Auditor-Controller on transient occupancy tax revenue and a report on the growth and issues associated with vacation rentals. As a result of these reports, the Board adopted a Resolution of Intention to initiate amendments to the County's vacation rental ordinance to further regulate this land use. The Board requested more information on the location of permitted vacation rentals by district, number and type of complaints, and actual violations. The Board stressed that a robust public outreach and community engagement program should be undertaken in evaluating the effectiveness of the current ordinance and the options for Ordinance amendments or other measures. In addition, the Board provided direction to staff to evaluate and address a number of enforcement issues including coordination with web-based platforms to assist in collection of transient occupancy taxes.

Housing Supply Shifts to Vacation Rentals

Historically, the rental housing market and the hospitality industry did not compete for the same supply. The web-based vacation rental platforms now allow residential property owners to compete for tourist lodging demand. Owners can often earn more money by converting traditional residential housing units into vacation rental units, as many appear to have done. The analysis of AirBnB's impact on housing supply in Los Angeles [7]estimates that an owner can expect to earn double or more in annual rental income through short-term rental versus renting to local residents at current market rates. As noted above, it appears that this trend is leading investors to purchase heretofore single-family homes expressly for use as vacation rentals. Such investors are also known to form Limited Liability Corporations (LLCs) to hold these properties and only sell shares rather than transferring property ownership, thus limiting real estate tax increases.

Sonoma County cannot afford to lose its housing units. During the most recent Housing Element cycle (2007-2014), the County produced only 412 housing units affordable to families of moderate or low income, about 50 percent of the need expressed in the Regional Housing Needs Allocation (RHNA). Going forward in the Housing Element 2014-2023 cycle the County needs an additional 936 units, of which 513 must be affordable. Actual demand for housing units, based upon continuing household formation rates, is far greater than the RHNA numbers.

Existing housing supply statistics for Sonoma County sub-areas are offered by the American Community Survey (ACS) data conducted by the U.S. Census Bureau. These surveys are conducted every five years and provide details regarding the quantity and tenure status of housing, typically by county sub-areas throughout the United States.

[7] Rising Rent, and the Housing Crisis in Los Angeles, Samaan, Roy, LAANE, 2015

Unoccupied Housing in Unincorporated County

Data provided by the US Census American Community Survey (ACS) provide a useful measure of housing stock trends. The survey based data is updated annually and is summarized in five-year averages. The ACS classifies a portion of the housing as "vacant" for a variety of reasons. These reasons include, but are not limited to, the more narrow meaning of "vacant" (available for rent or sale on the open market). The other categories include units that have been rented or sold but not yet occupied; homes available for seasonal, recreational, or occasional use; and finally, vacant for other reasons.

Trends in these unoccupied housing categories provide a framework for measuring the effects of vacation rentals on the County's housing stock. During the past decade, as indicated by the ACS data, there has been an increase in the total unoccupied housing in unincorporated Sonoma County, despite there being a historically tight housing market as indicated by very low vacancy rates for rental housing. **Figure 2** shows trends in unoccupied units in the County including those in the unincorporated areas and the cities and as compared to statewide averages. While the percent of unoccupied housing units in Sonoma County's cities remains below the statewide average, perhaps reflecting the tight housing market conditions and the lower percentage of units devoted to seasonal, recreational, or occasional use, the County's unincorporated areas show a rate of unoccupied units higher and increasing faster than the statewide average.

Seasonal, recreational, or occasional use units, which include vacation rental units, comprise the largest share of total unoccupied units in Sonoma County and have steadily increased as a percentage of unoccupied units since 2005. As measured by the survey-based ACS, they are now approximately 44 percent of total unoccupied units in the County, an increase of 1,761 units or about 20 percent during this period, which can be assumed to be a proportional reduction in for sale or rental housing available to the County's working families.

Additionally, unoccupied units owned by persons who have fixed residences elsewhere (and are not presently declared as seasonal units or units available for sale or rent) equal 1,970 units, approximately 10 percent of the total unoccupied units. In combination the unoccupied/owner living elsewhere and seasonal units equal 54 percent of all unoccupied units in the County, some 10,400 units as of 2013. **Figure 3** shows the composition of unoccupied units in the County numerically, while **Figure 4** shows the same data in percentage terms. This increase in housing units devoted to seasonal, recreational, or occasional use along with the increasing unoccupied absentee owner units have largely been shifted from the residential rental occupied or owner-occupied units; i.e., a reduction in the housing supply, as shown in **Figure 2**. Census and California Department of Finance housing reports indicate that over the last 15 years, since a (comparatively) high point in housing occupancy rates circa 2000, unoccupied units have been increasing at more than 5 times the rate of growth in total housing supply for Sonoma County.

An emerging trend is the increase in Sonoma County housing held not only for investment and equity, but as income-generating real estate. The recent AirBnB 'scrape' of listings for Sonoma County produced several examples of multiple units offered by a single host. While some of these were obviously postings by well-established vacation rental agencies, others appear to be held by out-of-town investor groups. AirBnB and similar sites have facilitated the use of Sonoma County housing units for short-term rentals beyond and outside of traditional vacation, lodging and rental real estate owners and operators, contributing to the loss of available units as documented above.

Figure 2 Changes in California and Sonoma County Unoccupied Housing Rates 1990-2015

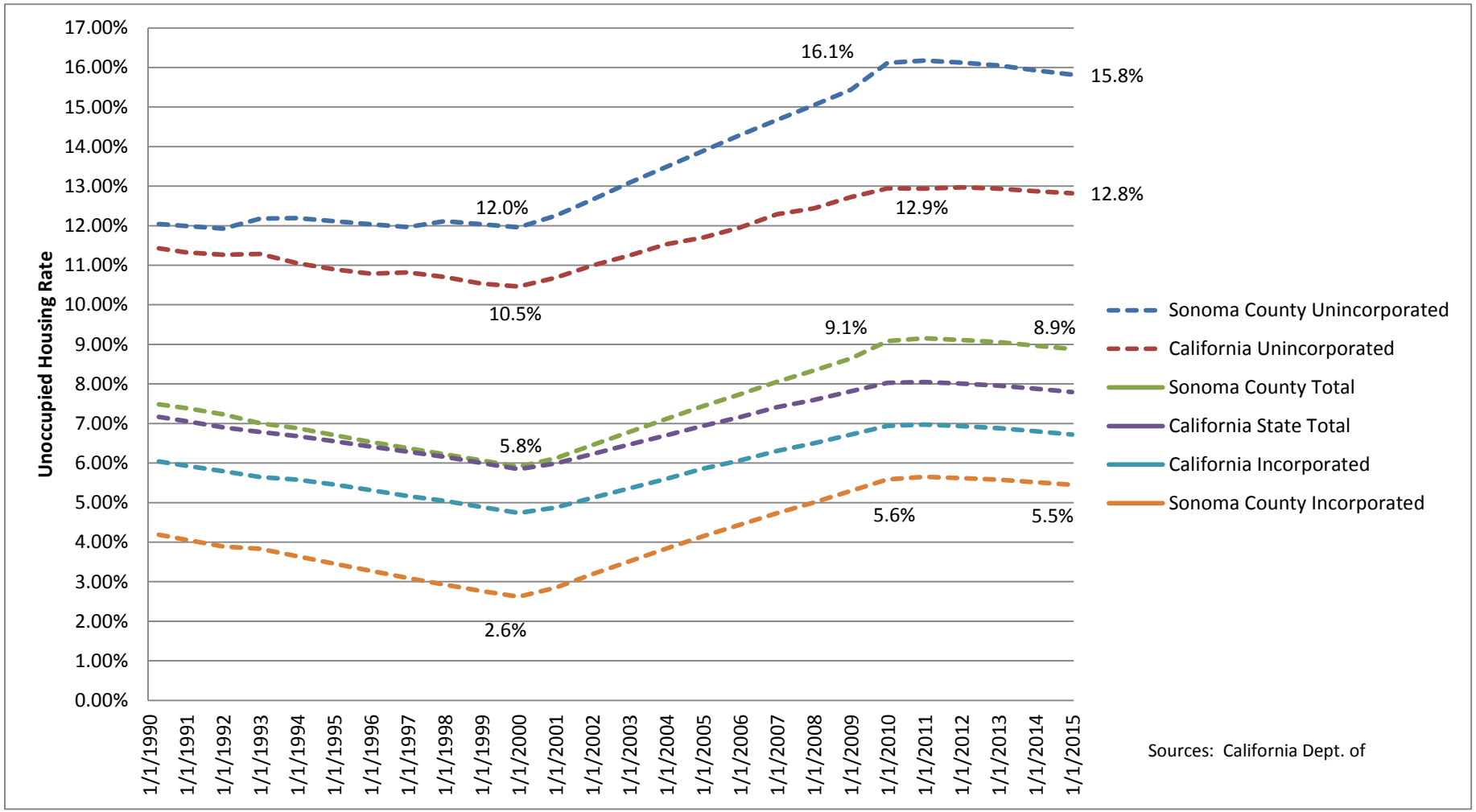


Figure 3 ACS Trends for Sonoma County Unoccupied Units (#)

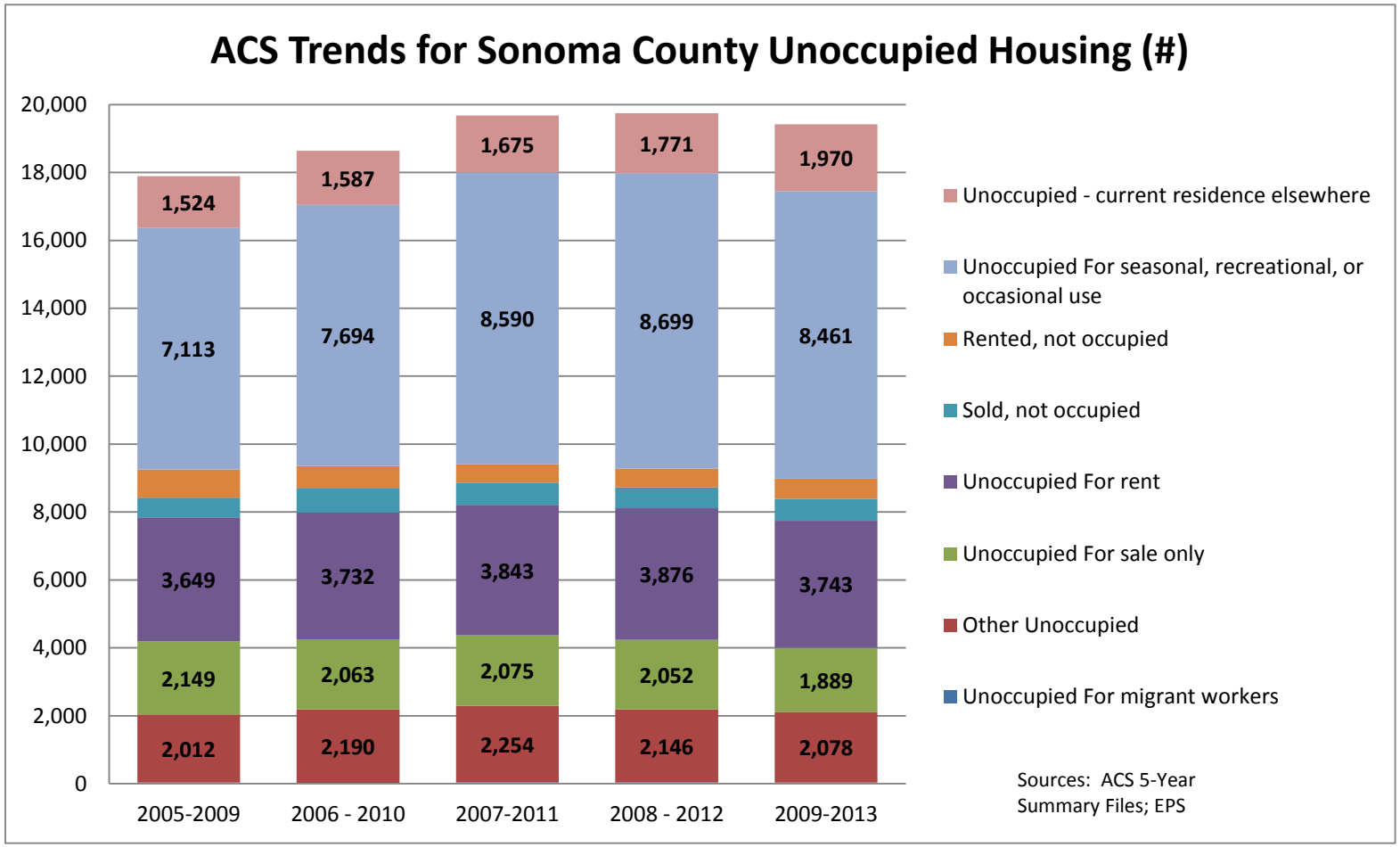


Figure 4 ACS Trends for Sonoma County Unoccupied Units (%)

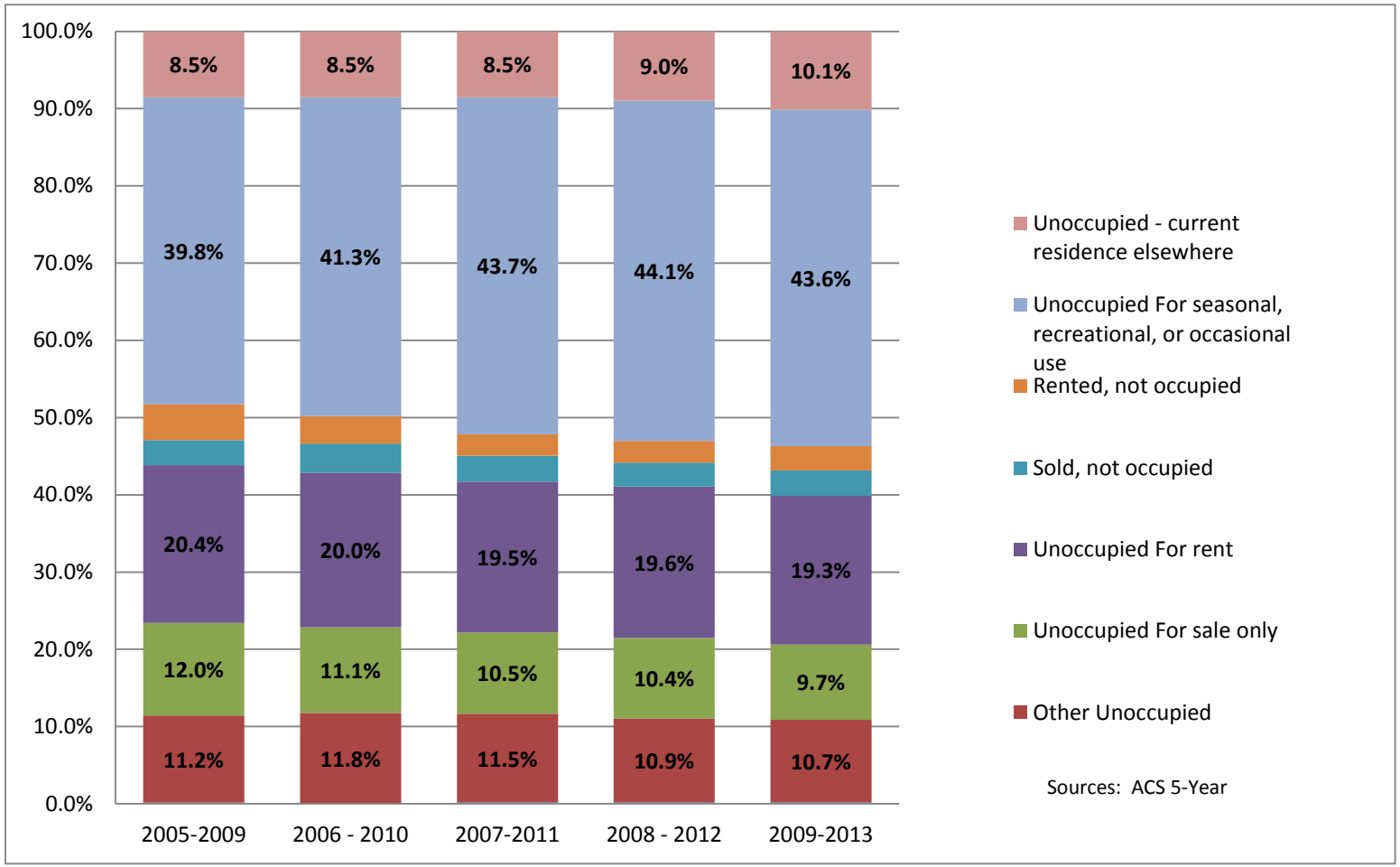
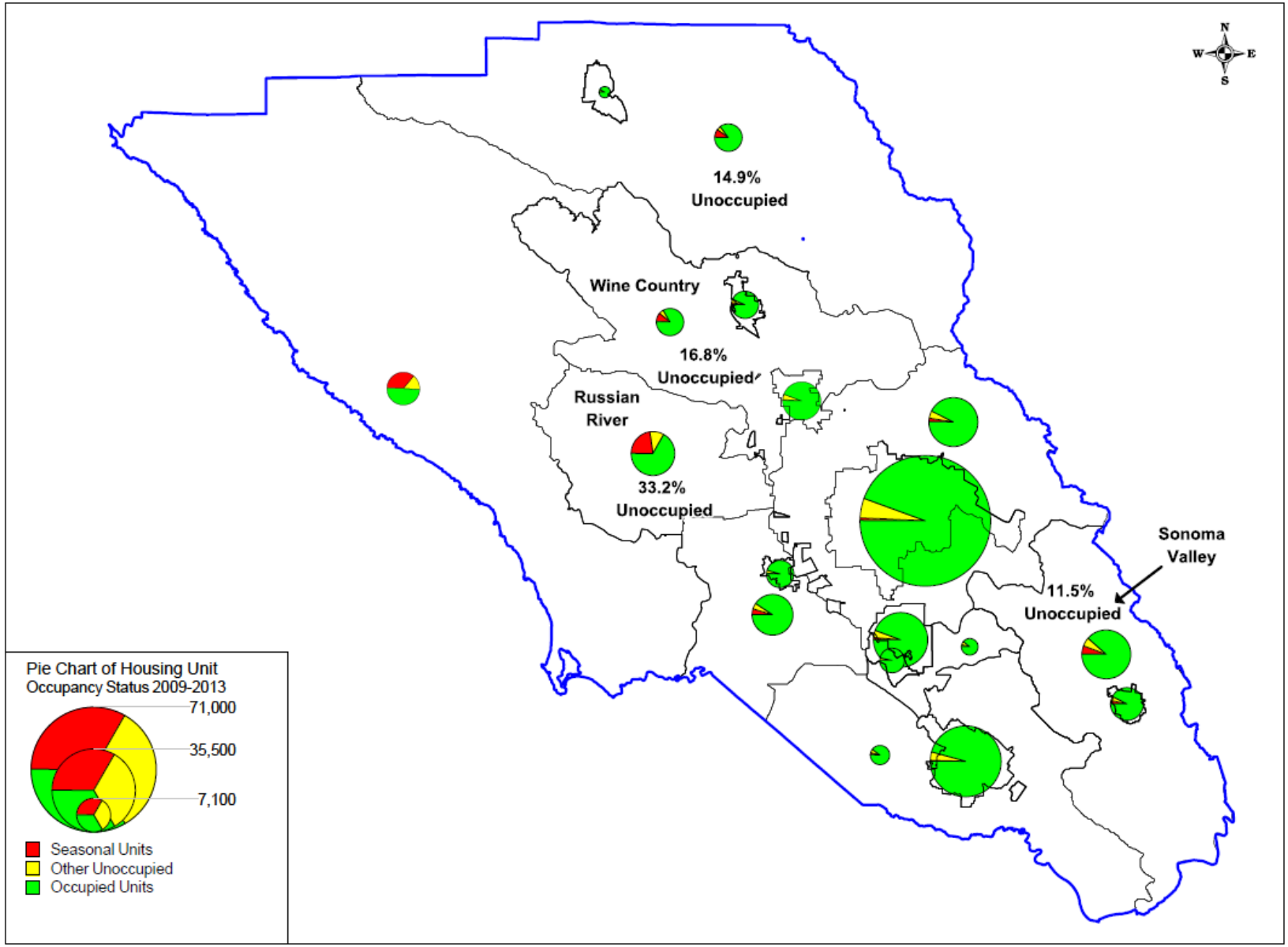


Figure 5 shows the proportional composition of housing supply in Sonoma County, with pie charts proportional in size to the total number of housing units by subarea, and with each pie's segments in proportion to the local percentages of seasonal units, other unoccupied units and occupied housing. A side-by-side examination of **Figure 5** with **Figure 1** shows that AirBnB whole-house listings are concentrated in those areas where the seasonal unit and other unoccupied housing rates are greatest. Where seasonal unit and overall unoccupied ratios are lowest, AirBnB room-in-house or other (not whole-house) listings tend to predominate.

Figure 5 Unoccupied Housing Rates in Sonoma County Subareas



REGULATORY AND MITIGATION STEPS

The impacts of the rapidly expanding vacation rental market on housing supply and neighborhood integrity in Sonoma County as documented in this Paper and in the County's related public outreach efforts suggest that mitigation (to reflect the costs of additional housing demand in the tax on the industry and also to limit and offset loss of housing units) and additional regulatory controls (to reduce the nuisance effects of vacation rentals on the resident population) are in order. Given market trends, even with additional taxation and regulatory limitations, the shift of housing previously available to the County's working families to use by visitors is expected to continue.

Focusing on the issue of shift of units from the residential rental market (recognizing that other additional controls may be in order to address other neighborhood impacts) this regulatory effort should seek to limit shifts of "whole-house" rentals, especially those located in the older residential neighborhoods proximate to the County's key visitor destinations. Since even with such controls there will remain a shift (a loss of residential rental units), further mitigation is justified through internalizing the cost of the housing losses into the price of vacation rental units.

Recommendation #1 -- Prohibit vacation rentals in urban residential zones and require a discretionary permit in rural residential zones.

As a part of its public outreach and research efforts pursuant to the direction of the Board of Supervisors, PRMD staff has identified a range of policy options.[8] While there is a range of issues and impacts that have been revealed by the PRMD outreach efforts for which policy options have been identified, this Paper is focused on one of these impacts, the conversion of whole-house units to vacation rentals. Such conversion of the housing stock has occurred and substantially impacted the housing market. The conversion of housing stock will continue to occur given existing market trends thus shifting more of the County's housing stock otherwise available to working families, unless action is taken to further limit the conversion.

In order to preserve housing stock for housing use, strict limitations should be placed on allowing the conversion of additional residential housing stock to visitor-serving use. The most efficient policy option identified is to prohibit further whole-house vacation rentals in the urban residential zones. In rural areas, conversion of residential housing stock could be limited through requiring a discretionary use permit process. This approach would involve the least need for ongoing analytical or enforcement efforts, and may continue to allow whole-house vacation rentals in nonresidential areas where loss of residential housing supply is not expected to be a problem.

In areas where whole-house short-term rentals are not outright prohibited, additional regulatory measures should be put into place to avoid further housing loss. For example, vacation rental uses in residential neighborhoods could be limited to "hosted" rentals where the housing unit remains in long-term residential use, but the resident is allowed to rent out a room to visitors. Another option that has merit is to limit vacation rentals to seasonal use, maintaining long-term

[8] Summary of Policy Options, PRMD, May 18, 2015

residency for most of the year. This would avoid the loss of housing stock while still allowing residents to make a room or rooms available to visitors on a short-term basis.

Recommendation #2: Allocate a portion of the County's transient occupancy taxes to provide incentives and subsidies for affordable and workforce housing.

The growing number of vacation rentals in Sonoma County creates two impacts related to housing supply:

- First, by increasing the supply of lodging units and accommodating additional visitors in the County, vacation rentals increase economic activity and thus employment in the County's tourism business sector. This increase in employment creates demand for housing. Given that the tourist sector employment is dominated by service industries including lodging and food services its average wages, as previously cited are below $30,000 per year, there is, and will continue to be an increased demand for affordably priced units as the industry grows.
- Second, as whole housing units are shifted from providing housing for the County's working families to providing lodging for visitors, there will be less housing supply.

As these two impacts contribute to what is a larger housing supply problem in Sonoma County, they should be mitigated as a part of the broader effort to expand housing available to the homeless and the County's growing workforce. Funding affordable housing programs with a portion of the existing (or increased) TOT or an annual fee levied on vacation rentals as part of the permitting process offers a direct and effective way of raising funding to support the County's affordable housing programs and thus mitigate loses of housing otherwise available to working families. An increase in TOT could be an added tier of 2 percent (over and above the existing 9 percent) which would be applicable only to vacation rentals or other transient uses of the housing stock. Revenue from such a TOT increase could be combined with other funding sources including the County's inclusionary housing in lieu fees, tax credits, and grant funding sources that are presently available for funding affordable and workforce housing programs.

Recommendation #3 -- Provide targeted waiver of County development impact fees.

As an incentive to multifamily housing production, the County's development impact fees for multifamily development projects could be "waived" until rental housing vacancy rates reach 5 percent (a "normal" market condition). The County's development impact fee revenues foregone by such a waiver can be offset (backfilled) by an appropriation of the additional tax or fee revenue levied on vacation rental units. Such a targeted development incentive, especially with improving market conditions, is likely to result in multifamily housing production, including both market rate units and those affordable units provided by the non-profit sector.

Recommendation #4 -- Improve the development readiness of County-identified housing sites.

The County's General Plan Housing Element has identified 136 sites (parcels) located around the County's unincorporated communities that are zoned for residential uses. Given current applied zoning regulations these sites have an estimated capacity for nearly 3,000 housing units.[9]

[9] Sonoma County General Plan Housing Element

However, as is made quite clear by the very limited housing production activity that has occurred in recent years, even as the overall economy has recovered, these sites face site-related and institutional development constraints in addition to the aforementioned market and financing constraints.

As a means to further incentivize housing production, a County program should be created and a special fund established expressly to improve the development readiness of the County's available multifamily (or convertible to multifamily) sites and to otherwise incentivize new development. The goal of this program should be to identify and relieve development constraints on a site-by-site basis and in so doing reduce development costs and related investment risks. For example, lack of adequate infrastructure or unavailability of utility services to these sites may very well constrain development. Such costs or institutional constraints may be relatively easy for the County or its dependent special districts to relieve even with existing resources. The private sector views such constraints as additional development costs, time delays, and risks often significant enough to deter investment in new housing.

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HOUSING AFFORDABILITY IMPACTS OF HOMEAWAY IN SEATTLE

July 2016

PREPARED BY:

ECONorthwest

ECONOMICS • FINANCE • PLANNING

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ECONorthwest specializes in economics, planning, and finance. Established in 1974, ECONorthwest has four decades of experience helping clients make sound decisions based on rigorous economic, planning, and financial analysis.

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DISCLAIMER

ECONorthwest was commissioned by HomeAway, Inc. to complete this report. Throughout the report we have identified our sources of information and assumptions used in the analysis. Within practical limits, ECONorthwest has made every effort to check the reasonableness of the data and assumptions and to test the sensitivity of the results of our analysis to changes in key assumptions. We gratefully acknowledge the assistance of the many individuals who provided us with information and insight, but we emphasize that we, alone, are responsible for the report's contents. We have prepared this report based on our own knowledge and training as well as on information derived from HomeAway, government agencies, private statistical services, the reports of others, interviews of individuals, and other sources believed to be reliable. ECONorthwest has not verified the accuracy of such information, however, and makes no representation regarding its accuracy or completeness. Any statements nonfactual in nature constitute the authors' current opinions, which may change as more information becomes available.

Key Terms

Short-Term Rentals. There is no formal definition of short-term rentals. The lack of definition makes categorizing and assessing the impact of them difficult. Generally, short-term rentals are characterized by their shorter stay duration—stays that can be highly variable. This could be as short as a weekend but is typically recognized as less than 30 days. The short-term rental market does not typically include hotel or motel stays. The type of lodging that can be offered in short-term rentals is diverse and covers whole or partial housing units across the housing spectrum (single family homes, townhouses, condos, apartments, etc.). In contrast, long-term rentals are typically considered anything six months or longer for which a lease can be proffered.

Washington State defines a "transient rental" as a rental for fewer than 30 days. Anyone who regularly rents out their home for fewer than 30 days must collect and pay taxes.

HomeAway, Inc. provides online marketplaces for short-term rentals. In addition to HomeAway.com, HomeAway, Inc. also owns other vacation rental sites including VRBO.com and VacationRentals.com. This report uses the term "HomeAway properties" to refer to properties rented through any of HomeAway's sites.

> **Booking**: a specific instance of someone renting a home through HomeAway. This analysis uses booking data to determine whether a property was active on HomeAway for a given time period.
>
> **Listing**: a property that uses HomeAway to advertise that it is available for rental. A listed property may never have been rented. Due to data limitations, this analysis focuses on rented properties (i.e., properties with at least one booking), not listed properties.

Housing Affordability. Definitions for permanently subsidized "affordable housing" can vary greatly, and are often tied to estimates of median family income. This study defines affordability based on the relationship between market housing price and income, as follows: housing (for single-family or apartment) is affordable when the monthly housing cost (including utilities and other costs) is less than 30% of the household's gross income. Transportation costs are not included in our definition of affordability. This is an imperfect but frequently-used definition.

Housing affordability is a function of income and housing costs for each individual household, which can vary substantially given the unique circumstances of a household and housing unit.

Median Family Income is a standard measure of income that varies depending on the geographic area used and the size of the family, based on US Census data. The Department of Housing and Urban Development (HUD) establishes median family incomes based on the size of the household.

Single-family Housing Affordability. The costs of owning a single-family home, townhome, or condominium include a number of costs in addition to a mortgage payment. These costs include a down payment, utilities, property taxes, and insurance. This study uses a geospatial housing database of home sales based on assessor data to determine home prices for different areas.

Multifamily Housing Affordability. Multifamily housing for this study includes only market-rate rental housing. Subsidized housing has been removed to avoid skewing average rental rates. Rental housing costs include rent and utilities. This study uses a geospatial housing database of multifamily apartment rents based CoStar data, an independent data source for tracking real estate pricing.

Displacement is the process where increasing rents cause lower-income households to move from their current neighborhood to a new neighborhood where they can afford to live. In order to measure vulnerability to displacement, this study uses a methodology developed by the City of Portland for its *2012 Gentrification and Displacement* Study. It uses four "risk factors" to measure vulnerability to displacement: proportion of households that are renter-occupied, proportion of people of color, proportion of population aged 25 and above without a bachelors degree, and proportion of households with income below 80% of median household income.

Introduction

Rising prices in the Seattle housing market are resulting in conversations and analysis regarding policy tools to address housing affordability. Seattle Mayor Ed Murray convened the Housing Affordability & Livability Agenda (HALA) advisory committee to evaluate potential housing strategies and deliver a set of recommendations to the Mayor and Council.

The HALA committee's recommendations were published in July 2015 and included a recommendation to regulate short-term rentals such as Airbnb and HomeAway. In January 2016, Councilmember Tim Burgess announced that the Committee on Affordable Housing, Neighborhoods, and Finance plans to explore a regulatory framework for short-term vacation rentals.

As the City Council prepares to consider regulation of short-vacation rentals, a key policy question is the extent to which different types of short-term rentals affect the supply of housing in Seattle, and more specifically, the supply of market-rate affordable housing. These questions are at the heart of the analysis contained in this report.

To address these questions, this report provides a data-driven, market-based look at how HomeAway affects Seattle housing prices and affordability. It presents findings on:

1. The role of short-term rentals in the Seattle housing market
2. Characteristics of HomeAway rentals
3. The observed effect of HomeAway on Seattle housing prices and affordability
4. Impact of HomeAway properties on low-income and vulnerable populations

What are HomeAway properties?

This study analyzes short-term rentals in Seattle that were rented through the HomeAway family of online marketplaces. In Seattle, that includes:

HomeAway®

VRBO®

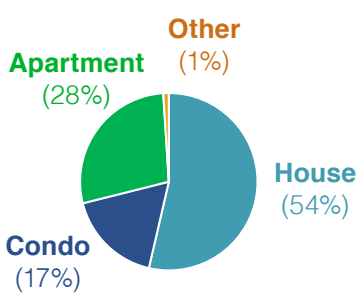
VacationRentals.com™

Summary Facts About HomeAway in Seattle

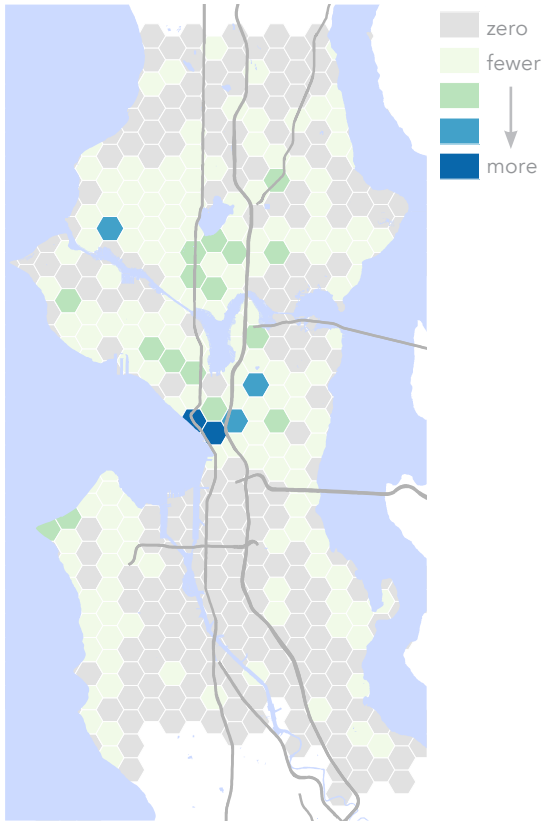
Between April 2015 and April 2016...

Number of properties rented at least once	498
Average nights per stay	4.1
Percent of hosts renting out an entire property	100%
Average cost per night	$207
Median nights rented per year	100

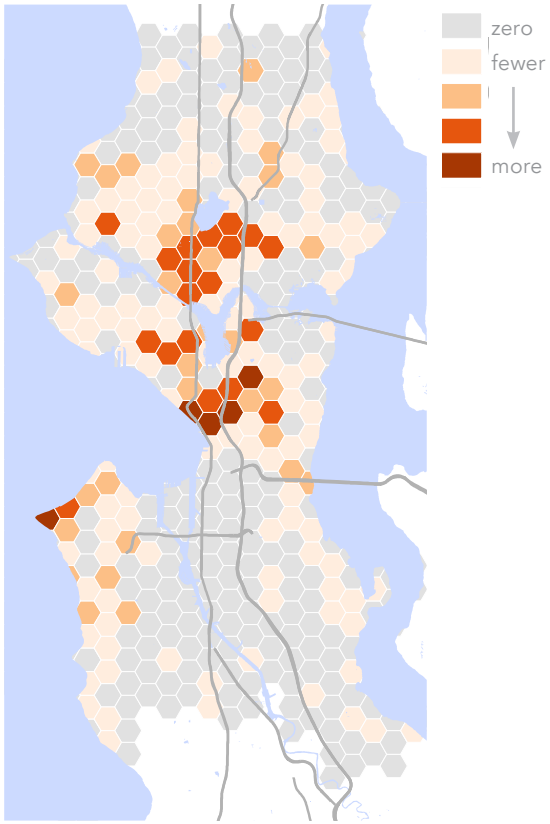
Types of properties rented



NUMBER OF HOMEAWAY PROPERTIES RENTED AT LEAST ONCE



NUMBER OF NIGHTS BOOKED AT HOMEAWAY PROPERTIES



Source: ECONorthwest analysis of HomeAway Seattle bookings (April 2015-April 2016). HomeAway property locations were aggregated to the hex-bin level. Each hex-bin is 0.25 square miles.

Background: Supply and Demand for Housing

Housing demand is composed of a very diverse set of households seeking a wide range of housing products (from owner-occupied detached units, to condominium units, to rental units of all types, etc.). In places like Seattle, strong economic growth amplifies the demand for housing as new residents enter the region in response to growing employment opportunities.

Rising incomes bid up home values and rents, which in turn creates an incentive for the development of more housing. The complexity, diversity, and evolving nature of demand for housing leads to challenges in the provisioning of housing services.

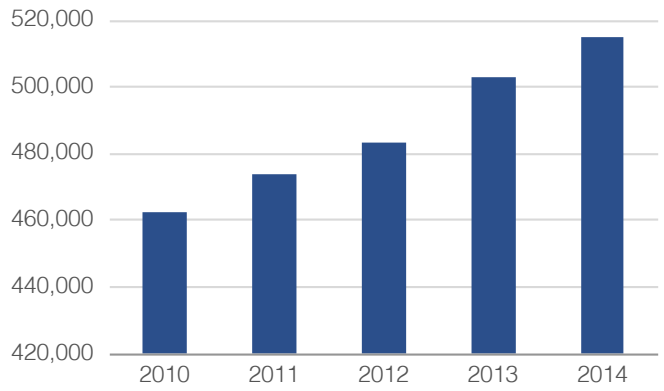
The supply of housing responds more slowly than changes in housing demand due to the time it takes to build new housing. Landowners and property developers respond to demand. Low vacancy rates and rising rents create an environment that is attractive to new housing development. But these signals can often be received too late to bring new supply online in time to prevent scarcity of rental and for-sale housing.

Developing new housing products takes time. For even the simplest projects, assembling land, acquiring permits, arranging for financing, and constructing buildings takes many years. Often by the time substantial new supply comes on the market (in response to a surge in housing demand) the growth in demand has already subsided. When this happens, property owners can be left with substantial new inventory that remains vacant, resulting in a subsequent drop in housing prices.

In the short-run, the housing market is often "out-of-sync", where either supply or demand has outpaced the other. This imbalance is a result of market cycles, the time it takes to mobilize capital, and the land development process. But over time, the supply of housing will respond to growth in demand unless there are more fundamental constraints on the provisioning of new supply, such as a lack of suitable land for development or a high-cost regulatory environment for development.

EMPLOYMENT CHANGE, CITY OF SEATTLE, 2010-2014

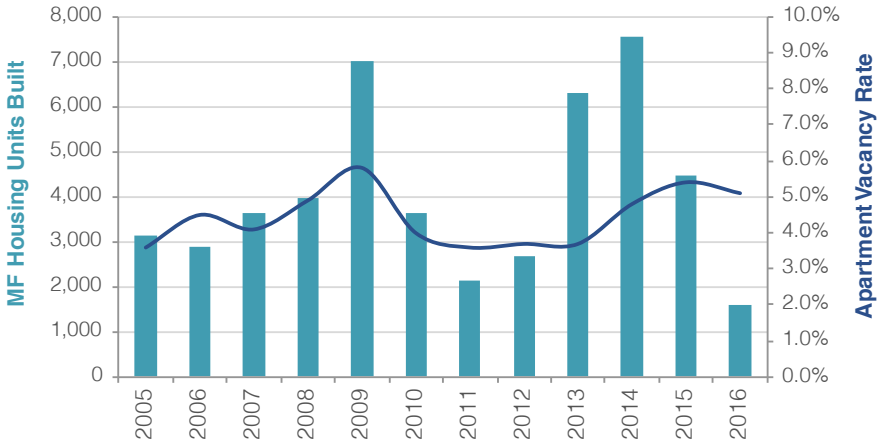
Source: Puget Sound Regional Council (PSRC)



ANNUAL CHANGE IN MULTIFAMILY (MF) HOUSING UNITS AND APARTMENT VACANCY RATE, CITY OF SEATTLE

Source: CoStar and City of Seattle Building Permit Data Warehouse.

Note: 2016 data is for first quarter only.



Innovation in the Short-Term Rental Market

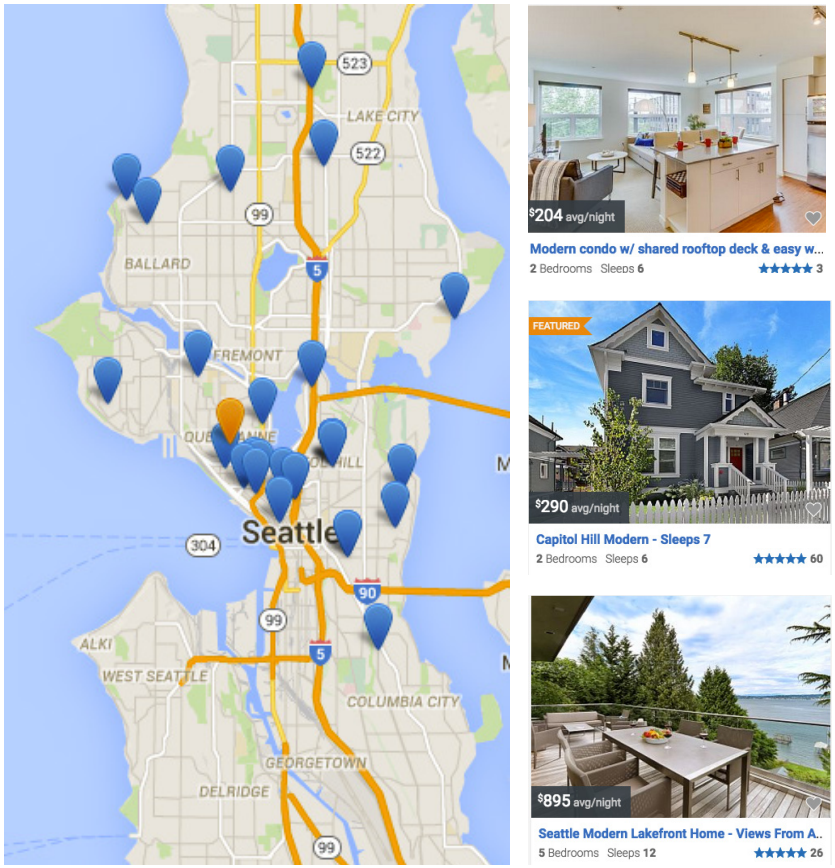
The market for short-term housing rentals is itself a complex set of products and consumers. Demand for short-term rental properties include vacationers, job seekers, long-term visitors, temporary employees, and numerous other people looking for temporary lodging. On the supply side, those renting properties on a short-term basis include seasonal residents, families on vacation, households with a second home, and property managers. This short-term rental market is not new, but is now more visible than in the past due to the emergence of web-based marketplaces such as HomeAway, Airbnb, and others.

The Internet has changed how people engage in housing markets. In the case of the short-term rental market, web-based listing services provide a means of marketing and facilitating transactions between renters and property owners and managers. In particular, the costs of coordination (searching for price and quality, scheduling, contracting, etc.) are lowered for all parties.

These web-based short-term rental services have made it easier for property renters and owners to find each other, and has led to significant benefits to both consumers and producers of goods and services of all kinds.

HOMEAWAY LISTINGS IN SEATTLE

Source: HomeAway.com, June 2016



Short-Term Rentals and Housing Affordability

By any measure, the current Seattle rental housing market is strong. More Seattle households are choosing to rent housing than ever before. Rental vacancy rates are low, and a significant amount of new multifamily housing projects are being planned and constructed. In Seattle, as in all major growing urban cities in the U.S., lack of affordable rental housing and its potential causes is a frequent newspaper headline. In the midst of this scrutiny, there has been a vocal and growing concern about the role that short-term rental housing may play in contributing to diminishing housing affordability.

Advocates for the regulation of short-term rental platforms like HomeAway charge that these services decrease affordability in the housing market in general. In essence, the argument is that if platforms like HomeAway did not exist, then its listed properties would be available for long-term rental or ownership.

For this argument to be true, the short-term rental market must either:

1. Increase demand for long-term rentals and ownership; or
2. Decrease the effective supply of long-term rental properties.

Can the market for short-term rentals increase the demand for long-term rentals?

This seems at first like a contradiction, but there are circumstances under which this might happen. If being able to sub-lease a rental unit on a short-term basis or temporarily rent one's owner occupied housing lowers the total costs of securing housing in the first place then this drop in "price" could result in growth in demand for long-term housing in Seattle. This increase in demand represents households that would be priced out of the Seattle housing markets without the ability to rent their housing on a short-term basis. This result is a theoretical possibility, but it also represents a mixed result in terms of housing affordability in long-term housing markets.

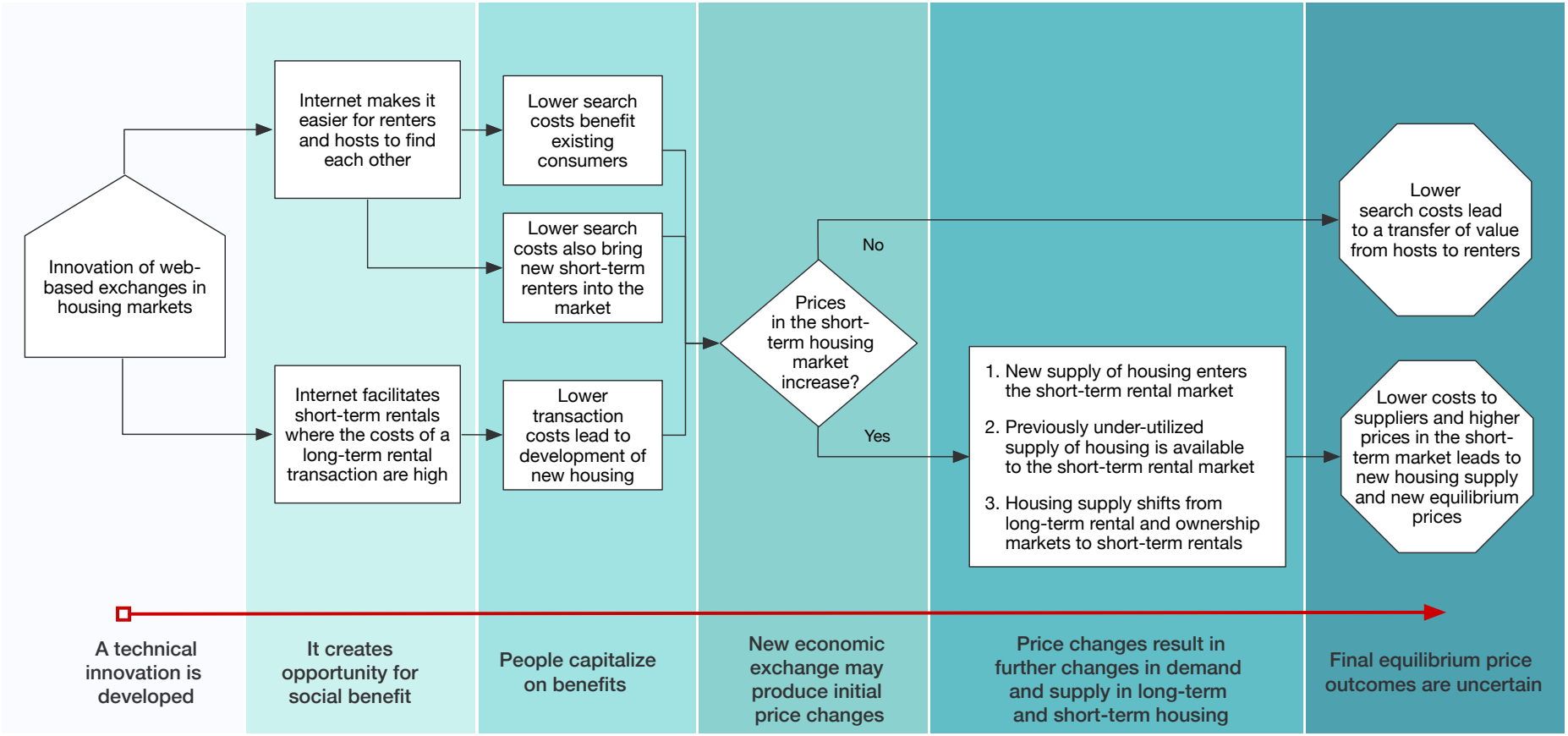
Can the market for short-term rentals decrease the effective supply of long-term rental housing?

In other words, if the short-term rental market did not exist, would the supply of housing units available for long-term rental and ownership be larger? Prices in the long-term rental and ownership markets can only change if there is a corresponding change in the supply. If the supply of short-term rental units increases it must do so because of one or more of the following reasons:

- New units of housing are constructed in response to demand for short-term rentals.
- There is better utilization of existing housing capacity (some previously unused capacity is put into active use).
- There is a shift of supply into the short-term rental market from other parts of the housing market.

It is likely that each of these is occurring currently in Seattle to some degree. However, it is challenging to determine which response is dominant. And whether any of these responses constitutes a problem that needs remedy also requires more than a simple hypothesis that assumes that the housing supply is fixed relative to changes in the demand for housing.

DIAGRAM OF HOW WEB-BASED MARKETPLACES FOR SHORT-TERM HOUSING AFFECT SUPPLY AND DEMAND



In theory, online marketplaces like HomeAway could result in changes to both the **demand** and **supply** for short-term and long-term housing.

The affordability impacts of HomeAway cannot be determined without estimating the magnitude of each of these demand and supply changes.

Summary of Findings

All policy changes should be based on the weight of the evidence. In the analysis of HomeAway properties that follows, a number of facts emerge:

- There are relatively few HomeAway properties, with fewer than 500 properties rented between April 2015 and April 2016. This represents less than two-tenths of a percent of the existing Seattle housing stock.
- There is a sizeable share of HomeAway properties where the owner is living at the unit part of the year. If short-term renting were not an option, then these properties might remain vacant for the remainder of the year.
- Almost all HomeAway properties are located in areas of the city that are adding housing supply. This represents a net addition of housing units even in the presence of rising demand.
- HomeAway appears to be a temporary state for many hosts with many units leaving the short-term rental market.
- Very few properties generate sufficient short-term rental income to justify shifting away from the long-term rental or ownership market for pure economic reasons.
- Property rentals are dominated by seasonal visitation patterns. Forty percent of bookings occur during June, July, or August at the height of the tourist season.
- HomeAway properties are composed of a wide diversity of property types under various ownership and management arrangements located in various neighborhoods throughout Seattle.
- There is no evidence that the number of HomeAway properties or bookings is having an effect on nearby home values.
- Regulatory restrictions that reduce the supply of housing have been a major driver of Seattle's housing affordability challenges. Further restrictions that reduce housing options are not likely to produce meaningful affordability gains. In addition, HomeAway properties are located in areas of Seattle that are typically less affordable to low-income populations. Addressing affordability in these areas is likely to require policy changes and direct investments that increase the number of income-qualified housing units.

These findings illustrate the complex nature of the short-term rental market, a market that serves a wide variety of purposes. This includes offering more consumer choices but also a means of creating supply-side flexibility in a market that is otherwise characterized by inflexible supply conditions. This last point is important and potentially overlooked. The HomeAway short-term rental inventory of units changes over time indicating that many units are only temporarily in the short-term rental supply. This churn suggests that short-term renting may be a strategy employed by property managers/developers to address high holding costs and lease thresholds that might otherwise represent a barrier to new construction.

Attempts to address a problem that has not been suitably defined, where causality is unclear, and when evidence has not been marshaled should proceed with caution.

The analysis that follows attempts to shed light on characteristics of the short-term housing rental market in Seattle from the perspective of HomeAway properties over the past several years.

HomeAway properties are a very small share of Seattle's total housing stock

A major reason why HomeAway properties do not produce meaningful impacts on housing affordability is because they represent a miniscule share of Seattle's overall housing market. Single-family housing is the largest single share of the HomeAway inventory and represents less than 0.2% of Seattle's supply of single-family units. For multifamily housing (which includes condos and apartments) HomeAway properties represent an even smaller share, at 0.13%.

	Single-family housing	Multifamily housing
Number of units in Seattle (2014)	154,500	169,900
Number of HomeAway properties rented at least once	272	226
Percent of total units rented on HomeAway	0.18%	0.13%

Sources: Seattle housing unit data from American Community Survey (ACS) 1 year estimates Table B25024. HomeAway properties data from ECONorthwest analysis of HomeAway Seattle properties with at least one booking between April 2015 and April 2016.

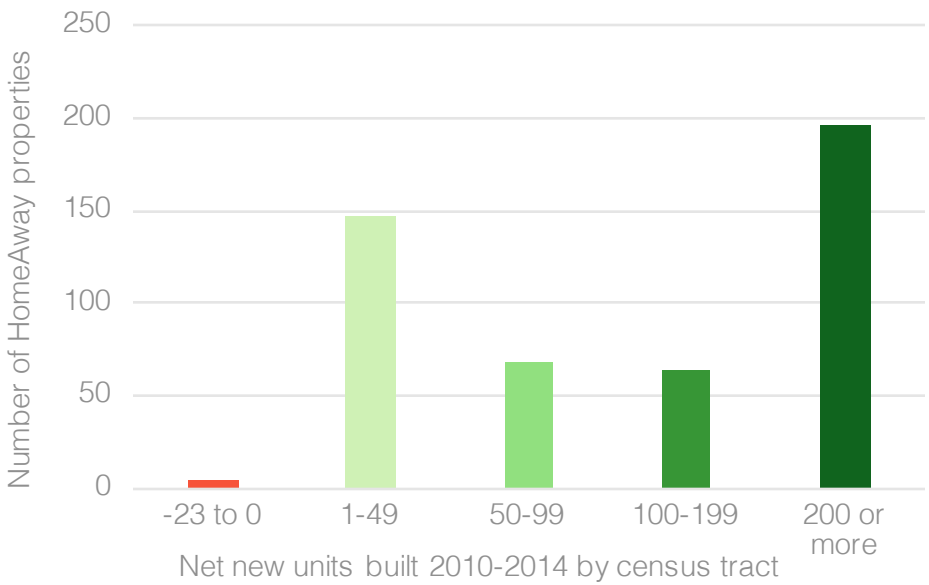
Note: Single-family includes attached (e.g. townhouses) and detached.

HomeAway properties tend to be located in areas that have added the most housing units

HomeAway properties are in areas of Seattle that are adding net new residential units to the housing supply. The fact that HomeAway properties are in areas that are adding new housing units should help alleviate concerns that HomeAway is removing housing units from either the ownership or the rental market.

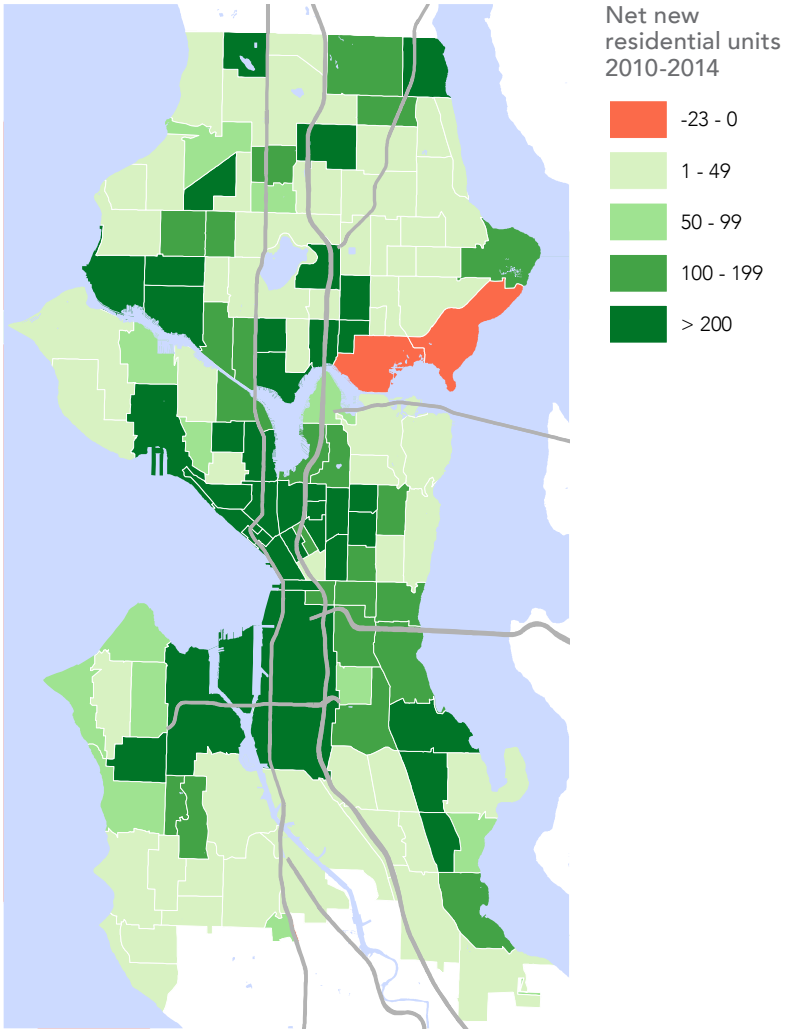
The chart and map show that very few HomeAway properties are in areas that added no housing units between 2010 and 2014, while most properties are located in census tracts that added significant numbers of new units in response to the demand for new housing options.

DISTRIBUTION OF HOMEAWAY PROPERTIES BY NUMBER OF RESIDENTIAL UNITS BUILT 2010-2014



Source: ECONorthwest analysis of HomeAway booking data, April 2015-April 2016.

NEW RESIDENTIAL UNITS BUILT 2010-2014



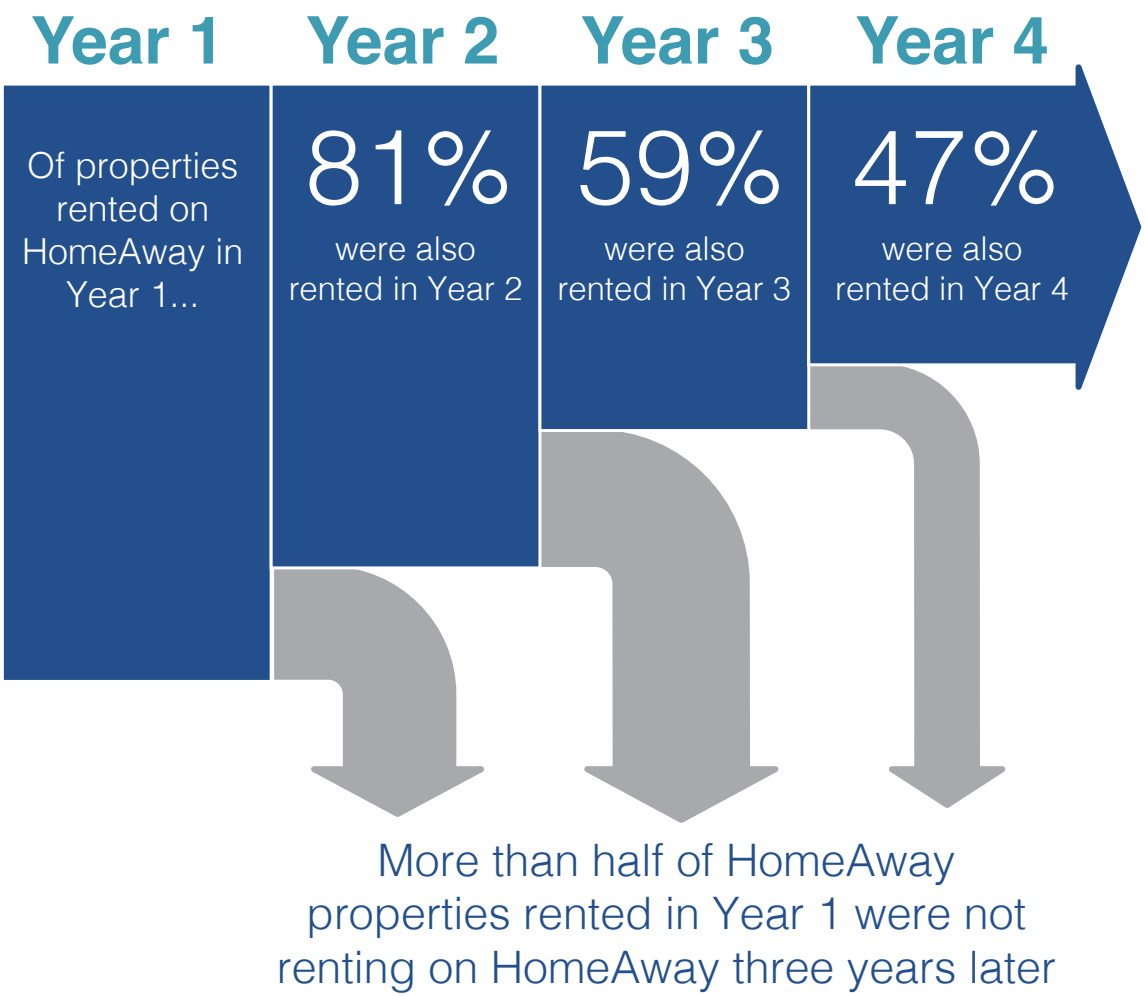
Source: PSRC net new residential units permitted, by census tract.

HomeAway properties don't stay on the short-term rental market

Renting a property on HomeAway appears to be a temporary solution for most hosts. Data over the past several years shows that most HomeAway hosts do not rent their housing units for long periods of time.

For properties rented in Year 1 of the analysis, less than half of them were rented on HomeAway three years later. This churn in the short-term rental marketplace suggests that any supply impact is likely to be temporary and not likely to have a negative impact on affordability over the long run as these units re-enter the long-term housing marketplace.

SHARE OF PROPERTIES RENTED ON HOMEAWAY IN YEAR 1 THAT WERE ALSO RENTED ON HOMEAWAY IN YEARS 2, 3, AND 4



Source: ECONorthwest analysis of HomeAway Seattle bookings.
Note: New properties renting on HomeAway in years 2-4 are not shown.

Few HomeAway properties generate significant short-term rental income

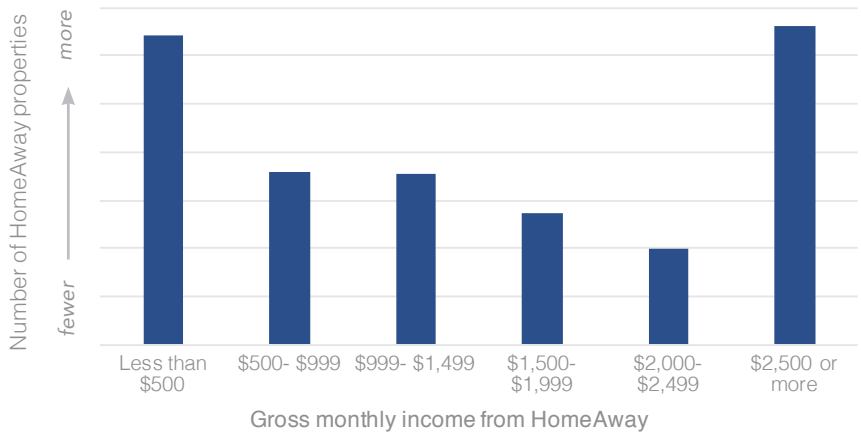
Few HomeAway properties generate sufficient short-term rental income to justify shifting away from the long-term rental or ownership market for pure economic reasons. The chart to the right shows monthly gross income from HomeAway properties in Seattle. The majority of units on HomeAway do not produce incomes greater than what can be earned on the long-term rental marketplace for similarly sized units:

- 60% of HomeAway 1-bedrooms earn less than comparable long-term rents.
- 59% of HomeAway 2-bedrooms earn less than comparable long-term rents.
- 60% of HomeAway 3-bedrooms earn less than comparable long-term rents.

Source: Average long-term rents by apartment size from CoStar, Seattle, Q1 2016.

Part of the reason for this is the seasonal nature of HomeAway's marketplace. The chart to the right shows the share of HomeAway bookings for each month of the year. Roughly 40% of all bookings occur during the summer months of June, July, and August.

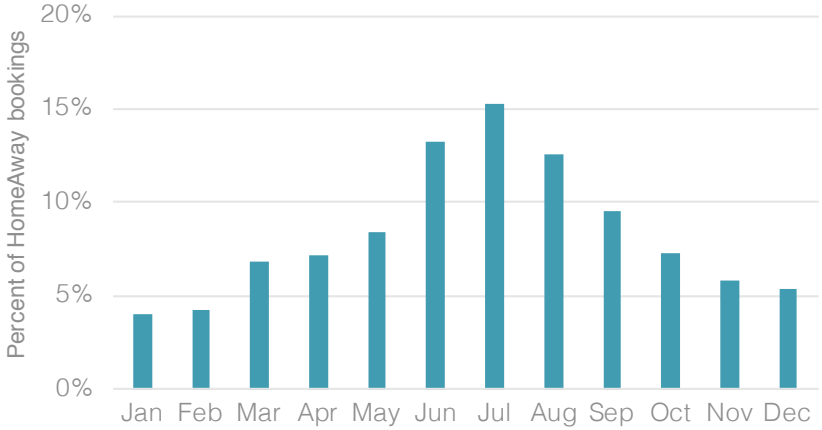
REVENUE GENERATED BY HOMEAWAY PROPERTIES



Source: ECONorthwest analysis of HomeAway booking data, April 2015-April 2016.

Note: gross monthly income is equal to the annual total of all bookings April 2015-April 2016, divided by 12.

WHAT TIME OF YEAR DO PEOPLE USE HOMEAWAY?



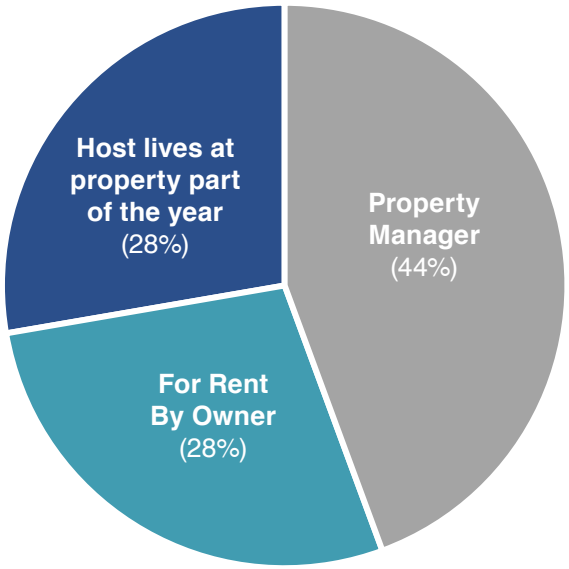
Source: ECONorthwest analysis of HomeAway Seattle booking data, 2012-2016.

A sizable share of HomeAway hosts occupy the property for a portion of the year

Many HomeAway properties are occupied by the HomeAway host for a portion of the year. If short-term renting were not an option, then these properties might remain vacant for the remainder of the year. Likewise, if income from the short-term market were not available to these hosts, some may have struggled with their own housing affordability challenges (or financial duress) through an inability to make rent or mortgage payments.

This further underscores that HomeAway listed properties are composed of a wide diversity of property types under various ownership and management arrangements located in various neighborhoods throughout Seattle. It is difficult to determine the reasons that hosts choose to participate in the short-term market, which makes it extremely challenging to determine whether a particular unit would actually be available to the long-term rental market in a situation where short-term renting were not available.

HOMEAWAY PROPERTIES BY HOST CHARACTERISTICS



Source: ECONorthwest analysis of HomeAway data, April 2015-April 2016

Note: This study estimated HomeAway host occupancy by matching the host address to the property address. This methodology likely underestimates the number of HomeAway hosts who live in the property a portion of the year, because it does not include hosts who use a PO box or hosts who use a third-party company to manage their HomeAway listing.

HomeAway properties have no impact on the sales prices of homes

At the time a single-family home sells, each of the attributes of the home contributes to the overall price. For example, an extra square foot of living space might be worth $150 and an extra bathroom might be worth $15,000. We can think of the selling price of a house as the sum of the values of each of its parts.

Linear regression is a tool that allows us to deconstruct the price of a property to understand the value of its components. By gathering many observations on single-family home transactions, we can tease out the relationship between a home's "parts" and its final price. We used linear regression to investigate whether or not HomeAway properties have any impact on the selling prices of nearby homes by treating nearby HomeAway properties as attributes.

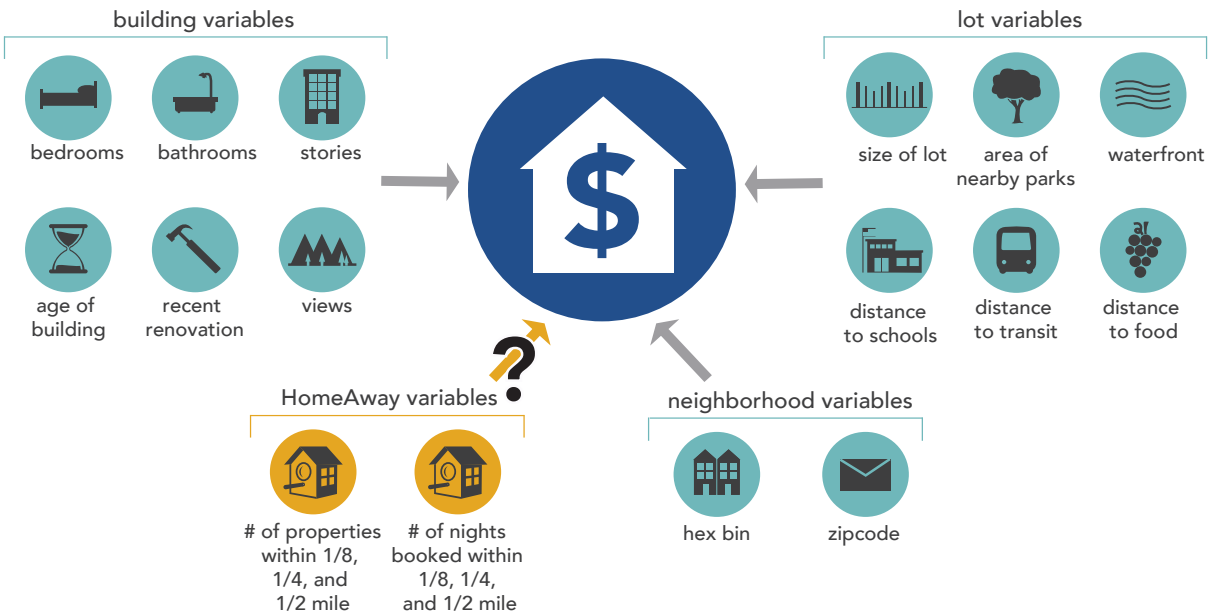
We start with 9,322 observations of actual transactions in Seattle from April 2015 to April 2016. For each property, we used King County Assessor information about the building and lot characteristics. Additionally, we calculated the distance from each house to the nearest restaurants, schools, and transit station as well as the density of parks nearby. This allows us to understand the neighborhood amenities in which each house resides. Further, we match each property to their zipcode and to our "hex-bin" map of Seattle. These allow us to control for everything that is common in these areas spatially. These building, lot, and neighborhood variables give us the data to thoroughly control for many factors that determine housing prices.

To investigate the potential impact of HomeAway properties on nearby prices, we calculated several measures of HomeAway "impact:"

- The number of HomeAway properties within 1/8, 1/4, and 1/2 mile radius of each transaction.
- The number of nights rented through HomeAway within 1/8, 1/4, and 1/2 mile radius of each transaction.

We added these data to the price regressions to see whether or not HomeAway properties have a statistically significant impact on the prices of homes sold nearby. None of these measures gave price effect estimates that were statistically different from zero.

Our results indicate that HomeAway properties have no statistically significant impact on nearby single-family housing prices.



Impact on low-income households and communities vulnerable to displacement

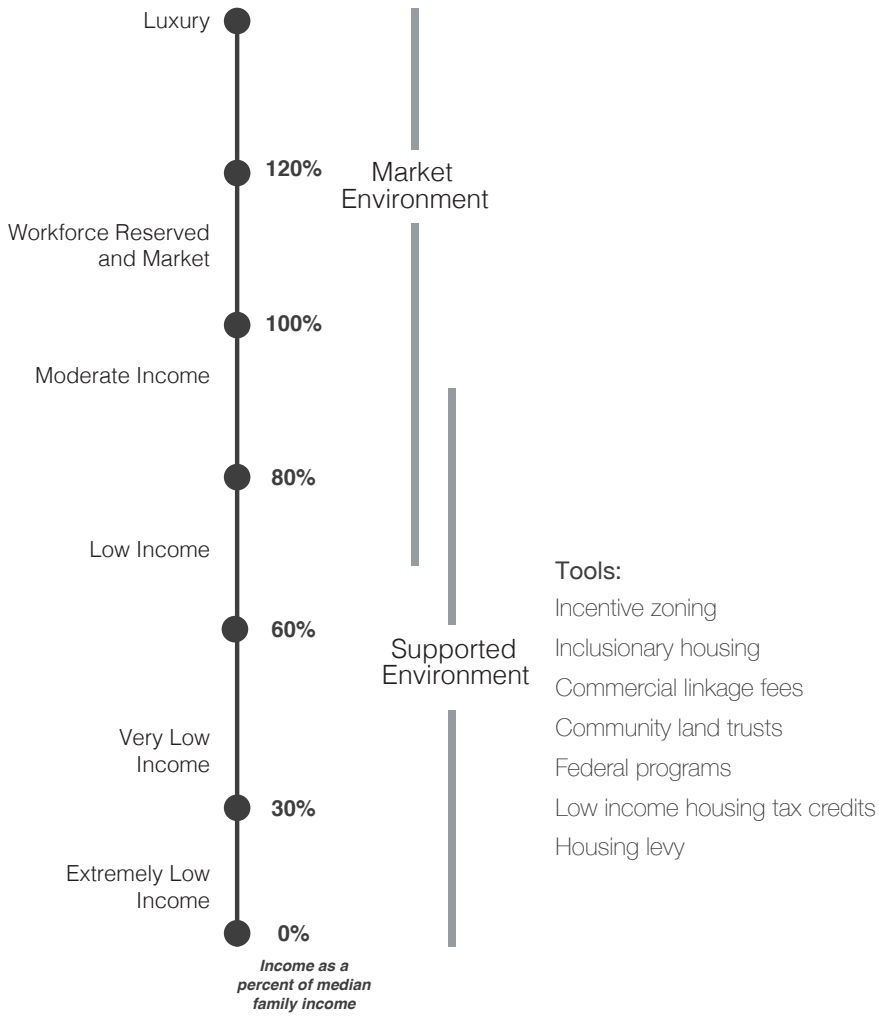
Rising prices in the Seattle housing market are resulting in conversations and analysis regarding policy tools to address housing affordability and community stabilization. There is a real and legitimate concern around housing affordability and displacement within the city boundaries.

The HALA process led by Mayor Murray laid out a comprehensive strategy to address these issues. Per that strategy, the Seattle City Council has proposed an Ordinance relating to short-term rentals. The HALA recommendation and the Seattle City Council Ordinance were rooted in the understanding that it is challenging for the Seattle housing market to produce market-rate housing that would be affordable to low-income households as the city seeks to be an inclusive and equitable place to live.

As the diagram to the right illustrates, a different set of tools are necessary to create housing affordable at the lower end of the income spectrum. Explicit supply and regulatory constraints on housing are not likely to create more housing affordability for these groups.

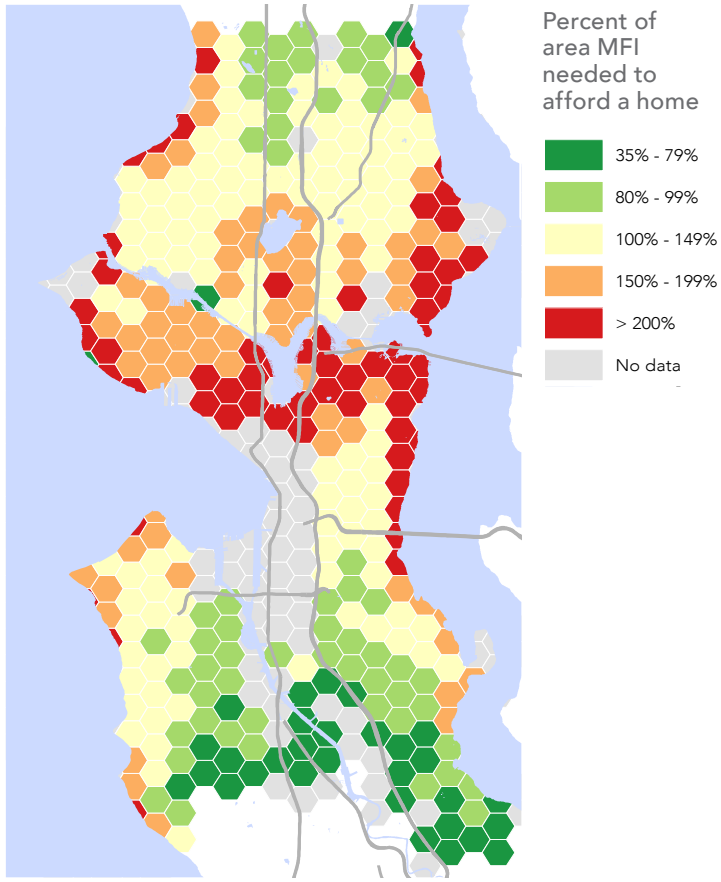
The following pages examine how HomeAway properties might impact low-income or vulnerable populations in Seattle.

DIAGRAM OF HOUSING AFFORDABILITY SPECTRUM



Most HomeAway properties are located where home prices are less affordable

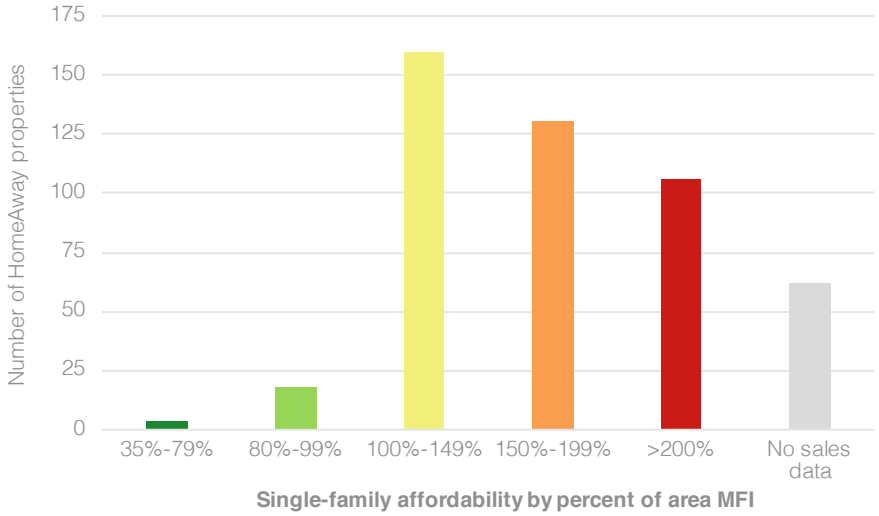
HOME AFFORDABILITY BY PERCENT OF AREA MEDIAN FAMILY INCOME (MFI)



Home ownership affordability is based on a number of factors in addition to the actual sales price of a home. These factors include the household's income, the down payment required, property taxes, and current interest rates. The map shows the percent of the region's median family income of $89,500 required to purchase a home without spending more than 30% of income on housing (the U.S. Department of Housing and Development's threshold for "cost burden"). Areas shaded in green are considered affordable for a household making less than the area's median family income.

HomeAway properties are located in areas where households need much higher levels of income in order to purchase a home. About 83% of HomeAway properties are located in areas of the city where a household needs more than 100% of the region's median family income in order to afford to buy a home.

DISTRIBUTION OF HOMEAWAY PROPERTIES BY PERCENT OF AREA MFI REQUIRED TO AFFORD A HOME



ASSUMPTIONS

STRUCTURE TYPE AND DATE RANGE:
Single-family homes and condos sold between April 2015 and April 2016 (from King County Assessors records)

GEOGRAPHY
City of Seattle
Each hex-bin is 0.25 square miles.

AFFORDABILITY:
Affordable: Housing Costs=30% or less of gross family income
Down Payment: 20%

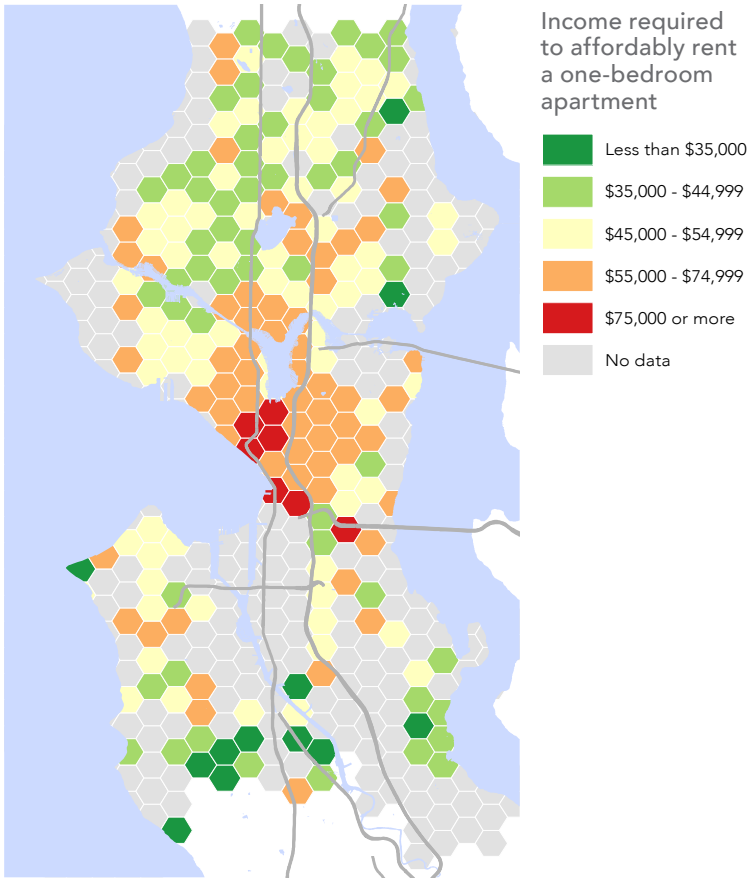
Mortgage: 30-year amortizing principal interest
Interest Rate: 3.47%
Property Tax Rate: $9.49 per $1,000
Insurance: Sales Price/1,000 * 03.5
Utilities: $250 per month

INCOME:
HUD 2015 MFI: $89,500

CALCULATION:
Percent of MFI needed for housing to be affordable = Yearly Housing Costs [Mortgage Payment + Monthly Utilities]+Property Tax+Home Insurance] / (0.3 * MFI)

Most HomeAway properties are located where rental housing is less affordable

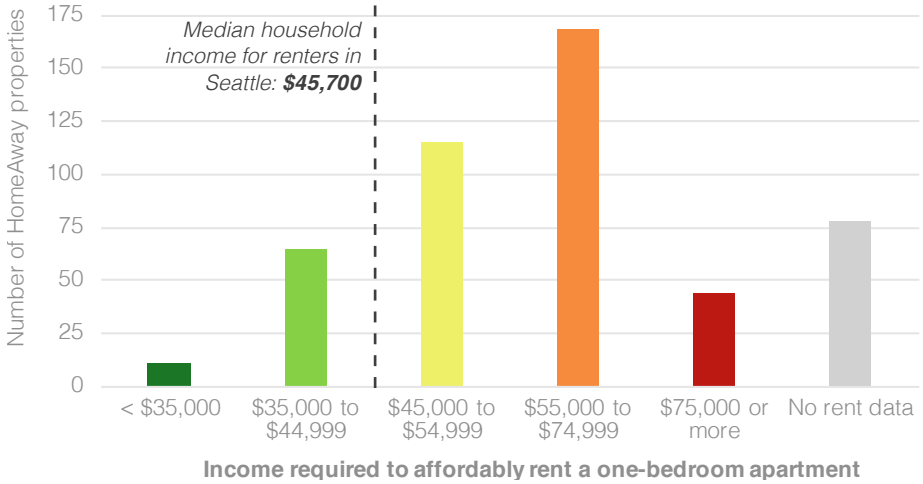
INCOME NEEDED TO AFFORD A ONE-BEDROOM APARTMENT



The growth in rental housing prices in Seattle has been a much-discussed housing affordability issue. The map shows the household income required to rent a one-bedroom apartment without spending more than 30% of income on housing. Areas shaded in green are considered affordable for households making less than the median household income for renters.

Most HomeAway properties are located in areas where households need higher levels of income in order to rent an apartment. According to the 2010-2014 American Community Survey, the median household income for households that rent in Seattle is about $45,700. More than two-thirds of HomeAway properties are in areas of the city where a household needs to make more than the median renter household income in order to afford to rent a one-bedroom apartment.

DISTRIBUTION OF HOMEAWAY PROPERTIES BY INCOME REQUIRED TO AFFORDABLY RENT A ONE-BEDROOM APARTMENT



ASSUMPTIONS

STRUCTURE TYPE:
One bedroom apartments. One-bedroom apartments were used because the average household size for households that rent in Seattle is 1.88 persons (2010-2014 ACS).

RENT DATA:
CoStar, June 2016

AFFORDABILITY:
Affordable: Housing Costs = 30% or less of gross household income

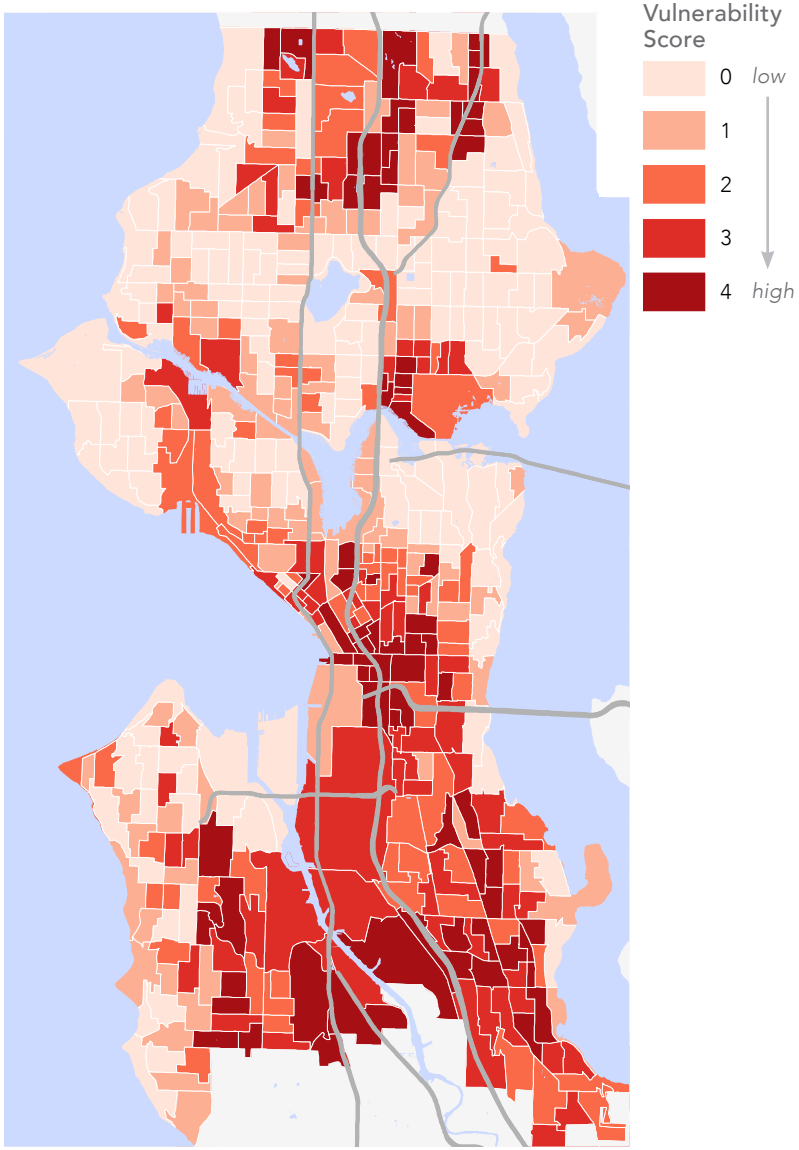
Utilities: $100 per month

GEOGRAPHY
City of Seattle
Each hex-bin is 0.25 square miles.

CALCULATION:
Income required to affordably rent a one-bedroom = Yearly Housing Costs [Average Rent for 1-bedroom + Monthly Utilities] / (0.3)

Few HomeAway properties are located in areas at high risk of displacement

VULNERABILITY TO DISPLACEMENT

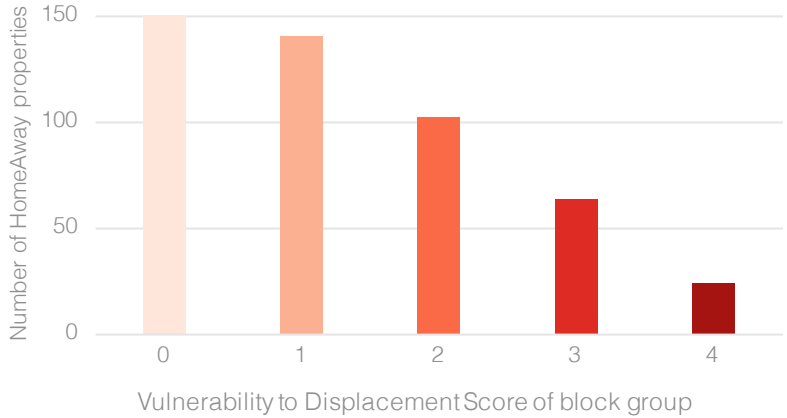


Source: ECONorthwest analysis of 2010-2014 ACS

This map shows the results of a displacement vulnerability metric that highlights Census Block Groups with higher-than-average populations that are the least likely to absorb the impact of increasing housing costs. Vulnerable populations are defined as: households renting versus owning, belonging to communities of color, not having a college degree, and being lower income. This metric is employed by other cities examining displacement issues stemming from economic growth.

Most HomeAway properties are located in areas that score low on this vulnerability index. This is driven by the fact that many HomeAway properties are located in high income and traditionally unaffordable areas of Seattle. More than 60% of HomeAway properties are located in block groups categorized as at low risk of displacement.

DISTRIBUTION OF HOMEAWAY PROPERTIES BY VULNERABILITY TO DISPLACEMENT SCORE



METHODOLOGY:
Data on the following four risk factors was gathered from the 2014 5-year ACS for the City of Seattle. The evaluation criteria were determined by the City of Seattle proportion, adjusted to the lower boundary of the given margin of error. Every block group was scored based on the following system:

Risk Factor	Evaluation Criteria
% Renters	Is the proportion of renters greater than 53.4%?
% Non-White	Is the proportion of non-white individuals greater than 33.8%?
% without Bachelor's degree	Is the proportion of population 25+ without a bachelor's degree greater than 42.1%?
% Households with income at or below 80% Median Household Income	Is the proportion of households with income at or below 80% of median household income greater than 40%?

PREPARED BY:

ECONorthwest

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Brief: Dramatic Growth of Short-Term Rentals in Seattle Could Reduce Apartment Supply

June 2016

PugetSoundSage

Growing communities where all families thrive.

PRIMARY AUTHOR

Howard Greenwich, Senior Policy Advisor, MPP

ABOUT PUGET SOUND SAGE

Puget Sound Sage works to promote good jobs, quality employment opportunities, a cleaner environment, and affordable housing for low/moderate income families in the Seattle metropolitan area. Our mission is to ensure that all families benefit from economic growth, and that local and regional policy decisions meet the social and environmental needs of our communities. Sage provides timely, critical research on issues of the regional economy, jobs, housing and the environment. Find more information on our website, www.pugetsoundsage.org, and our blog, soundprogress.wordpress.com.

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SUMMARY AND KEY FINDINGS

The rapid rise of Airbnb in the hospitality and lodging industry has made vacation rental more accessible to visitors and easier for hosts to participate than ever before. However, there is a downside to Airbnb and online STR companies in cities with rising rents, scarce affordable housing, and gentrification – it can pit the need to house visitors against the need to house residents. While Airbnb facilitates economic activity for mostly individual households and small businesses, the giant online company also depends greatly on high-intensity renting of whole units by multi-listing hosts for profit. Airbnb would like to emphasize income generated for hosts, but the company stands to make a lot of money from STR hosts who are really property managers or real estate investors, big or small. At the same time, growth in STRs threatens to remove long-term units from the local housing market, which will impact households struggling to find affordable housing and stay in Seattle. Displacement of low-income households – whether direct or indirect – cause real and lasting harm to individuals, families, and communities. The ability for low-income families, communities of color, immigrants, and refugees to live and work in Seattle must be prioritized over the growth of Airbnb.

Key Findings

Airbnb Enjoyed Tremendous Growth in Seattle

- While Airbnb listings in Seattle represent a fraction of listing in big tourist cities like Los Angeles and New York, **Seattle has a higher number of listings per person** than many other U.S cities.
- Of the 4,170 listings on Airbnb in Seattle, **about 2/3rds are "whole units"** which could mostly be otherwise used as long-term units (these are the most popular among Airbnb users). The remainder listings are private rooms and shared rooms.
- Since 2009, Airbnb listings have grown an **average of 600 per year**.
- In just the seven months from September 2015 to April 2016, Airbnb hosts listed an additional 947 places to stay, a growth rate of 29%. Were this to continue for another five months, it would represent an **annual growth rate of 50%.**

Airbnb's Success Depends on Hosts Renting Two or More Whole Units

- While the vast majority of hosts list only one whole unit – likely to be their primary residence – 12% list more than one. This small group of hosts together list 36% of all whole units in Seattle and **function as short-term property managers or even de facto hotels**.
- **Just 27 hosts** who list five or more whole units on Airbnb in Seattle manage 10% of all whole units.
- Other research on Airbnb shows that the company makes as much as **40% of its revenue** on multi-listing hosts across 12 major U.S. cities.

Hosts Managing Multiple Units Grow Faster Than Any Other

- From September 2015 through April 2016, whole unit listings grew by 665 units, a growth rate of 31%.
- **Nearly half of this growth** (48%) came from hosts who manage more than one whole unit. Two out of five additional units (42%) came from hosts with three or more units.
- The number of whole units operated by **single unit hosts grew much slower** (23%) over this seven month period than hosts with three or more units (72%).
- Hosts that manage more than one whole unit **do not reflect Airbnb's claim that typical hosts** are "primary residents who occasionally rent their home to earn supplemental income." Some of these hosts are mid- to large size property management companies – some nationwide – that list up to 50 whole units. One host is a boutique hotel and another is a new "micro-housing" property on Capitol Hill.
- Hosts that manage multiple units are more likely to have hundreds of Airbnb reviews, can achieve economies of scale like hotels, and have access to capital that facilitates **expansion of their enterprises**.

If Expansion Continues, Hundreds of Whole Units May be Lost from the Long-Term Market

- Based on current trends, **over 1,600 long-term housing units in Seattle** could be converted or built as short-term rentals over the next three years. Under a slower growth scenario, nearly 1,000 would still be lost.
- Although making growth projections in a new industry is difficult, many financial analysts believe that **Airbnb will continue its expansion** as millions of new users join the platform over the next five years.

Neighborhoods at Risk of Displacement Growing in STRs at Same Pace as Rest of Seattle

- Over half of the whole units listed on Airbnb in Seattle are **concentrated in the urban center** of Seattle, along with popular neighborhoods such as Fremont, Queen Anne, and Capitol Hill.
- Neighborhoods further away from the center have fewer whole units to begin with, but are **growing at a similar rate to the whole city (31%)**. Only Eastlake and the University District experienced significantly slower growth over the seven month study period.
- Areas of Seattle where households are at **high risk of displacement** have high or steady growth in STR whole unit listings on Airbnb. Areas with high risk of displacement have been defined by the City of Seattle on a map found in Appendix A.
    - The downtown core, **which still houses many low-income households**, has the largest concentration of whole unit SRS (518) and experienced the second fastest growth rate in the City (42%).
    - Whole unit listing growth in **other high risk areas** include the Rainier Valley (32%), Beacon Hill (36%), Bitter Lake/Greenwood (60%), Northgate (31%), and Delridge (31%).

UNDERSTANDING THE SHORT-TERM RENTAL MARKET

What is a short-term rental?

Short-term rentals (STRs) are some form of lodging, such as a room or apartment, typically leased for less than 30 nights. While the City of Seattle does not currently have a definition of STRs, the Washington State Department of Revenue requires people renting all or part of a home for less than 30 days to pay retail and lodging taxes, just like a hotel or Bed and Breakfast.[1]

For decades, marketed short-term rentals comprised mostly vacation rentals that people shared when not on vacation. With the advent of Airbnb, short term rentals now include a wide variety of places to stay, including living rooms, bedrooms, mother-in-law apartments, backyard cottages, condos, whole parts of apartment buildings and even hotels that advertise through online platforms. These platforms include Vacation Rental By Owner (owned by Expedia), HomeAway & VacationRentals.com (Expedia), FlipKey (Trip Advisor), Booking.com (Priceline) and Couchsurfing.

Short-term rentals in Seattle

Larger online STR platforms in Seattle include VRBO (800+ listings), HomeAway (700+listings), VacationRentals.com (800+ listings), and FlipKey (250+ listings).[2] However, by far the largest STR facilitator is Airbnb. From a handful of Seattle listings in 2008, the company's presence has exploded to nearly 4,200 listings.[3] Airbnb claims that $30 million was earned by their Seattle hosts from 151,000 guests in the twelve-month period from August 2014 to July 2015.[4] As in many other cities, Airbnb has had a transformational effect on housing owners participating in the short-term rental market.

Total Airbnb listings in Seattle (4,170) is considerably less compared to markets like New York (34,661) and Los Angeles (20,951).[5] However, Seattle, along with other smaller cities, has a higher ratio of listings per 1,000 residents than much bigger cities. Table 1 shows that Airbnb listings in Seattle (6.1 per 1,000 residents) are higher than Los Angeles (5.3), Philadelphia (4.5), New York (4.1), and San Diego (3.8).[6]

Table 1: Seattle Has More Listings Per Person Than Some Bigger Tourist Cities

City	Total Airbnb Listings	Total Population	Listings/1,000 Pop
Miami	7,032	441,003	15.9
New Orleans	4,177	389,617	10.7
Honolulu	3,539	352,769	10.0
San Francisco	8,051	864,816	9.3
Vancouver	5,004	610,000	8.2
Washington DC	4,512	672,228	6.7
Seattle	4,170	684,451	6.1
Los Angeles	20,951	3,971,883	5.3
Portland	3,128	632,309	4.9
Boston	3,086	667,137	4.6
Philadelphia	6,976	1,567,442	4.5
New York	34,661	8,550,405	4.1
San Diego	5,356	1,394,928	3.8
Toronto	9,150	2,615,000	3.5
Chicago	6,140	2,720,546	2.3
Total	125,933	26,134,534	4.8

Source: Author's analysis of data pulled from Airbnb's website by programmer Tom Slee

Impact of STRs on Long-Term Rental Markets

Given the scale of growth in such a short period of time, an immediate question is raised: where are the thousands of short-term rental units coming from? Are they just extra rooms and apartments that were going unused at a host's primary or secondary residence? Or have housing units already in the long-term market been converted to STRs by individual hosts or property management companies?

Other cities have enacted legislation that restricts STRs over concerns that they are reducing the overall supply of housing for their residents. For example, San Francisco has adopted strict rules for STR hosts and platforms. In a recent article, San Francisco Supervisor Aaron Peskin explained that tighter enforcement is needed because, "We believe that some 2,000 units of housing have been permanently taken off the market."[7]

Worse yet, conversion of long-term rental units can result in direct eviction and displacement of people out of their communities. Community groups and public officials in high cost housing cities, like New York, San Francisco and Los Angeles, link the growth of Airbnb with both evictions and displacement. People have been thrown out of their long-time homes for conversion to a short term rental, and the loss of thousands of units of housing in these high cost cities result in an even tighter rental market.[8]

At a neighborhood level, commercial conversion and operation of STRs can pose a significant threat to residents vulnerable to gentrification pressures. For example, the City of Seattle has created a map that shows where low-income households face the highest risk of displacement, based on a set of vulnerability factors (See Appendix A). Included are much of Southeast Seattle, Delridge, Northgate, Lake City, and Bitter Lake. With relatively lower housing and land prices, real estate investors or builders may identify housing units in these areas that are more profitable as STRs than long term rentals. [9]

Definitions

Those concerned with STRs use a variety of terms to mean the same thing, or mix concepts into one term. Airbnb itself uses language that emphasizes concepts of sharing and belonging, but sometimes at the expense of clarity about economic transactions. Below are terms and definitions used in this brief.

Shared Room: Shared rooms are non-private spaces in a home, typically occupied by the host. They can be a living room, a shared bedroom (with bunks, like a hostel), a den or other spare space. This is the least common listing on Airbnb and most STR companies don't list shared rooms at all.

Private Room: Private rooms are spaces with a door or controlled separation with the rest of a home, typically occupied by a host. However, guests must use common areas, like kitchens and bathrooms. These are more common than shared rooms.

Whole Unit: Whole units, referred to by Airbnb as "entire units," are spaces that guests do not have to share with their host, such as a whole house, mother-in-law units, backyard cottages, rooms with separate entrances from the host, or condos/apartments unused by the host, etc. This is by far the most common listing on Airbnb.

Host*:* A host is a person or business that uses an STR company to list and, depending on the website, broker guest booking of their listing. On Airbnb's website, each host has a unique "Host ID." The host as they appear on the website may be the actual owner of the unit or may be an intermediary who manages a unit. Many hosts on Airbnb represent professional management companies.

Listing: A listing is an offering for lodging on an STR website created by a host. Listings are for specific places, such as a shared space, private room or whole unit, that a guest can book in advance. On Airbnb's website, each listing has a unique "Room ID."

Booking: This means a guest reserved and paid for lodging in an STR listing. (At booking, Airbnb charges a non-refundable fee of 6-12% to the guest and a 3% fee to a host.) A unit may be listed, but not booked.

Guest: A guest is a person who has rented a unit listed on an STR website. For each stay, we assume a single guest includes all people who have occupied the unit, e.g., family members, friends, etc..

AIRBNB IN SEATTLE

Snapshot of Airbnb in Seattle

As of April 2016, Seattle's Airbnb website showed 2,873 hosts listing 4,170 units of short-term rentals. The majority of listings are whole units (67%), followed by private rooms (30%), and shared rooms (3%).[10]

Total Hosts	**2,873**
All Listings	**4,170**
Whole Units	**2,817**
Private Rooms	**1,234**
Shared Rooms	**119**

Source: Author's analysis of data pulled from Airbnb's website by programmer Tom Slee

Airbnb reports that hosts began listing units in Seattle in 2009.[11] Over the seven years since the first listings, Airbnb has grown by an average of 600 units a year – most of which have happened in the last few years.

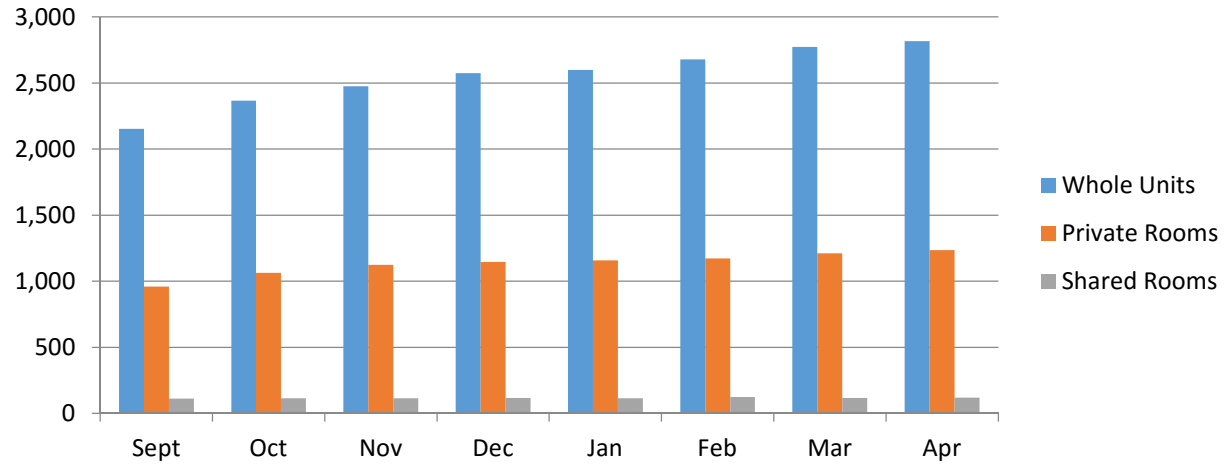
In just the seven months from September 2015 to April 2016, Airbnb added 947 listings, an increase of 29% total (see Table 2 and Figure 1).[12] If similar growth continues throughout the rest of the year (e.g., projecting a full 12 months, from September 2015 to September 2016), it represents an annual growth rate of 50%.

Table 2: Rapid Increase in Overall Seattle Listings, September 2015 through April 2016

Listing Type	Increase in Listings	Growth Rate
Shared Rooms	119	7%
Private Rooms	274	29%
Whole Unit Growth	665	31%
All Listings	**947**	**29%**

Source: Author's analysis of data pulled from Airbnb's website by programmer Tom Slee

Figure 1: Aribnb Listing Growth By Type, September 2015 to April 2016



Source: Author's analysis of data pulled from Airbnb's website by programmer Tom Slee

This rapid rate of growth could only be possible where there is: 1) high demand for hospitality in Seattle, and 2) availability of thousands of rooms and whole units for short-term renting.

On the demand side, Seattle is one of the most popular destinations in the US for visitors and all signs point to continued growth of the hospitality industry.[13] Hotel occupancy rates are higher in Seattle than in the rest of the U.S., indicating that demand for hotel rooms is exceeding supply.[14] On the supply side, thousands of rooms, condos, apartments and houses have been available by short-term rental hosts for use as short-term rentals. If demand continues to grow, and is met by short-term rental hosts, where will the units come from?

Airbnb's Success Depends on Whole Units and Hosts with Two or More Listings

Any unoccupied space in a housing unit or property is a potential long-term rental for a variety of situations, such as a roommate, direct lease, or sublease. However, whole units represent both the vast majority of listings on Airbnb as well as larger spaces, with multiple bedrooms, that could accommodate more people. Whole units and larger units represent the most likely vehicle for conversion or investment in STRs. One financial advice website puts it this way: "For Airbnb hosts looking to make a living on the hospitality platform, full apartment rentals are the way to go."[15] For these reasons, we have focused the remainder of our analysis on whole units.

As of April this year, 2,058 Airbnb hosts list whole units on Airbnb in Seattle. The vast majority (88%) of these hosts only list one unit (see Figure 2). The remaining 12% of units are listed by hosts who offer multiple units for rent. We break these down into three categories: hosts with two units, hosts with 3-5 units and hosts with 6 or more units.

Figure 2: Only One in Eight Hosts List 2 Or More Whole Units

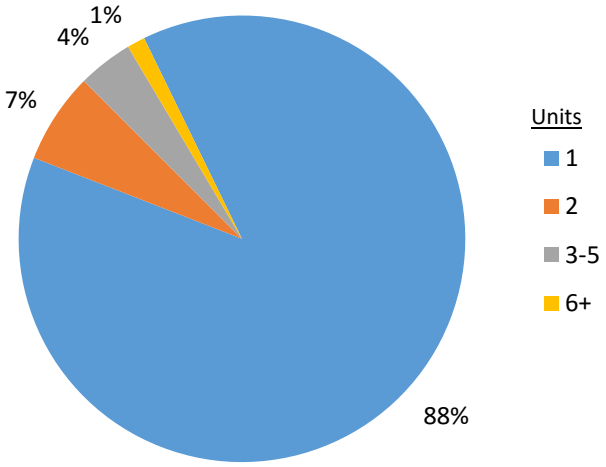
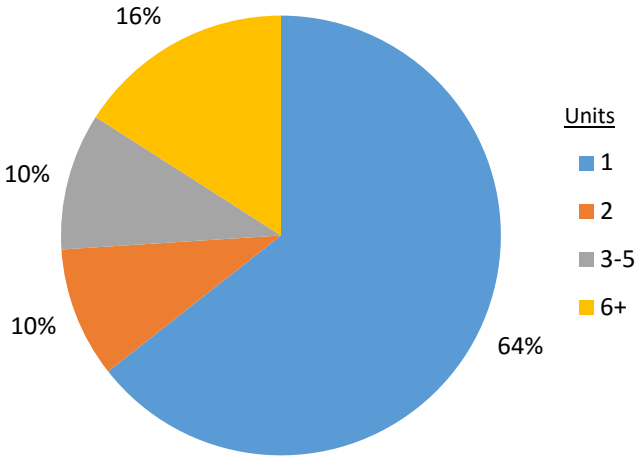


Figure 3: One in Three Whole Units Are Listed By Hosts Manage 2 Or More Units



Source: Author's analysis of data pulled from Airbnb's website by programmer Tom Slee

Although only 12% of Airbnb hosts list more than one whole unit in Seattle (see Figure 2), this small group lists 36% of all whole units (see Figure 3). As of April 2016, hosts who manage multiple units are comprised of 135 two-unit hosts, 82 three-to-five-unit hosts, and 27 six-or-more unit hosts. Remarkably, the 27 hosts that list six or more units in Seattle offer 10% of all whole units on Airbnb. These hosts do not fit Airbnb's self-described profile of Seattle hosts.

"Airbnb hosts are overwhelmingly primary residents who occasionally short-term rent their home to earn supplemental income." - Airbnb[16]

Contrary to Airbnb's "typical host" profile – someone who shares the home they live in – much of the company's profit depends on revenue generated by short-term rental property managers. Penn State researchers found that 40% of Airbnb's revenues came from multi-unit hosts across 12 major U.S. cities.[17] The same study found that 30% of Airbnb's revenues were generated from units available 360 days a year – clearly not people sharing the home they live in either full time or part time. A survey conducted by short-term rental advisors LearnAirbnb revealed that a third of hosts are not listing units to make supplemental income, but as wealth building or a main source of income.[18] And nearly half of Airbnb hosts surveyed intended to add one or more listings in the next year.[19]

Multi-Listing Hosts Generate Half of All Airbnb Growth In Whole Units

In Seattle, Airbnb has benefited tremendously from growth of units listed by hosts with two or more units. As of April 2016, Airbnb listed 2,817 whole units across all categories of hosts, an increase of 31% since September 2015 (See Table 3).

Nearly half (48%) of this growth came from hosts who have more than one listing. Two out of five (42%) whole unit growth came from just hosts with three or more units. While hosts with only one unit remains the largest group on Airbnb in Seattle, their listings grew by a much slower rate (23%) than hosts with 3-5 units (72%) and hosts with 6+ units (54%). In other words, Airbnb's typical hosts – listing only one whole unit – contributed to merely half of the growth in these more profitable types of units.

Table 3: Half of All Growth in Whole Units Caused by Multi-Listing Hosts, Sept 2015 – April 2016

	Count of Whole Unit Listings By Host Type					
Monthly Snapshot	1 Unit	2 Units	3-5 Units	6+ Units	All 2+ Units	Total
September	1,471	224	165	292	681	2,152
October	1,627	236	201	301	738	2,365
November	1,722	244	201	309	754	2,476
December	1,771	238	228	337	803	2,574
January	1,749	244	225	380	849	2,598
February	1,793	228	250	408	886	2,679
March	1,800	236	258	428	922	2,722
April	1,814	270	284	449	1003	2,817
Total Growth	343	46	119	157	322	665
Rate of Growth	23%	21%	72%	54%	47%	31%
Share of Growth	52%	7%	18%	24%	48%	100%

Source: Author's analysis of data pulled from Airbnb's website by programmer Tom Slee

This rapid growth of multiple unit hosts reveals a trend towards commercial operations of Aribnb units. If we assume that most multiple listing hosts are not living in their second or third units, these are most likely investment properties that could otherwise be used for long-term tenants. But the benefits are two-way – hosts make a return on investment and Airbnb profits from growth in this type of listing.

Multiple-Unit Hosts Have More Capacity for Expansion

Who are the multi-listing hosts on Airbnb? Most of the hosts in the two and three-to-five unit category are likely small businesses. Many self-describe their hosting with a story of them starting with one listing and adding several more, because they enjoy hosting or were able to make it into full time work. But these types of hosts are being targeted by a raft of online start-ups that help people manage and invest in new short-term rentals. For example, Pillow will take over all aspects of whole unit management, including booking, linens, cleaning, repairs, and guest services. Mashvisor helps investors find ideal short-term rental investment opportunities by comparing long-term with short-term rental returns on investment, at a neighborhood by neighborhood level. These services provide economies of scale and analysis that allow small operators and investors to secure additional short-term rental units. It is not surprising, then, that whole units managed by hosts with three-to-five listings grew by 72% in only seven months.

Seattle hosts with six or more units are growing almost as fast (52% over seven months), but represent very different kinds of property managers. Table 4 below shows all of the hosts with six or more whole units.[20] The largest hosts appear to be multi-state, commercial enterprises that manage either "corporate housing" aimed at business travelers or "vacation rentals" aimed at leisure travelers. The list also appears to include a new micro-housing building on Capitol Hill, a tiny hotel in Pioneer Square and an apartment building. In most cases, these property managers use Airbnb as one site to market their units – some have their own web page for booking while others use STR platforms in addition to Airbnb. For example, Sea To Sky Rentals has been operating vacation rentals long before Airbnb started in Seattle, and primarily manages short-term rentals for other owners.[21]

Taken as a group, these hosts have amassed hundreds of reviews across hundreds of units over time, positioning themselves well for high occupancy rates and the ability to attract additional capital for more units. Expansion in this group could include more national operators entering the Seattle market or existing hosts buying or managing additional units.

Table 4: List of All Seattle Hosts With Six Or More Whole Units

Host ID	Website Host/Alias	Most Likely Real Business*	# of Whole Units	Average Price	# of Reviews
8534462	Daniela	Barsala Corporate Housing	54	$193	1,309
4962900	Stay Alfred	Stay Alfred	49	$142	1,980
3074414	Melissa	Unknown	46	$99	813
430709	Sea to Sky Rentals	Sea to Sky Rentals	42	$210	207
74305	Seattle Oasis	Seattle Oasis	36	$139	649
42537846	Eric	Roy Street Commons (Micro-housing)	31	$64	688
50550045	Diane & Lily	Unknown - corporate housing	24	$147	182
10558142	James	Unknown	12	$134	614
15454102	Corporate Condo	Corporate Condo	12	$186	190
658155	Joe	Unknown	11	$281	196
754810	Andy	Unknown	11	$289	161
29051256	Katya	Unknown	11	$209	108
5325329	Blair	Unknown	10	$247	724
14980831	Rebecca	Unknown - family business	10	$168	172
1623580	Sep	Unknown	9	$133	339
1787819	Christine	St. John's Apartments	8	$171	215
31148752	Bob	TurnKey Vacation Rentals	8	$233	812
31366898	Christine	Unknown	8	$198	356
33360	Laura	Unknown	7	$169	131
1650960	Qing	Unknown	7	$287	233
22764472	Krystal	Unknown	7	$186	120
5177328	Andrea	Unknown	6	$144	245
6372203	Darcy	Merchant's Hotel	6	$156	690
16756919	Morteza	Unknown	6	$119	84
23792018	Roda	Unknown	6	$107	152
35961304	Marianne	Unknown	6	$93	406
44312115	Kevin	Unknown - Property Mgmt Company	6	$93	73
			449	$162	11,849

* These are either self-identified by hosts or are apparent from other research

Source: Author's analysis of data pulled from Airbnb's website by programmer Tom Slee

If Expansion Continues, Hundreds of Whole Units May Be Lost From Long-Term Market

Projecting forward, multiple-listing hosts could begin to convert long-term units in sizeable numbers that would have significant impact on the long-term housing market. Table 5 shows projected loss of long-term rental units to STRs, under two assumed scenarios. The least conservative scenario is a projected growth rate of 47% per year for whole units listed by hosts with multiple listings (see Table 3), extrapolated from the seven months of data we have obtained.[22] A more conservative assumption for growth is the rate for all whole units in Seattle, or 31% (see Table 3). We also assume that the first unit

of multiple listing hosts could be their own primary residence, reducing potential long-term units by 244. With these assumptions, we start with 759 non-primary, whole units in 2016 and estimate the numbers over the next three years.

Table 5: Recent Growth Trends Indicate Substantial Loss of Long-Term Rentals

	Projected Yearly Growth	2016	2017	2018	2019
Total Units Each Year	47%	759	1,116	1,640	2,411
Long-Term Units Lost			357	881	1,652
Total Units Each Year	31%	759	994	1,301	1,702
Long-Term Units Lost			235	542	943

Source: Author's projections based on data pulled from Airbnb's website by programmer Tom Slee

By 2019, under the same aggressive growth rates we've recently seen, we could lose up to 1,652 long-term units in Seattle to the short-term rental market. In a slower growth scenario, we could lose up to 943 units.

Will Airbnb in Seattle continue to grow at such a rapid pace? Overall, industry observers seem optimistic. Bloomberg reports that one Wall Street firm, Cowen Group, recently used a consumer survey to project an increase in all Airbnb "room nights" from 79 million in 2016 to 500 million in the next five years.[23] Another financial firm, eMarketer, predicts that Uber's expansion will end in two years, but Airbnb's will continue.[24] Further research could be done to create a more robust prediction model using factors such as long-term market rents, interest rates, occupancy rates in hotels, etc., but it is beyond the scope of this brief.

Neighborhoods At Risk of Displacement Growing at Same Pace as Rest of the City

As reported above, whole unit Airbnb listings grew throughout Seattle by 31% from September 2015 to April 2016 (see Table 3). Growth in total units across Seattle tended to reflect existing concentrations of units in the urban center (+153 units) and popular neighborhoods like Capitol Hill (+86 units), Wallingford/Fremont/Greenlake (+67 units), and Queen Anne (+51 units) (see Table 6).[25] (See Appendix B for a full list of the 88 Seattle neighborhoods used by Airbnb and the change in whole units for each.[26])

However, nearly all areas of Seattle saw consistent growth of whole units on Airbnb, between 23% and 42%. Notably slower growth occurred in Eastlake/South Lake Union (17%) and the University District (-11%), both areas that have seen substantial new construction of multifamily buildings.

Table 6: Airbnb Whole Units Concentrated in Urban Center, But Strong Growth Everywhere

Seattle Area	Whole Units 9/2015	Whole Units 4/2016	Change	% Change
Citywide	**2,152**	**2,817**	**665**	**31%**
Urban Center				
CBD/Belltown/First Hill/ID	365	518	153	42%
Capitol Hill	323	409	86	27%
Queen Anne/Lower Queen Anne	202	253	51	25%
Leschi/Madronna/Central District	178	240	62	35%
Eastlake/South Lake Union	60	70	10	17%
	1,128	1,490	362	32%
Near North				
Wallingford/Fremont/Green Lake	274	341	67	24%
Ballard/West Woodlawn	126	166	40	32%
Roosevelt/Wedgewood/Ravenna	84	110	26	31%
University	89	79	-10	-11%
Magnolia/Interbay	41	64	23	56%
	614	760	146	24%
Southwest				
West Seattle	112	158	46	41%
Delridge	39	51	12	31%
	151	209	58	38%
Southeast				
Rainier Valley	87	115	28	32%
Beacon Hill	47	64	17	36%
SODO/Duwamish	7	9	2	29%
	141	188	47	33%
Far North				
Bitter Lake/Greenwood	60	96	36	60%
Northgate	32	42	10	31%
Lake City	26	32	6	23%
	118	170	52	44%

Source: Author's analysis of data pulled from Airbnb's website by programmer Tom Slee

A comparison between the City's map of displacement risk (Appendix A) and whole unit growth reveals areas of overlap that should be of concern for low-income communities and policy makers. The largest concentration (518 units) and second largest growth (42%) of Airbnb whole units occurs in the urban center of Seattle, which includes Downtown, First Hill, the International District and the Central District.

Other at-risk areas with smaller concentrations of whole units but strong growth include Rainier Valley (32%), Beacon Hill (36%), Bitter Lake/Greenwood (60%), Northgate (31%), and Delridge (31%). The only area with a higher risk of displacement that did not experience growth of Airbnb whole units was the University District (-11%).

CONCLUSIONS AND RECOMMENDATIONS

The rapid rise of Airbnb in the hospitality and lodging industry has made vacation rental more accessible to visitors and easier for hosts to participate than ever before. Airbnb's expansion in Seattle illustrates the city's strong attraction to visitors and tourists, which, in turn, brings new income to our region. However, there is a downside to Airbnb and online STR companies in cities with rising rents, scarce affordable housing, and gentrification – it can pit the need to house visitors against the need to house residents. The tourism and hospitality industry, in particular, comprises of low- to moderate-wage workers who are increasingly priced out of the city.

While Airbnb facilitates economic activity for mostly individual households and small businesses, the giant online company also depends greatly on the high-intensity renting of whole units by multi-listing hosts for profit. Airbnb would like to emphasize income generated for hosts, but the company stands to make a lot of money from STR hosts who are really property managers or real estate investors, big or small. At the same time, growth in STRs threaten to remove long-term units from the local housing market, which will impact households struggling to find affordable housing and stay in Seattle. The ability for low-income families, communities of color, immigrants, and refugees to live and work in Seattle must be prioritized over the growth of Airbnb. As Sage has documented elsewhere, displacement of low-income households – whether direct or indirect – cause real and lasting harm to individuals, families and communities. [27]

Recommendations

The City of Seattle should prioritize housing policy that puts the people the most at risk of displacement at the center. In the case of Short Term Rentals, public policy should ensure that investors in STRs are not taking long-term units out of the housing market, particularly in areas with high risk of displacement. At the same time, the City should allow families in high displacement risk areas to take advantage of housing assets to supplement their income. Puget Sound Sage Sage suggests:

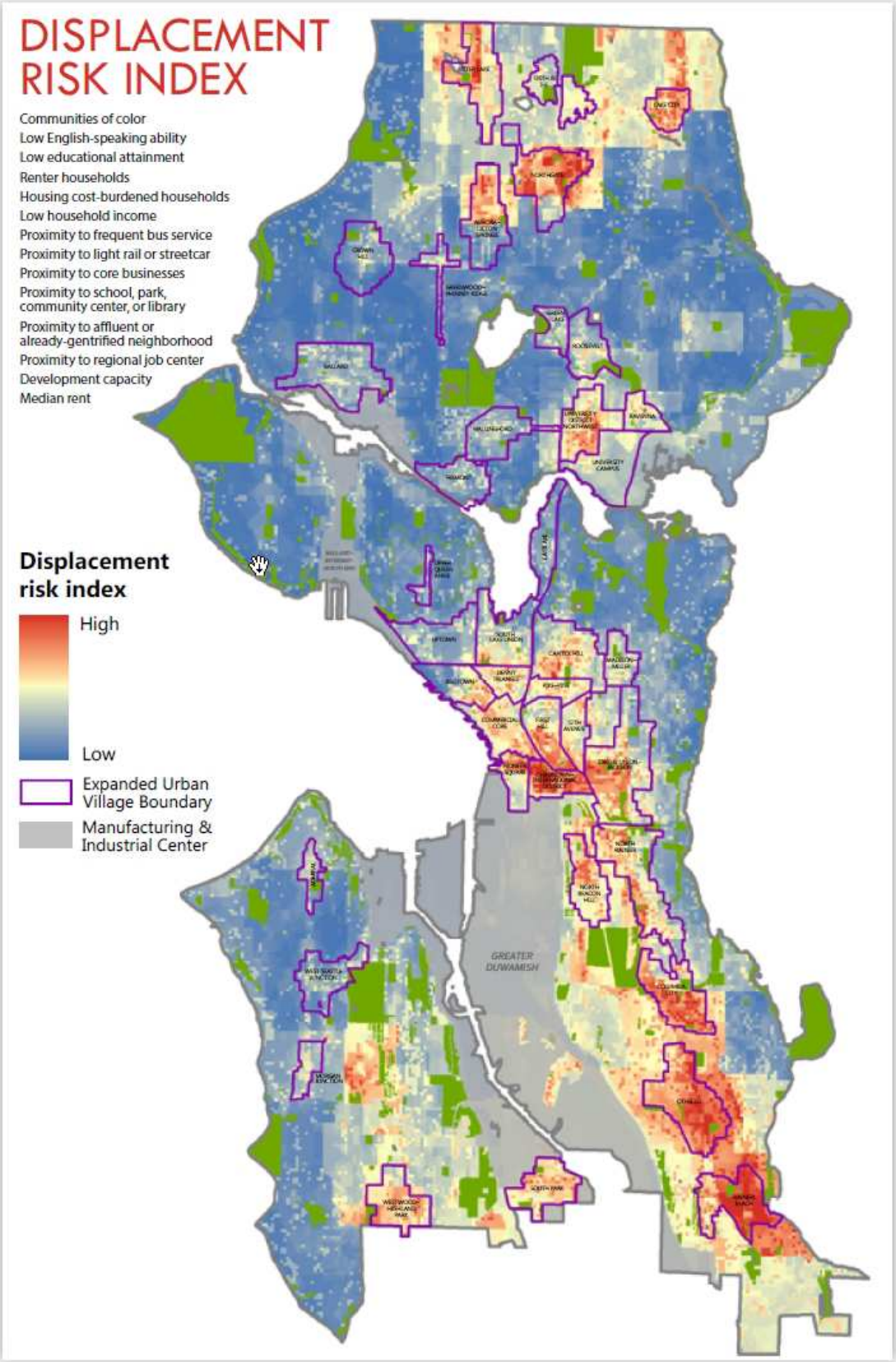
1. The City should prevent growth of whole unit STRs hosted by individuals or companies with more than one unit that is not their primary residence. (Hosts with two whole units at their

primary residence would be OK.) There are many policy mechanisms to achieve this, including restrictions on STRs that are not on a host's primary residence, placing a cap of one or two units for all whole unit hosts, or limiting the number of days that hosts can rent STRs (thus removing the incentive to purchase housing as an investment property for sole use as an STR).

2. The disaggregation of STR leasing to thousands of hosts makes enforcement of any policy difficult. The City should require any online STR platform company to divulge all information necessary for the City to monitor the number of nights STRs are leased and who is leasing them. Cities across the U.S. have met with strong opposition to requests for data from Airbnb, and we anticipate the same will be true in Seattle. We recommend that STR platforms, like Airbnb, VRBO and HomeAway face high financial penalties for violating requirements for information. These are all very large companies that may not be affected by small fees or fines if they desire to thwart or avoid regulation.

3. The City should establish a simple regulatory license for Airbnb hosts that allows the City to engage with and monitor STR activity independent of the STR platform companies. In particular, this will help the City monitor growth of STRs in areas with high risk of displacement.

APPENDIX A: City of Seattle Displacement Risk Index Map[28]



APPENDIX B: Concentration and Growth of Airbnb Whole Units Listings In Seattle

Seattle Neighborhood	Whole Units 9/2015	Whole Units 4/2016	Change	% Change
Citywide	2,152	2,817	665	31%
Downtown				
Belltown	173	244	71	41%
Central Business District	67	93	26	39%
First Hill	75	111	36	48%
International District	4	9	5	125%
Pike-Market	20	35	15	75%
Pioneer Square	18	17	-1	-6%
Yesler Terrace	8	9	1	13%
Subtotal	365	518	153	42%
Eastlake/South Lake Union				
Eastlake	38	33	-5	-13%
South Lake Union	18	23	5	28%
Westlake	4	14	10	250%
Subtotal	60	70	10	17%
Capitol Hill				
Broadway	226	306	80	35%
Madison Park	11	11	0	0%
Montlake	11	11	0	0%
Portage Bay	12	12	0	0%
Stevens	63	69	6	10%
Subtotal	323	409	86	27%
Central Area				
Atlantic	31	37	6	19%
Harrison/Denny-Blaine	9	10	1	11%
Leschi	22	39	17	77%
Madrona	16	28	12	75%
Mann	38	45	7	18%
Minor	62	81	19	31%
Subtotal	178	240	62	35%
Queen Anne				

East Queen Anne	61	81	20	33%
Lower Queen Anne	60	74	14	23%
North Queen Anne	45	50	5	11%
West Queen Anne	36	48	12	33%
Subtotal	202	253	51	25%
University				
University District	89	79	-10	-11%
Ballard				
Adams	45	53	8	18%
Loyal Heights	20	35	15	75%
Sunset Hill	10	12	2	20%
West Woodland	34	50	16	47%
Whittier Heights	17	16	-1	-6%
Subtotal	126	166	40	32%
North Central				
Fremont	99	119	20	20%
Green Lake	32	41	9	28%
Phinney Ridge	44	63	19	43%
Wallingford	99	118	19	19%
Subtotal	274	341	67	24%
Northeast				
Bryant	15	21	6	40%
Laurelhurst	4	7	3	75%
Ravenna	35	34	-1	-3%
Roosevelt	17	24	7	41%
View Ridge	2	6	4	200%
Wedgwood	7	11	4	57%
Windermere	4	7	3	75%
Subtotal	84	110	26	31%
Beacon Hill				
Holly Park	4	3	-1	-25%
Mid-Beacon Hill	13	16	3	23%
North Beacon Hill	29	43	14	48%
South Beacon Hill	1	2	1	100%
Subtotal	47	64	17	36%
Delridge				
High Point	7	5	-2	-29%
Highland Park	6	6	0	0%
North Delridge	14	19	5	36%
Riverview	4	9	5	125%
Roxhill	1	5	4	400%

South Delridge	7	7	0	0%
Subtotal	39	51	12	31%
Lake City				
Cedar Park	5	6	1	20%
Matthews Beach	10	11	1	10%
Meadowbrook	2	3	1	50%
Olympic Hills	3	3	0	0%
Victory Heights	6	9	3	50%
Subtotal	26	32	6	23%
Magnolia				
Briarcliff	7	13	6	86%
Interbay	8	11	3	38%
Lawton Park	12	24	12	100%
Southeast Magnolia	14	16	2	14%
Subtotal	41	64	23	56%
Northgate				
Haller Lake	6	10	4	67%
Maple Leaf	17	20	3	18%
North College Park	6	8	2	33%
Pinehurst	3	4	1	33%
Subtotal	32	42	10	31%
Northwest				
Bitter Lake	4	10	6	150%
Broadview	7	9	2	29%
Crown Hill	7	12	5	71%
Greenwood	35	53	18	51%
North Beach/Blue Ridge	7	12	5	71%
Subtotal	60	96	36	60%
West Seattle				
Alki	22	39	17	77%
Arbor Heights	3	4	1	33%
Fairmount Park	22	28	6	27%
Fauntleroy	5	8	3	60%
Gatewood	8	14	6	75%
Genesee	14	19	5	36%
North Admiral	30	35	5	17%
Seaview	8	11	3	38%
Subtotal	112	158	46	41%

Rainier Valley				
Brighton	5	9	4	80%
Columbia City	31	41	10	32%
Dunlap	6	3	-3	-50%
Mount Baker	22	27	5	23%
Rainier Beach	2	5	3	150%
Rainier View		1	1	n/a
Seward Park	21	29	8	38%
Subtotal	87	115	28	32%
SODO/Duwamish				
Georgetown	2	2	0	0%
Industrial District	4	5	1	25%
South Park	1	2	1	100%
Subtotal	7	9	2	29%

Source: Author's analysis of data pulled from Airbnb's website by programmer Tom Slee

ENDNOTES

[1] Washington State Dept of Revenue, "Persona Home Rentals" (June 2009). Accessed 6/13/16 at: http://www.dor.wa.gov/docs/pubs/industspecific/homerentals.pdf.

[2] Number of listings taken from search results on all Seattle listings on identified various websites. Note that Vacationrentals.com and VRBO are both owned by HomeAway, so cross listings are highly likely. Many Airbnb hosts also list on multiple platforms so the figures cited won't add up to a total of units in Seattle.

[3] See endnote 5.

[4] Airbnb, "The Impacts of Home Sharing in Seattle," (Jan 2016). Accessed 6/13/16 at: https://www.scribd.com/doc/296189904/Airbnb-s-Seattle-Economic-Impact-Report. Note: Airbnb does not appear to provide the report on their website.

[5] All data on Airbnb hosts and listing in this brief were pulled from Airbnb's website by programmer Tom Slee. once a month for seven months, from September 2015 to April 2016. Mr. Slee is one of many to develop a program that automatically mines Airbnb's website to create useful data sets. (Others include Murray Cox with Inside Airbnb and sites like Airdna.com). Unlike others, Mr. Slee has made his source code available to the public on his website, as well as an extensive methodology. According to Mr. Slee, data pulled from Airbnb is 10 to 20% of the real data, which is enough to make policy decisions. His methodology can be accessed at: http://tomslee.net/airbnb-data-collection-methodology-and-accuracy.

[6] Author's analysis of data pulled from Airbnb's website combined with the Census' American Community Survey population estimates.

[7] Laura Wenus, "Supervisors Target Homesharing Platforms with Hefty Fines," *Mission Local* (Apr 26, 2016). Accessed 6/13/2016 at: http://missionlocal.org/2016/04/supervisors-target-homesharing-platforms-with-hefty-fines/.

[8] See 1) Bianca Barragan, "Rent-Controlled Tenants Were Evicted, Then Found Their Apartments on Airbnb," *Curbed Los Angeles* (Dec 17, 2015). Accessed 6/13/2016 at: http://la.curbed.com/2015/12/17/10620080/ellis-act-evictions-airbnb-lawsuit. 2) Steven Hill, "The Unsavory Side of Airbnb," *The American Prospect* (Oct 19, 2015). Accessed 6/13/2016 at: http://prospect.org/article/evictions-and-conversions-dark-side-airbnb. 3) Steven Hill, "Airbnb Is Contributing to the Displacement of Long-Term Tenants in San Francisco," *Alternet* (Dec 2, 2015). Accessed 6/13/2016 at: http://www.alternet.org/books/airbnb-contributing-displacement-long-term-tenants-san-francisco.

[9] At the moment, commercial property managers of online STRs appear to be primarily smaller businesses and investors. According to one real estate investment company, large-scale housing management firms and real estate investors have not entered the market because it is still new and unstable. However, STRs have attracted enough smaller investors and operators to spur start-up advisors like LearnAirbnb and Mashadvisor who specialize in STRs. Unattributed, "The Rise of the Professional Airbnb Investor," *RealtyShares* (Feb 9, 2016). Accessed 6/10/2016 at: https://www.realtyshares.com/blog/the-rise-of-the-professional-airbnb-investor/.

[10] Author's analysis of data pulled from Airbnb's website by computer programmer Tom Slee. The author's data lines up very closely to Airbnb's own published data. The company notes that "The typical Airbnb host rents out the home in which he or she lives. Just over two-thirds, 67 percent rent their entire home or apartment (for example, while they are away), with 30 percent renting a private room, and 3 percent renting a shared room." From Airbnb, "The Impacts of Home Sharing in Seattle," (Jan 2016).

[11] Airbnb, "The Impacts of Home Sharing in Seattle," (Jan 2016).

[12] Author's analysis of data pulled from Airbnb's website by computer programmer Tom Slee.

[13] See Blanca Torres, "More visitors, spending more money, lift hotel and convention biz," *Seattle Times* (Apr 25, 2016). Accessed 6/13/16 at http://www.seattletimes.com/business/economy/more-visitors-spending-more-money-lift-hotel-and-convention-biz/. Also, a survey by AAA of its members shows Seattle is the second most popular destination for auto travelers projected for summer 2016. "Seattle Ranks Among Top Summer Travel Destinations in the U.S.," *AAAWA.com* (June 8, 2016). Accessed 6/13/16 at: https://www.aaawa.com/about/newsroom/release.asp?ref=401.

[14] "Seattle Achieves Record Tourism Growth for the Third Consecutive Year, Job Growth Out-Paces the U.S.," *VisitSeattle.com* (Apr 25, 2016). Accessed 6/13/16 at: http://www.visitseattle.org/press/press-releases/seattle-tourism-statistics-announced/.

[15] Nick Wallace , "Where Do Airbnb Hosts Make the Most Money?" *Smartasset.com* (Jan 12, 2016). Accessed 3/16/16 at: https://smartasset.com/mortgage/where-do-airbnb-hosts-make-the-most-money.

[16] Airbnb, "The Impacts of Home Sharing in Seattle," (Jan 2016).

[17] John W. O'Neill and Yuxia Ouyang, "From Air Mattresses to Unregulated Business: An Analysis of the Other Side of Airbnb," *Penn State School of Hospitality Management* (Jan 2016). Accessed 6/9/16 at: http://www.ahla.com/uploadedFiles/_Common/pdf/PennState_AirBnbReport_.pdf.

[18] Unattributed, *The State of Airbnb Hosting*, *LearnAirbnb.com*, (Q1 2016). Accessed 6/10/16 at: https://s3-us-west-2.amazonaws.com/learnairbnb/SOH-Report/LearnAirbnb.com-Airbnb-Home-Sharing-Report-v1.4.pdf.

[19] Ibid

[20] We explored each of the hosts with five or more units by reading reviews by their guests (which occasionally mentions the property management company that employs the host), using basic search or reverse image searches on Google.com, and reading their non-Airbnb websites. In the cases where hosts did not self-identify their real company name, we make our best guess on who is behind the host or alias.

[21] Sea To Sky Rentals, "About Us," *seatoskyrentals.com*. Accessed 6/13/16 at: http://www.seatoskyrentals.com/site/6736/about.aspx.

[22] A more robust growth project would be to extrapolate 47% growth over seven months to an annual growth rate of 81%. However, without having observed a year of growth, we use the growth since September as our annual estimate for growth over the next three years.

[23] Julie Verhage, "One Wall Street Firm Expects Airbnb to book a Billion Nights a Year Within a Decade," *Bloomberg.com* (Apr 11, 2016). Accessed 6/12/16 at: http://www.bloomberg.com/news/articles/2016-04-11/one-wall-street-firm-expects-airbnb-to-book-a-billion-nights-a-year-within-a-decade.

[24] Tess Townsend, eMarkerter: Airbnb Has More Room to Grow than Uber, *Inc.* (May 17, 2016). Accessed on 6/12/2016 at http://www.inc.com/tess-townsend/lodging-growing-more-than-ride-sharing.html.

[25] The author's source of data, Tom Slee, has low confidence in the accuracy of neighborhood names. He says this about them: This value may not match the neighborhood in the search, as search results commonly include listings from other neighborhoods. It is difficult to extract reliably from the Airbnb pages, and should not be taken too seriously." However, extensive searches on Airbnb's site have indicated that if Airbnb provides a listing from other neighborhoods, they are in close proximity. For the purposes of understanding where in Seattle Airbnb units are concentrated and whether areas at risk of displacement have seen whole unit growth, we believe that the neighborhood names are accurate enough.

[26] Data pulled from Airbnb's website uses the City Clerk's Geographic Indexing Atlas for its source of neighborhood names. However, the City Clerk states that the atlas is primarily for indexing and archiving City records and "is not intended to represent City planning districts, neighborhood council districts, nor boundaries and neighborhood names defined by other associations." Some of these neighborhood names are no longer in regular use or do not align with what current residents may think of as their neighborhood. However, most names are still in use and aggregate to more generally acceptable areas such as Queen Anne, Magnolia, Beacon Hill, West Seattle, Ballard, Lake City, etc.

[27] Margaret Wykowsski and Howard Greenwich, *Transit Oriented Development that's Healthy, Green & Just: Ensuring Transit Investment in Seattle's Rainier Valley Builds Communities Where All Families Thrive*, Puget Sound Sage (May 2012). Accessed 6/13/16 at: http://pugetsoundsage.org//downloads/TOD%20that%20is%20Healthy,%20Green%20and%20Just.pdf.

[28] City of Seattle, "Equitable Development Implementation Plan" (April 2016). Accessed 6/13/16 at: http://2035.seattle.gov/wp-content/uploads/2016/05/EDI-Imp-Plan-042916-final.pdf.

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MEMORANDUM

To: Tony Ostoja, Teton County Building Official
From: Keith Gingery, Teton County Deputy Civil Attorney
Cc: Erin Weisman, Deputy CA
Date: September 30, 16
Re: Use and Occupancy Classification for Short Term Rental Buildings

Question: Whether a building constructed in Teton County that will be used for short term rentals should be classified under the International Building Code or under the International Residential Code; and if it is determined that the building should be classified under the International Building Code, which grouping and classification should apply?

Rule: Teton County has adopted both the 2012 International Building Code (**IBC**) and the 2012 International Residential Code (**IRC**). For the most part almost all residential buildings are governed under the IRC, which is not as stringent as the IBC as to fire protection. However, if a residential building meets certain criteria involving greater loss of life or higher propensity toward a fire, then the IBC is controlling. The IBC being the more stringent between the IBC and the IRC, the IBC controls. Where there is conflict between the codes, the IBC takes precedence. (IBC, Chapter 1, Section 102.4-1 and Section 102.4-2, Page 1-4).

The IBC classifies structures into different Groups, which have different rules applied to each group. These groupings include: Assembly, Business, Educational, Factory/Industrial, High Hazard, Institutional, Mercantile, Residential, Storage, and Utility/Misc. (IBC, Chapter 3, Use and Occupancy Classification). For our purposes we will be examining the Residential Grouping and its applicability to Short Term Rentals.

As stated in the Commentary to the IBC, the essence of regulatory safeguards from fire was to provide a reasonable level of protection to property. The idea was that if property was adequately protected from fire, then the building occupants would also be protected. From this outlook on fire safety, the concept of equivalent risk has evolved in the building codes. The concept of equivalent risk maintains that, in part, an acceptable level of risk against the damages

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of fire respective to a particular occupancy type (or group) can be achieved through a set of rules that group buildings pursuant to their occupancy levels. For example a Type I construction is the classification that generally requires the highest fire-resistance rating, whereas Type V construction generally requires the least fire-resistance. (IBC, Chapter 3, General Comments, Page 3-1).

The purpose of Chapter 3 Use and Occupancy Classification of the IBC is to classify a building, structure, or part thereof into a group based on the specific purpose for which it was designed or occupied. (IBC, Chapter 3, Purpose Comments, Page 3-1).

The Residential Grouping (Group R) is defined as the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the International Residential Code (IRC). (IBC, Chapter 3, Section 310, Page 3-32). Group R is then further broken down into R-1, R-2, R-3, and R-4 which classifications are differentiated in the code based on (1) whether the occupants are transient or non-transient in nature; (2) the type and number of dwelling units or sleeping units contained in a single building and (3) the number of occupants in the facility. (IBC, Chapter 3, Section 310.1 Commentary, Page 3-32).

Of the four different classifications within Group R, R-1 is applicable to our question. R-1 is defined as Residential occupancies containing sleeping units where the occupants are primarily transient in nature, including: Boarding houses (transient) with more than 10 occupants, Congregate living facilities (transient) with more than 10 occupants, Hotels (transient), Motels (transient). (IBC, Chapter 3, Section 310.3, Page 3-33).

There is an argument that an R-3 could be applicable. R-3 is defined as residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, or I, including: . . . Boarding Houses (transient) with 10 or fewer occupants . . . (IBC, Chapter 3, Section 310.5, Page 3-35)

The word "transient" is defined by the IBC as occupancy of a dwelling unit or sleeping unit for not more than 30 days. (IBC, Chapter 2 Definitions, Page 2-97).

When buildings are occupied at different times with different uses, the code provisions for each occupancy must be met. (IBC, Chapter 3, Section 302.1). When a building is used for a purpose which is not specifically provided for in the IBC, the building shall be classified into the group that the occupancy most nearly resembles, according to the fire safety and relative hazard involved. (IBC, Chapter 3, Section 302.1)

Discussion: It is important to recognize as the IBC Commentary does in Section 310 that residential occupancies represent some of the highest fire safety risks of any of the occupancies listed in Chapter 3. Structures in the residential occupancy house the widest range of occupancy types, i.e. infants to the aged. Most residential occupants are asleep one third of every 24 hour period. When sleeping, they are not likely to become immediately aware of a developing fire. The fuel load in a residential structure is often quite high. Because of the relatively high fire risk

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and potential for loss of life in buildings classified in Groups R-1 and R-2, the code has stringent provisions for the protection of life. (IBC, Chapter 3, Section 310.1, Commentary, Page 3-32).

Based on the definitions of R-1 and R-3, a short term rental that lasts for less than 30 days, could be classified in either category. R-1 includes sleeping units that are transient, which the short term rental clearly meets. However, short term rentals could also come under R-3, specifically in similarity to a Boarding House with 10 or fewer occupants that are transient.

However, our office recommends that you look strongly at an R-1 because of the commentary that states the key characteristic of an R-1 that differentiates it from other Group R occupancies is that the R-1 is for transient occupancy. There is an expectation that the occupants are not as familiar with the building as those residents in nontransient facilities such as apartment buildings and single family dwellings. If occupants are unfamiliar with their surroundings, they may not recognize potential hazards or be able to use the means of egress effectively. (IBC, Chapter 3, Section 310.3, Commentary, Page 3-33).

It is this concern more than any other that causes the emphasis to be placed on an R-1 categorization. The family getting off of a plane late at night and finding their short term rental in the middle of the night. Not being familiar with the layout of the home or the potential hazards. And only having the energy to throw down their luggage by the door and find their beds. A fire in this situation is the concern. Without proper sprinkler system and without assistance to egress, there is a high potential for loss of life. This is also why this opinion does not discuss "substantial use" or percentages of use for short term rental. Only one short term rental triggers the designation within the IBC rather then the IRC.

Even though the IBC does not directly address short term rental, the commentary does discuss extended stay hotels which have all the characteristics of a typical dwelling unit (cooking, living, sleeping, eating, sanitation), these buildings are still classified as R-1. (IBC, Chapter 3, Seciton 310.3 Commentary, Page 3-34)

Conclusion:

Short Term Rentals of less than 30 days should be classified as either R-1 or R-3 under the IBC. R-1 should be strongly considered over R-3.

It is also important to add that under the IBC Section 104.1, the building official is directed to enforce the provisions of the IBC and has the authority to render interpretations. This legal memorandum is only provided as guidance and the final interpretation is the sole discretion of the Building Official, with the relief of an appeal to the Board of Appeals under Section 113 of the IBC.

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MEMORANDUM - PUBLIC RECORD

TO: Mayor, City Administrator, Leavenworth City Council, and Leavenworth Planning Commission

FROM: Weed, Graafstra & Associates, Inc. P.S., City Attorneys for Leavenworth

DATE: 07/11/16

RE: Important Information Concerning Short Term (less than thirty day) Rentals

INTRODUCTION

These informational materials are prepared in response to the request of Leavenworth City Administrator, Joel Walinski. The goal of these materials is to generally survey legal issues related to short term rentals in residential zones in the City.

These informational materials address the following questions:

1. May a City completely ban, or preserve a ban of short term rentals in residential zones?
2. If a complete ban is lawful, how should that ban be written and implemented?
3. May a City impose a limited ban of short term rentals in residential zones?
4. If a limited ban is lawful, what options are available for that ban and how should the ban be written and implemented?
5. Rather than a ban or limited ban, may a City regulate short term rentals in residential zones?
6. What types of lawful regulation of short term rentals may be advisable? and
7. Depending on the option chosen to address short term rentals, what enforcement mechanisms are available to the City?

BACKGROUND

A. Current City Code

In 1989 by Ordinance 852 Leavenworth first defined "Transient Accommodation." That definition has been amended from time to time and is currently codified as LMC 18.08.405 and

reads as follows:

> **18.08.405 Transient accommodation.** "Transient accommodation" means a dwelling unit or motel room regularly rented to transient guests with a less than monthly rental period for each individual or group of guests.

The definition addresses rentals ('rented') "less than[a] monthly rental period to transient guests in both a motel room and in a dwelling unit." The term "transient guests" is not defined by code. "Dwelling unit" is defined in LMC 18.08.150 as follows:

> **18.08.150 Dwelling unit.** "Dwelling unit" means one room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rent, or lease, to one individual family on a monthly or longer basis, and which is physically separated from any other rooms or dwelling units which may be in the same structure and which contains independent cooking and sleeping facilities.

Leavenworth is divided into several zoning districts, including the Residential Low Density 6000 District (RL6), the Residential Low Density 12,000 District (RL 12) and the Multifamily Residential District. These zones and their permitted uses were established by Ordinance 1089 enacted in 1998.

The zoning code, generally Chapter 18.20, 18.21, 18.22 and 18.24 for residential zones, builds upon itself, such that uses permitted and prohibited in one zone, the RL6 zone, become the starting point for permitted and prohibited uses in the next zones, either the RL 12 or the Multifamily Residential Zone. Through this built up approach, Leavenworth currently does not permit, and therefore bans, "transient accommodations" in its residential zones.

In the RL 6 zone, a so-called "Group A home occupation" is allowed. LMC 18.20.020 G. But LMC 18.20.020 G 15 c. prohibits "transient accommodations" as a "Group A Home occupation" in the zone rendering "transient accommodations" not permitted and therefore currently banned in that zone in the City. In the RL 12 zone "Group A home occupations" are allowed to the same extent as in the RL 6 zone, and since they are not permitted in the RL 6 zone they are not permitted in the RL 12 zone. LMC 18.21.020 G. Group A home occupations are not addressed in the Multifamily Residential District. Instead, LMC 18.22.020 permits uses that "are permitted outright in the low density residential districts." LMC 18.22.020 A. Since "transient accommodation" is not permitted in the RL 6 or RL 12 zones, by this carryover in LMC 18.22.020 a transient accommodation is not permitted but banned in the Multifamily Zone.

In summary based upon Ordinance 1089 from 1998 short term overnight vacation rentals (transient accommodations) currently are not permitted but banned in the City in its common

residential zones, the RL 6, RL 12 and Multifamily Residential zones.

B. Changes in Rental Options since 1998

In 1996 shortly before the City's current code was enacted, VRBO (Vacation Rental by Owner) was founded. In 2004 HomeAway, Inc. was founded. HomeAway acquired VRBO in 2006. HomeAway now owns a multitude of short term rental sites and purports to have more than 1,000,000 vacation rental listings in 190 countries. AirBNB grew into existence between 2007 and 2009. This company also has hundreds of thousands of listings and has done millions of guest bookings.

In addition to these multinational listing companies, there have been vacation rental companies established statewide and in the Leavenworth market. The city has received many reports of short term rentals in its residential zones in violation of its current ban.

These for profit short term rental sites should not be confused with house sharing arrangements, where an owner allows third parties to reside in their residence either for support or assistance or with the expectation of reciprocity. Homeshare, a housing exchange goes back to the 1970s, but has been experiencing growth since 1999, with the establishment of Homeshare International. What manner and amount of home sharing is occurring in Leavenworth is unknown.

Human imagination will undoubtedly find other lodging arrangements to satisfy needs or to generate profits. It is therefore likely, that however Leavenworth addresses short term rentals, or rental like arrangements in its residential zones, the City will be in a chronic catch up mode.

C. Organization of the Balance of this Paper

The balance of this paper will address the questions posed in the introduction. To keep the length of this paper manageable and readable, each question and answer will be kept to one page or less. As a result, legal analysis will be provided in a summary fashion with a minimum of citation to either applicable statutes or case law. A single copy of this paper with an appendix containing source materials, and where applicable, legal authorities, will be supplied to City Administrator Walinski, and will be available for inspection and reference.

ADDRESSING THE QUESTIONS

Question 1: May a City completely ban, or preserve a ban of short term rentals in residential zones? SHORT ANSWER: *Yes, in certain circumstances where justified by the record made to establish or preserve a ban, a complete ban may be imposed.*

Local zoning is the exercise of police power (ie., "local police, sanitary and other regulations") under Article XI section 11 of the Washington Constitution. A local zoning ordinance is presumed valid, until it is shown to "be clearly unreasonable, arbitrary or capricious." Therefore, if an ordinance promotes the "public safety, health or welfare and bears a reasonable and substantial relationship to accomplishing the purpose pursued," a zoning ordinance is valid and lawful. The City's current ban, and any preservation of the ban, will be measured against this standard. Thus, if a ban is to be preserved by an Ordinance making only technical changes, the current record and the record for Ordinance 1089 from 1998 will need to demonstrate that short term rentals are (1) inconsistent with the Comprehensive Plan and related planning documents of the City, (2) have documented negative impacts on the residential zones and their residents, and/or (3) impede or negatively impact other important goals of the City, for example perhaps achieving population and affordable housing goals. On a proper record a ban would be lawful because it is reasonable and it accomplishes the purpose pursued.

Some may assert that municipal short term housing bans already have been found unlawful in the State of Washington. This is incorrect. No reported Washington decision has found a municipal ban on short term rentals unlawful. The only Washington case law relates to private bans in subdivision covenants. In a number of Washington cases, such private bans on short term rentals have been found unenforceable for a variety of reasons. In these private ban cases, there is language in the opinions that questions if true differences exist between a long term rental and a short term rental.

We are aware also of one Superior Court decision, Aquavella v. City of Seattle, where the City of Seattle's municipal ban on short term rentals was found by the Superior Court not in fact to impose a ban on short term rentals. This case is not a precedent and does not provide guidance on the lawfulness of municipal bans on short term rentals.

There are cases on municipal short term rental bans outside Washington. This case law is a mixed bag. In some cases, the purported ban was found, on its specific terms, not to ban the rental arrangement at issue. A case or two may hold that bans based on public perception of impacts from short term housing are not lawful bans. On the other hand, cases also demonstrate examples where a ban, based upon a proper record of actual impacts and public goals thwarted (preserving affordable housing stock) are lawful.

For these reasons, we conclude that municipal bans of short term rentals, on the proper record, are lawful in Washington.

Question 2: If a complete ban is lawful, how should that ban be written and implemented?
SHORT ANSWER: *Zoning bans have been found unenforceable in instances where "single family residences" are permitted, and the ban inadequately relates to ill-defined short term*

occupancies. It is important that any definition of "single family" be written so that a short term rental is not permitted by the permission for a "single family residence."

For example, in the Seattle Case, the Court evaluated whether rental of condominium units for three or more days at a time violated City Codes as an impermissible lodging use. The Court found that the City's definition of lodging use "a retail sales and service use in which the primary activity is the provision of rooms to transients." SMC 23.84.024 did not apply in this case. The City did not explicitly define transients and when the Court looked elsewhere, the dictionary and the Condominium CC&R's (which prohibited rentals less than three days), the Court found that the disputed activity did not fall within the City's lodging definition and was a residential use permitted in the multi-family zone.

For these reasons we conclude that any complete ban must be carefully written to not be part of a zoning code where single family residential is outright permitted, but an ill-defined prohibition is established for short term rentals. Courts have found zoning permitting "single family residences" to permit short term rentals unless there is extreme care taken in defining what is a single family residence, and in such definition it is clear that short term rental is not included. Depending upon the policy direction taken on the question of short term rentals we will work with staff, the planning commission and the city council to insure as best as possible that ambiguity does not develop in what is permitted and prohibited in Leavenworth.

Question 3: May a City impose a limited ban of short term rentals in residential zones? SHORT ANSWER: *Yes, reason based distinctions are permissible in imposing a zoning code provision.*

Zoning to be lawful must be "generally applicable" and satisfy the criteria discussed in answer to Question 1 to be lawful. "Spot zoning" is its evil opposite and not lawful because it either favors a particular property or discriminates against a particular property. Therefore, differential regulation is lawful and permissible, even for adjacent lands, if it is justified by the public interest, bears a rational relationship to achieving that public interest, and is not designed to achieve a private interest.

Within this large context, it is permissible to address short term rentals differently in different zoning districts. It is permissible to make distinctions based on distance from or proximity to commercial areas. It is also possible to impose partial bans based on amount of use during a period of time. In fact this is the approach Seattle has taken to respond to the Seattle Case. A copy of Seattle's new proposed ordinance (the "Seattle Ordinance"), scheduled for further action on July 20, 2016 is in the Appendix to this paper.

Question 4: If a limited ban is lawful, what options are available for that ban and how

should the ban be written and implemented? SHORT ANSWER: *So long as reason based, and not based on private interest, both ban/no ban based on geographic area, or ban some of the time but not all of the time are lawful.*

The proposed Seattle Ordinance distinguishes between owner occupied and non-owner occupied residences. "Owner occupied" residences are not restricted by time for short term rentals. "Non-owner occupied" residences are subject to a partial time ban, and short term rentals are limited to 90 days in a twelve (12) month period.

Geography based regulations generally come in two forms. The first form is a ban or regulation based on the zone within which the potential rental is located. For example, cities and counties have had regulations upheld when short term or transient rentals are banned in all residential areas or a subset of residential areas (i.e. banned in low density residential only but allowed in moderate density or multi-family zones). The second form is when regulations allow short term or transient rentals that are within a certain distance to commercial or business zones regardless of the particular parcel's zoning designation. This second form is far less common.

Question 5: Rather than a ban or limited ban, may a City regulate short term rentals in residential zones? SHORT ANSWER: *Yes.*
We have found multiple examples of regulation of short terms rentals. The types of regulations employed range across a broad spectrum, and include: registration/business licensing requirements, taxation (sales and lodging tax), occupancy time or number limits, parking limits, initial and follow up inspections, setbacks, and limits on concentration in a neighborhood or street segment.

Generally, there has been little litigation on these types of regulations, though there has been a challenge by HomeAway whether lodging or related taxes apply to them, and/or whether they must collect taxes for their bookings. Hotels.com has litigated with some success questions whether local registration, business licensing and taxation apply to their internet services.

Question 6: What types of lawful regulation of short term rentals may be advisable? SHORT ANSWER: *If the policy decision is made not to preserve the current ban, or not to impose a rigorous limited ban, regulations ranging from registration and taxation, owner/nonowner regulations, limits on number of occupants, requirements for parking and inspection may be advisable.*

Based upon our review to summarize the applicable law in this Memorandum, and to review articles containing general information and trends on short term housing, we have arrived at the firm conviction that regulation in the following areas may be advisable:

a. Registration and business licensing. This will require revisions to the definitions in LMC 5.04.020 to make clear that rental of transient accommodations is business and the activity of engaging in business. In light of litigation involving HomeAway and Hotels.com registration of such national services, if included, may pose the risk of litigation.
b. Lodging Tax. To resolve any ambiguity, if lodging taxation is desired, the addition of a definition to LMC 3.48.020 defining the "furnishing of lodging" would be indicated. Since the City's sales or use tax taxes sales that are taxable under State law, we do not see any need to revise LMC Chapter 3.24 related to sales tax.
c. Owner/non-owner regulations. The Seattle Ordinance provides an example where broad overnight rental is allowed in an owner occupied unit, but limited rentals are allowed for non-owner occupied units. This type of approach would indicate a new chapter in Title 18 LMC.
d. Occupancy limits. Special occupancy limits and access requirements consistent with appropriate life safety concerns are broadly recommended. Such regulations if desired probably should appear in Title 18 LMC
e. Inspection requirements. To insure compliance with other regulations that might be imposed an initial and a periodic inspection could be a requirement. These requirements probably would be best located in a new proposed chapter in Title 18 LMC
f. Parking Requirements. City code also contains parking requirements for certain occupancies (for example for an accessory dwelling unit; see LMC 18.20.020 B 3). If regulation is pursued, a similar approach, perhaps variable by zone, would appear to be warranted.

Question 7: Depending on the option chosen to address short term rentals, what enforcement mechanisms are available to the City? SHORT ANSWER: *The City has choices among its enforcement mechanism. We recommend an active enforcement approach utilizing the notice and order provisions of Chapter 21.13 LMC*

Leavenworth addresses municipal code enforcement in three ways. Some misconduct is designated criminal and made a misdemeanor, other misconduct is made a civil infraction, and yet other misconduct becomes the basis of a notice leading to administrative enforcement. The City has no felony power.

A misdemeanor must occur in the presence of a police officer to be cited, and processing of the misdemeanor goes to the Chelan County District Court. Depending on outcome, the City may be saddled with a jail bill, that may or may not be recoverable, and if a fine is imposed, the fine if paid does not go to the city but is paid to the District Court. Misdemeanor prosecution has the advantage of a genuine "sting" up to potentially jail time, but the serious disadvantages of

"police observation," associated costs for police and potential jail time, potential liability associated with a wrongful arrest, and the City loss of control over the process since the matter is handled by the prosecutor and the courts. Note there is also lack of clarity on who to cite, the owner or tenant.

A civil infraction need not occur in the presence of a police officer. However, a civil infraction is referred to the Chelan County District Court too, and if the infraction is sustained, any penalty for the infraction is paid to the District Court. A civil infraction does not have the "sting" of a misdemeanor, but does preserve the civil as opposed to criminal nature of the enforcement. Costs of a civil infraction are thus greatly reduced. A civil infraction also has the disadvantage of loss of control because the matter is handled by the courts.

The City therefore generally has used its enforcement and penalty provisions of Chapter 21.13 to deal with land use issues and enforcement matters. This code has been updated to address any due process concerns. The code is typical for such enforcement codes, and to some degree time consuming. However, it does lead to the City potentially recovering some of its costs of enforcement because penalties imposed go to the City if paid.

Because of the advantages and disadvantages set out, it has been and remains our opinion that the enforcement process of Chapter 21.13 generally should apply to zoning code violations.

Should the policy decision be made to require registration and to impose taxation, then enforcement mechanisms consistent with business licensing (Chapter 5.04 LMC) and lodging taxation (Chapter 3.48 LMC) should be imposed too.

In preparing this paper, we have come across repeated statements that local government is "catching up" as it relates to short term rentals. This observation has typically been accompanied by an admonishment that if a city wishes to deal with short term rentals, then its enforcement process must be active and not merely complaint driven and passive. An active program to monitor and a program of quick response to complaints is necessary to bring about enforcement and even then enforcement likely will be costly and difficult. We concur in these observations.

APPENDIX – REFERENCE LIST

BACKGROUND REFERENCES

1) LMC Ch 12.20 Residential Low Density 6,000 District (RL6)
2) LMC Ch 18.21 Residential Low Density 12,000 District (RL12)
3) LMC Ch 18.22 Multifamily Residential District
4) LMC Ch 18.24 Supplementary Residential Districts Regulations
5) HomeAway Wikipedia article
6) Airbnb Wikipedia article
7) Homeshare Wikipedia article

QUESTION 1 REFERENCES

1) *Welden v. San Juan County*, 135 Wn.2d 678, 958 P.2d 273 (Wash. 1998)
2) *Edmonds Shopping Center Associates v. City of Edmonds*, 117 Wn.App 344, 71 P.3d 233 (Wash.App Div 1 2003)
3) *Cannabis Action Coalition v. City of Kent*, 183 Wn.2d 219, 351 P.3d 151 (Wash. 2015)
4) Letter from Attorney Wright A. Noel dated June 14, 2016
5) *Ross v. Bennett*, 148 Wn.App. 40, 203 P.3d 383 (Wash.App. Div 1 2008)
6) *Wilkinson v. Chiwawa Communities Association,* 180 Wn.2d 241, 327 P.3d 614 (Wash. 2014).
7) *Acquavella v. City of Seattle*, Case No 08-2-39188-4 SEA
8) *Cope v. City of Cannon Beach*, 317 Or. 339, 855 P.2d 1083 (Or. 1993)
9) *Ewing v. City of Carmel*, 234 Cal.App.3d 1579, 286 Cal. Rptr 382 (Ca.App 1991)
10) *Spilka v. Town of Inlet*, 778 N.Y.S 2d 222, 8 A.D.3d 812 (NY 2004)
11) *City of Venice v. Gywnn*, 76 So.3d 401, 37 Fla. L. Weekly D 47 (Fla.App. 2 Dist. 2011)
12) *Vilas County v. Accola*, 364 Wis.2d 409, 866 N.W. 2d 406 (Wis.App 2015)

QUESTION 2 REFERENCES

1) See *Acquavella v. City of Seattle*, Case No 08-2-39188-4 SEA under QUESTION 1 References
2) MRSC article: Airbnb: Regulation of Internet-Based Businesses August 25, 2014
3) MRSC article: local Government Catching Up with Airbnb and Other Short-Term Transient rental Businesses

QUESTION 3 REFERENCES

1) *Citizens for Mount Vernon v. City of Mount Vernon*, 133 Wn.2d 861, 947 P.2d 1208 (Wash. 1997)
2) City of Seattle Draft Ordinance

QUESTION 4 REFERENCES

1) See proposed Draft Seattle Ordinance under Question 3 reference materials
2) See *Cope v. City of Cannon Beach*, 317 Or. 339, 855 P.2d 1083 (Or. 1993) under Question 1 reference materials

3) See *Ewing v. City of Carmel*, 234 Cal.App.3d 1579, 286 Cal. Rptr 382 (Ca.App 1991) under Question 1 reference materials
4) See *Spilka v. Town of Inlet*, 778 N.Y.S 2d 222, 8 A.D.3d 812 (NY 2004) under Question 1 reference materials
5) See *City of Venice v. Gywnn*, 76 So.3d 401, 37 Fla. L. Weekly D 47 (Fla.App. 2 Dist. 2011) under Question 1 reference materials
6) See *Vilas County v. Accola*, 364 Wis.2d 409, 866 N.W. 2d 406 (Wis.App 2015) under Question 1 reference materials

QUESTION 5 REFERENCES

1) Airbnb Housing Laws in Anaheim, CA
2) Airbnb Housing Laws in Los Angeles, CA
3) Airbnb Housing Laws in San Francisco, CA
4) Airbnb Housing Laws in Tacoma, WA
5) Airbnb Housing Laws in Seattle, WA
6) Airbnb Housing Laws in Bellevue, WA
7) *City of Portland v. homaway.com*, Case no. 3:15-cv-01984-MO June 7, 2016
8) *Louisville/Jefferson County Metro Government v. Hotels.com*, 590 F.3d 381 (6th Cir. 2009)

QUESTION 6 REFERENCES

1) MRSC Topic page: Lodging Tax (Hotel-Motel tax)
2) LMC Ch 5.04 Business License Tax – Generally
3) LMC Ch 3.24 Sales or Use Tax
4) LMC Ch 3.48 Lodging Tax
5) WAC 246-360-010 Definitions
6) WAC 246-360-020 Licensure
7) WAC 458-20-166 Hotels, motels, boarding houses, rooming houses, resorts, hostels, trailer camps, and similar lodging businesses
8) RCW 67.28.180 Lodging tax authorized – Conditions
9) RCW 67.28.1816 Lodging tax – Tourism promotion
10) Santa Monica Home-Sharing Ordinance information and sample registration

QUESTION 7 REFERENCES

1) LMC Ch 21.13 Enforcement And Penalties

Local Government Catching Up with Airbnb and Other Short-Term Transient Rental Businesses

February 12, 2016 by Steve Butler
Category: Licensing and Regulation

Airbnb and other short-term transient rental websites, such as HomeAway and FlipKey, seem to be in the news on a daily basis. Depending upon your perspective, these commercial enterprises can be many things: shining examples of the "sharing economy," unwelcome intruders into established residential neighborhoods, ways for homeowners to help pay their monthly mortgages, businesses skirting their local financial and regulatory obligations, and the list goes on. Regardless of your feelings, it is probably time to consider whether your community needs to establish or update its short-term transient rental regulations.

Some local governments have focused their zoning regulations on more traditional travel accommodations, like hotels/motels, and tried to prohibit short-term rentals altogether, but such bans have met with limited success. So, if a community wants to adopt standards to regulate short-term transient rentals, where should it start? I would advise that local governments begin by identifying what issue(s) they want to address. Is it:

1. Lack of lodging and sales tax collection on these short-term rental stays;
2. Unregulated traffic, parking, and noise impacts on the surrounding neighborhood; and/or
3. Non-compliance with life/safety standards that are commonly applied to other types of lodging establishments (such as hotels, motels, and bed-and-breakfasts)?

Tax Collection

Even though Airbnb has started collecting all applicable sales and lodging-related taxes in Washington State (as of October 15, 2015), there are many other short-term rental websites that leave it up to state and local government to try and collect those taxes. If a primary goal is to collect a lodging tax, a logical first step is to adopt a local lodging tax, if you don't already have one. Once in place, a municipality should then provide clear information to short-term rental unit owners about payment of applicable fees and lodging taxes, and may want to follow Portland's lead by setting up a low-cost licensing program.

The benefits of a user-friendly, low-cost licensing/permitting program extend beyond just collection of lodging taxes. Such a program will also likely encourage more short-term transient rental owners to register their units, so that a local government will be knowledgeable of their locations and assured that the owners are aware of all local requirements.

Neighborhood Impacts

In the ideal world, short-term transient rental guests would be well behaved and nearby residents would not even realize that those occasional visitors weren't just friends visiting their neighbors; this situation is likely the case for the vast majority of short-term rental experiences. If you are a local government and don't want to rely on a "best case" scenario, however, you should review and update your local regulations, so that it is clear how short-term rentals are defined, where they can be located, and what rules need to be followed by guests and owners. Palm Desert, California's Short Term Rental regulations provide a good example - they have a low-cost licensing program, specify the on-site parking requirement, and point out the local noise regulations, among other things. New Orleans defines and regulates short term rentals as "bed and breakfasts," which means that owners need to occupy part of the residential structure they are renting out, making it easier for them to monitor guests' behavior.

It is also important to consider the impact of short-term rentals not just on immediate neighbors, but on the neighborhood as a whole. To avoid an over-concentration or "clustering" of short-term transient rentals in a specific neighborhood, Durango, Colorado established a program that currently limits such rentals to only one rental per "street segment" within specified zones and caps the total number within those zones. Austin, Texas has a cap on the number of non-owner-occupied and multi-family/commercial short-term rentals allowed per census tract.

Safety

In most communities, lodging establishments must meet stricter life/safety standards than those required of single-family residences. Public safety is a major issue for Portland, so their

Accessory Short-Term Rental (ASTR) program requires initial and follow-up inspections (which are covered by the permit fees) that check for adequate egress to the rentable sleeping rooms, smoke detectors, and even carbon monoxide detectors in some cases (Portland's ASTR adopted regulations may be found here).

Enforcement

A major challenge in regulating short-term rentals will be on the enforcement side. A well-crafted set of regulations that spell out a community's expectations may be important, but there also needs to be effective methods for enforcing those standards. Enforcement will likely be difficult, however, because most short-term transient rentals are in residential neighborhoods and not as visually noticeable as a hotel or motel located in a commercial zone. Reacting to citizens' complaints and monitoring short-term rental websites, with the appropriate follow-up against violators, appear to be the two primary tools for enforcing your licensing, permitting, and tax collection requirements. Santa Monica and Bainbridge Island staff members review the various short-term rental websites to identify violators. Portland had to go so far as to sue HomeAway.com and its VRBO.com subsidiary for not following the city's regulations, and underwent serious negotiations with Airbnb before reaching an agreement with them.

Given their popularity with consumers, short-term transient rentals appear to be here to stay. Given this prognosis, I would recommend that Washington cities, towns, and counties identify their locally significant issues (be it tax collection, reduction of neighborhood impacts, or something else), and proactively take steps to address them. The major challenges will be to create a process that is not so complicated, burdensome, and expensive that it causes short-term rental owners to "fly under the radar," rather than comply with local requirements, and to encourage a high rate of participation with your local program.

Seattle may slap new rules on Airbnb to ease the rental crunch

Originally published May 31, 2016 at 10:00 pm Updated June 1, 2016 at 10:20 am

NO VACANCY
NO VACANCY
NO VACANCY
APARTMENTS

(Kelly Shea / The Seattle Times)

Seattle City Councilmember Tim Burgess and Mayor Ed Murray are proposing new regulations for short-term home rentals — like those listed on Airbnb.

Share story

By
Daniel Beekman
Seattle Times staff reporter

On Capitol Hill, a new micro-apartment building. On Beacon Hill, a fourplex from 1976. In Eastlake, a 1922 apartment house. In Ballard, a duplex dating to 1911.

What these Seattle properties have in common are multiple listings — 15 at the Capitol Hill building — on the popular, controversial short-term rental platform Airbnb.

The properties are examples of how Airbnb and other online platforms that cater to visitors, such as VRBO, are eating into Seattle's housing supply and making it harder for local people to find an affordable home, City Councilmember Tim Burgess says.

When an apartment is being used through Airbnb by a family of tourists from Spain, China or Iowa, it can't be occupied by a family working and going to school in Seattle.

Featured Video

Thomas Rawls' Flint (5:03)

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Keeping homes available for local tenants is what Burgess and Mayor Ed Murray want to accomplish with new regulations they plan to propose Wednesday, Burgess says.

The new regulations would cover all non-hotel bookings of 30 or fewer consecutive nights. Burgess estimates there are 4,000 to 5,000 short-term rentals in Seattle.

"Our goal is to maintain our rental-housing stock while allowing people to take advantage of the opportunities these platforms provide," he said in an interview.

Under the regulations, only property owners using their primary residence would be allowed to operate short-term rentals year-round, according to Burgess. Those not using their primary residence would be limited to 90 total nights over 12 months.

Related

Readers share their opinions on Airbnb, VRBO

Editorial: City Council should regulate short-term rental companies, smartly

The distinction would prevent landlords from choosing tourists over tenants, Burgess says.

"We have whole floors of apartment buildings that have been taken off the housing market," he said. "We have entire buildings that essentially have become hotels."

Even property owners using a primary residence would need a special new license from the city to rent for more than 90 nights during a 12-month period.

They would need liability insurance, a local contact number for guests, a declaration the unit meets building and safety codes, and safety information posted in the unit.

The 90-day cutoff would affect just 20 percent of listings for entire houses or apartments in Seattle, according to a recent Airbnb report, Burgess says. The December report said almost 80 percent of entire-home listings here are rented for 90 nights or fewer per year.

Even so, Burgess says, the regulations would help local tenants. In December, Airbnb reported 630 entire-home listings being rented for more than 90 nights per year.

"We don't know how many of those are primary residences," Burgess said. "But imagine if we put 300 homes back on the long-term rental-housing market. That would be worth a lot. To build 300 new units would cost more than $70 million."

Seattle isn't the first U.S. city to consider regulations for Airbnb and other platforms. Some have adopted strict rules. New York prohibits apartment rentals under 30 days, and Santa Monica requires hosts to live at their property while renting.

Others are more permissive: Philadelphia allows 90 nights a year — 180 if hosts live on site, while San Jose, Calif., allows 180 nights, or year-round if hosts live on site.

Interest grows

Burgess began looking into short-term rentals after reading news accounts and hearing from people in Seattle about them. The number of visitors to the city using Airbnb has doubled every year since 2009, according to the company.

The booming business generated $30 million per year in income for Seattle households, according to Airbnb. But how the industry is growing concerns Howard Greenwich, senior policy adviser at Puget Sound Sage, a Seattle think tank. The number of Airbnb hosts with six or more listings grew 50 percent between September and April, while the number with one listing grew only 23 percent, according to Greenwich's research.

"That's a sign the short-term rental market is beginning to lead into investment properties, which are more likely to result in Seattle people getting displaced," he said.

Airbnb hosts and others operating short-term rentals are already supposed to obtain city-issued business licenses. That would still be the case under the new regulations.

Short-term rental hosts are also supposed to pay sales and hotel taxes. In the case of Airbnb, the company collects those for the state on behalf of its hosts. Seattle's business tax is only for entities with revenue of at least $100,000 per year.

To enforce the Burgess-Murray regulations, Seattle would require Airbnb and other platforms to obtain licenses of their own and share information about their hosts, including names, addresses and the number of nights each host has rented.

The city would need to budget additional money for the new enforcement work, Burgess acknowledged, saying he doesn't yet have an estimate of how much.

Airbnb isn't completely on board. In a statement Tuesday, a spokeswoman praised the proposed regulations for distinguishing "between those who share their homes on occasion to help make ends meet" and those who rent more frequently.

"However, we have legal and privacy concerns with any requirement compelling platforms like Airbnb to turn over personal, confidential information about the people who use our service," said the spokeswoman, Alison Schumer. "We believe there are alternative ways for the city to enforce its regulations without compromising consumer privacy, and remain hopeful we can work together to devise a balanced solution."

Matt Curtis, government relations director for HomeAway, which owns VRBO, declined to comment on the Burgess-Murray proposal. He said HomeAway supports cities treating short-term landlords the same as long-term landlords. Burdensome regulations can drive short-term rental activity underground, he said.

“Sharing economy”

Airbnb describes its business as part of the new “sharing economy.” Its typical host in Seattle rents 79 nights and earns $8,000 per year, according to the company.

But Greenwich, worried about people making careers out of Airbnb by acquiring multiple properties in Seattle’s gentrifying neighborhoods, says the success of new regulations would depend on the city getting good information from the platform.

Eric Friedland owns Roy Street Commons, a 39-unit Capitol Hill micro-apartment building with shared kitchen space and Airbnb listings. He said 70 percent of his rooms serve the one- to 12-week market, renting for $50 to $79 per night. Friedland said he markets directly to nursing professionals who come to Seattle for training.

“We switched to Airbnb because that’s where those people are. They don’t use Craigslist,” he said, adding, “Some don’t want to stay in hotels or just can’t afford to.”

Friedland said Airbnb is attractive because it vets his short-term tenants, who pay up front.

“The reality is that people are moving to Seattle. And more people are visiting Seattle,” he said. “Micro-apartments like these are filling a housing need.”

In cities such as New York and Miami, hoteliers and unionized hotel workers have pushed politicians to crack down on Airbnb, worried about it and similar platforms cutting in on their business.

Jillian Henze, a spokeswoman for the Washington Lodging Association, applauded Burgess and the mayor for taking action against what are, more or less, “illegal hotels.”

UNITE HERE Local 8, the hotel-workers union, didn’t return a request for comment.

The council’s housing committee, which Burgess chairs, will likely take up his proposal June 15. A council vote has been tentatively scheduled for late July.

The Bundy battle continues, the Airbnb squeeze, and an unusual gun sale

Mishaps and mayhem from around the region.

Betsy Marston Aug. 22, 2016 From the print edition

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COLORADO Keeps the hoi polloi out.

Judy Wrought

THE WEST
A wit once wisely observed that "anyone who represents himself has a fool for a client." Now there's proof: Representing himself before a federal judge in Portland, Oregon, one of the occupiers of the Malheur National Wildlife Refuge declared himself an "idiot," adding that he is "incompetent and am not required by any law to be competent." Ryan Bundy's statement was one of several decidedly odd declarations sent to U.S. District Court Judge Anna Brown, who, after reading his motions, called them not "legally cognizable." All along, Bundy has insisted that he is not a U.S. citizen because he is a sovereign citizen of the "Bundy society." He also says he cannot be legally defined as a "person" because he was created by God and is therefore not subject to laws created by people. Unmoved, Judge Brown reminded Bundy at his most recent hearing that if he keeps denying the federal court's jurisdiction, he risks forfeiting his right to self-representation. The conspiracy trial of Ryan and Ammon, the Bundy brothers, who led the 41-day refuge occupation, is set for Sept. 7, reports *Oregon Public Broadcasting*.

THE WEST
In an upscale resort town like Sun Valley, Idaho, where's a teacher, cop or restaurant worker supposed to live? An estimated 12,500 homes and condos are available for working people as well as tourists, reports the *Idaho Mountain Express*, but these days, just try to get a landlord to sign a long-term lease. Not likely. Homeowners who once rented out places for a year or more are now making much more money by renting to short-termers through Airbnb, VRBO and other internet rental sites. In the Wood River Valley, for example, a large house close to the ski area now rents for $1,400 per night. Even the low end can be lucrative: A treehouse with a path to the bath (and a zipline) rents for $60-$70 per night. Before the internet turned so many into opportunistic landlords, the average three-bedroom, down-valley house rented for $1,600 a month. In just 20 days, however, that same house can produce $6,500. It's much the same story in the resort town of Crested Butte, in western Colorado. Bartender Alex Shelley told the *Crested Butte News* that he's moved five times in two years. Now, just before he was supposed to renew his current lease, he lost his rental. Something has got to give.

SOUTH DAKOTA
In the small town of Freeman, South Dakota, recently, 150 people gathered at a nursing home to fete a woman who just retired from a nursing career that spanned 72 years. Older than many of the home's residents at 93, Alice Graber was delighted to reunite with former patients and some of the nurses she'd trained since she started out in nursing during World War II. "I was just flabbergasted," she told *The Week* magazine. Given her lifelong vocation, her retirement plans aren't surprising: She intends to volunteer at the nursing home where she's worked for the last 20 years.

OREGON
When a regional girls' softball team started -selling raffle tickets, with an AR-15 assault rifle as a

prize, a pastor in Lake Oswego, Oregon, decided he definitely wanted to win that weapon. He used $3,000 from a church "discretionary fund" and a bunch of member donations to buy 150 raffle tickets, and as luck would have it, the Rev. Jeremy Lucas of Christ Church Episcopal Parish bought the winning ticket. Lucas said he had two reasons for wanting to win the rifle: to help the girls' team get to a tournament in California "and to take the weapon out of circulation." But he had no desire to fire or even house the AR-15, a semi-automatic weapon often used by mass murderers. So he asked a -parishioner "to keep the rifle locked up in a gun safe until the pastor was ready to destroy it," reports the *Portland Tribune*. The minister, however, may have violated a tricky state law: In order for that transfer of possession to be legal, the parishioner "should have undergone a background check at a licensed gun dealer" while Lucas, as the gun's owner, was present. One commenter suggested that Lucas would not be charged for "political" reasons, while another called the state law "stupid" and designed to "harass lawful gun owners." If the minister gets that now-confiscated gun back, he hopes to transform it into a work of art.

MONTANA

Self-incrimination is turning out to be a wonderful feature of the internet. In Helena, Montana, a ranch hand was so proud of himself for chasing a grizzly bear in his pickup truck, he posted a video on social media. Federal wildlife officials noticed, and Lawrence Kennedy of Browning was fined $400 for unlawfully harassing a threatened species.

All short-term rentals banned in Anaheim by City Council

June 29, 2016

Updated June 30, 2016 2:43 p.m.

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BAN
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Teachers
BAN

Protesters gather in the Anaheim City Council chambers to protest against short-term rentals prior to the Anaheim City Council Meeting on Wednesday. LEONARD ORTIZ, STAFF PHOTOGRAPHER

By JOSEPH PIMENTEL / STAFF WRITER

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ANAHEIM - After a five-and-half hour special meeting Wednesday, the Anaheim City Council voted to ban the operation of short-term rentals.

The owners of the 363 permitted short-term rentals will have 18 months to stop operating.

Mayor Tom Tait and Councilmen James Vanderbilt and Jordan Brandman voted for the ban, with the 18-month phase out period. Councilwomen Kris Murray and Lucille Kring supported the ban, but wanted a longer period for operators to shut down.

“The sharing economy is exciting and something that gives people a chance to earn extra income but this is not really the sharing economy,” Tait said. “These are motels in residential neighborhoods.”

The meeting capped off years of debate between residents, who claimed that the steady stream of vacationers in their neighborhoods ruined their quality of life, and short-term rental owners, who say they invested heavily in turning eyesore properties into beautiful income homes.

An overflow crowd of residents lined up to take the podium Wednesday evening as the council weighed whether it would have a ban or impose stricter regulations on short-term rentals.

Wearing white T-shirts and holding up signs with “Ban STRs,” opponents packed City Hall for an indoor rally and picketed outside before the meeting started.

Organizers riled up a crowd of more than 150 people inside the chamber with chants of *“Si Se Puede!”* (Spanish for “Yes, we can!”) and yelled that these “businesses don’t belong in our residential neighborhoods.”

With popular destinations such as Disneyland, the Anaheim Convention Center, Angel Stadium and Honda Center, Anaheim has become a hot spot in the “sharing economy” as families look to websites such as Airbnb, VRBO and HomeAway for ways to shave their vacation expenses.

Residents have pushed the city to step up enforcement, complaining that vacationers are staying in “mini-hotels” and holding rowdy all-night parties, littering the streets and taking up parking spots.

“STRs are a cancer and they need to be banned,” said Peter Page, adding that the $200,000 enforcement cost the city pays overseeing the homes is not worth the $3 million they’ve brought into the city since July 2014. “This does not help the community.”

“For the past several years, Anaheim residents have suffered,” said Martin Lopez, a resident of Sherwood Village, where he says 50 of the 211 town homes are operated as short-term rentals. “I urge you to ban STRs current and future.”

Short-term rental owners argue that they fix up properties that enhance the look of the neighborhoods, help surrounding home values and bring in much-needed revenue for the city.

“Before my husband and I moved into our home, some of the homes in our neighborhood were not kept up. Some were abandoned,” said resident Beth Farnell. “Ever since STRs became more prevalent, those unsightly homes have become some of the most beautiful homes in our neighborhood.”

The council weighed two options:

A complete ban of short-term rentals, with current permits phased out in three years, which was later changed to 18 months.

Or enhanced regulations to limit the number of people staying at a home; extended “quiet time” hours; providing neighbors with a contact who responds “around the clock,” and increasing the age of renters to 21. Owners would also lose a permit if they are cited for two major violations in a 12-month period.

City officials also said they would enhance its current regulations. Anyone caught operating an unpermitted short-term rental would have their home’s power and water turned off. Anaheim runs its own electric and water systems.

Anaheim began handing out permits to operate homes as short-term lodgings in 2014. Operators pay an annual $250 registration fee, and guests pay a 15 percent tax on their bill, the same as those staying at a local hotel. After the number of permits doubled to 400 within a year, the city in 2015 issued an emergency moratorium on more permits.

After the vote, several short-term rental owners cried and stood, stunned, outside the council chamber.

“The sad thing is we worked so hard to do the right thing,” said Valerie Van De Zilver, who represents 23 short-term rental owners. “We’ve taken care of our properties ... it’s tough to lose when you’re doing the right things.”

Mike Robbins, who lives in the Stoddard Park area, a few miles west of Disneyland, danced after the decision. He and his family have fought against short-term rentals over the past couple of years. He’s glad the fight is over.

“We won,” Robbins said. “The people of Anaheim won.”

10 Real People on the Cost of Living in a Mountain Town

The places you'll never be able to afford and the ones so welcoming, you can move in tomorrow

By: Megan Michelson
Jul 18, 2016

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Nice place to live. For the superrich. *Photo:*Maciej Maksymowicz/iStock

Living in a mountain town comes with serious perks: backyard trail access, midweek powder days, and a community of adventurous spirits. But it also comes at a price. The cost of living in resort towns across the country continues to rise, while the high demand for housing means

availability is just as scarce as affordability. Still ready to make the plunge? Here are our picks for the least and most livable mountain towns.

Least Livable

Aspen, Colorado

Photo: aimintang/iStock

One of the most expensive ski towns in the country, Aspen is the go-to vacation spot for the superrich and ultra-famous, which makes it a tough place to live year-round if you're John, the snowcat driver. Over 50 percent of the area's employees commute from down valley because housing in town is out-of-this-world pricey and rental units are nearly non-existent. Your best chance? Apply for the affordable housing lottery—the longer you're on the list, the better your chances of scoring a place to live.

Population: 6,680
Median age: 37
Median home sale price: $2.6 million
Median household income: $72,336

Average rental price: $1,400
Vacancy of rental market: Less than 1 percent

Local's take: "For a while, I was switching houses every six months," says Will Cardamone, a skier, fly fishing guide, and Aspen native. "I lived in a trailer park for the summer. I feel like I can always find a spot by putting out feelers, but you never know what kind of situation it's going to be. It's doable to find housing, but there's no way you're saving any money."

Jackson, Wyoming

Living in Jackson, Wyoming, means you'll be treated to epic climbing and skiing at Jackson Hole Mountain Resort and within Grand Teton National Park. But the cost of living is higher here than the rest of Wyoming, and a lack of housing inventory means rent prices have skyrocketed. Although elected officials recently voted to send more tax money to affordable housing projects, less than 2 percent of the land in the area can be developed, so finding solutions to the area's housing crunch has been challenging.

Population: 10,523
Median age: 32
Median home sale price: $1.025 million
Median household income: $64,345
Average rental price: $1,500

Local's take: "I have lived in nine rentals during my 10 years in Jackson," says Louise Sanseau, owner of Jackson's Inversion Yoga. "My rent is $1,900 a month. My roof does not have insulation and the people before me had a chimney fire, so I am not allowed to use the wood-burning stove. While it seems crazy to pay so much for an uninsulated wooden shack, I love my place and I hope to live there as long as I can. In Jackson, we are all moving, all the time. This seems to simply be the nature of living in a desirous mountain town."

Ketchum, Idaho

Photo: Alice Scully/iStock

Dubbed “America’s first destination ski resort,” Sun Valley was founded in 1936 by the chairman of Union Pacific Railroad and it remains an upscale resort today. Sun Valley and the town of Ketchum, Idaho, offer empty mountain slopes and a charmingly historic town, but you may have to live outside of town or in a teepee in the woods to make it work. Once a hub for ski industry brands like Smith Optics and Scott Sports, both of those companies have fled town in recent years, putting a dent in the local workforce.

Population: 2,689
Median age: 44
Median home sale price: $945,000
Median household income: $63,750
Average rental price: $1,800

Local’s take: “Sure, there are some limits here—there aren’t a ton of jobs or housing, it’s a small town. But you can make it work,” says Banks Gilberti, a pro skier who grew up in Ketchum and moved back a few years ago. “If you’re wealthy, you go to Vail; if you’re a super celebrity and you don’t want to deal with other humans, you come to Sun Valley. Things are expensive—sometimes you’ve got to pay to play. But this place is like nowhere else on Earth. That’s what makes it worth it.”

Stowe, Vermont

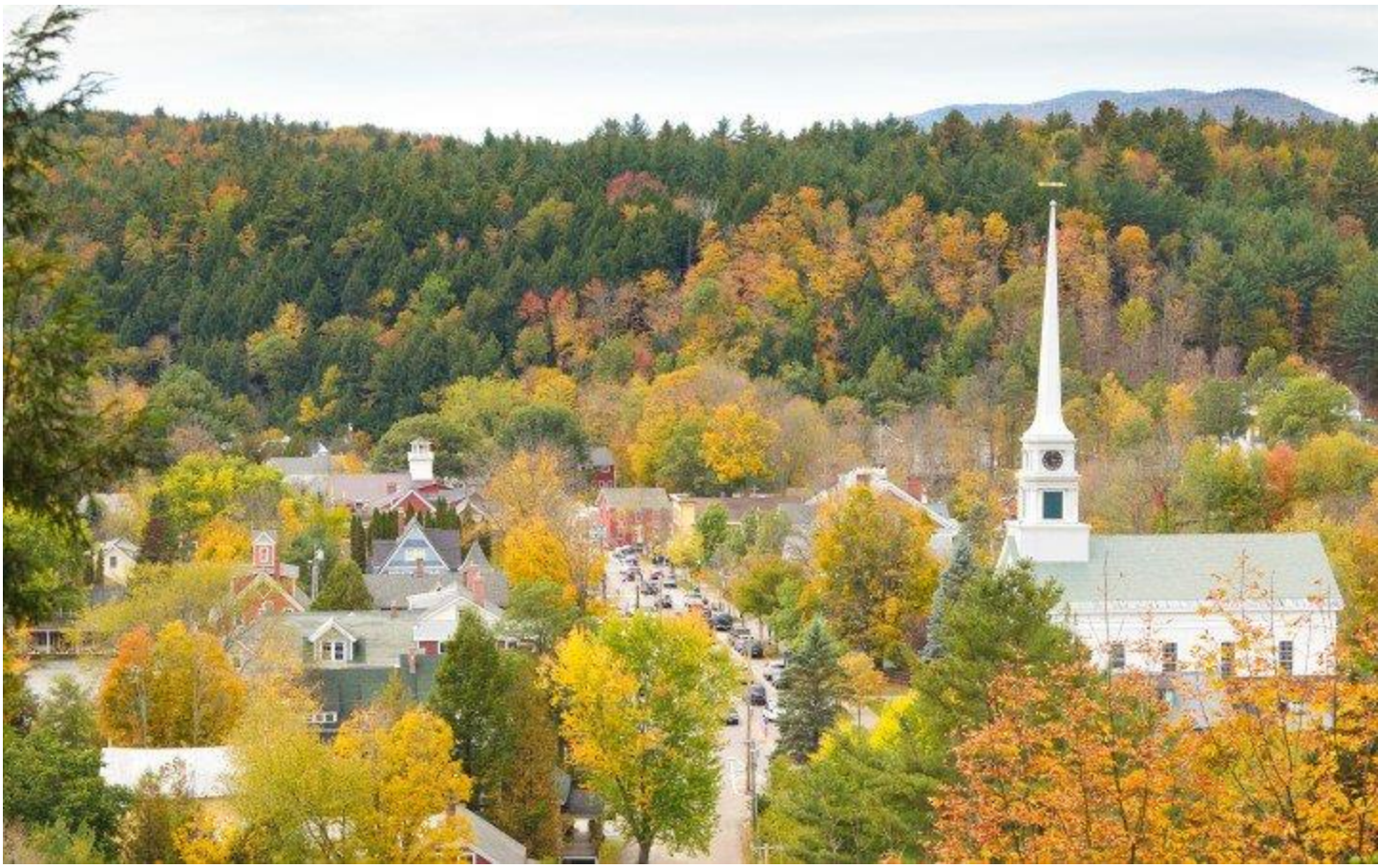

Photo: Ken Brown/iStock

A quaint village near the base of Stowe Mountain Resort, Stowe, Vermont, has all the charm of a New England paradise, like lush fall foliage, white-picket fences, and farm-to-table restaurants. By ski town standards, Stowe is still a relatively affordable place to call home—you can buy a house here for under half a million bucks. But compared to elsewhere in Vermont, it's on the pricier end. A good chunk of the market is driven by second home owners, but for the year-round residents of Stowe, the higher cost of living is well worth it.

Population: 4,886
Seasonal population: 8,000
Median age: 44
Median home sale price: $427,500
Median household income: $67,138
Average rental price: $1,194
Cost of living: 34.2 percent higher than U.S. average

Local's take: "It's a resort town and it's hard to get full time work here. It was cheaper when I first moved here 37 years ago—the price of land and homes has gone up," says Douglas Proulx, assistant manager at Stowe's Pinnacle Ski & Sports and a longtime carpenter. "But it's a very

outdoorsy town, with great access to skiing, biking, hiking. Everybody knows everybody—there simply aren't that many full-time residents—and we help each other in lots of different ways."

Park City, Utah

People flock to Park City, Utah, to escape the smog and summer heat in the valley of nearby Salt Lake City and to gain access to skiing and biking out the door and a picturesque main street studded with fancy restaurants and the annual Sundance Film Festival. But it also means spending $500,000 on a tiny house in need of updates or for the guys bumping chairs at Park City Mountain Resort, cramming six or more people into a rental home meant for two.

Population: 8,085
Median age: 40
Median home sale price: $716,654
Median household income: $82,864
Average rental price: $1,375

Local's take: "When we bought our house here six years ago, there was good inventory and pricing was at a low," says Sandra Salvas, a Park City-based freelance photographer. "Now, you'll be hard pressed to find a rental under $1,000, and if you're looking to buy, get yourself psyched up for a bidding war. But we wanted to bike and ski out our front door, have a yard the dogs could enjoy, and not worry about locking our doors at night. It's quiet here, it smells like pine, and we are close to everything. It's worth it to us because those are our priorities."

Most Liveable

Ogden, Utah

Photo: Denis Jr. Tangney/iStock

A decade ago, Ogden was barely on the map of dreamy mountain towns. But thanks to ample affordable housing and an influx of outdoor industry brands—like Salomon, Atomic, Scott Sports, Enve, and others—more people are moving to Ogden, which is 38 miles from Salt Lake City and near Snowbasin and Powder Mountain ski resorts. From free summer concerts to the youthful vibe from Ogden's Weber State University to the 9,500-foot peaks shooting up nearby, this town is on the rise.

Population: 84,316
Median age: 29
Median home sale price: $122,800
Median household income: $71,500
Average rental price: $758
Cost of living: 12.8 percent lower than U.S. average

Local's take: "As far as mountain towns go, there's nothing that compares to the cost of living in Ogden. We don't get the reality-bending bubble effect of other quaint and homogeneous towns," says Chris McKearin, Salomon's alpine commercial manager and an Ogden resident since 2007. "Before work today I rode two hours of singletrack from my front door. My commute to work is 1.5 miles, so I am biking most of the week. The city is doing a great job of building new neighborhoods on vacant or blight-declared lots and the single family home market seems to be competitive."

South Lake Tahoe, California

Photo: m01229/Flickr

Once the third largest gambling city in the country, South Lake Tahoe, which straddles the California and Nevada border, is now in the midst of a renaissance, with major redevelopment of dilapidated downtown buildings, costly investments from Vail Resorts, which owns Heavenly ski resort in town, and a surge in outdoor recreationalists. Compared to elsewhere in Tahoe, the south end of the lake is downright affordable.

Population: 21,529
Median age: 39
Median home sale price: $313,929
Median household income: $36,311
Average rental price: $841

Local's take: "By mountain standards, living in South Lake Tahoe is super easy, especially compared to North Lake Tahoe, where I could afford to rent but I couldn't own without winning the lottery," says Wes Berkshire, a high school English teacher and three-year South Lake Tahoe resident. "In South Lake, it's much more affordable and the options are plentiful. I'm a teacher and I own my own house in Tahoe. Seriously. What do I love best? The lake, the weather, the skiing, the access to the rest of California; it's hard to beat."

Leavenworth, Washington

Photo: Gary/Flickr

In the Bavarian-themed mountain town of Leavenworth, in Washington's eastern Cascade Mountains, you're 35 miles from Stevens Pass ski resort and a two-plus-hour drive from Seattle. The town is known for its legendary Oktoberfest and holiday festivals, but locals love it for its affordability and access to endless backcountry skiing and climbing, paddling on the Wenatchee River, and over 700 miles of trails.

Population: 1,979
Median age: 45
Median home sale price: $251,838
Median household income: $33,913
Average rental price: $892

Local's take: "If you compare Leavenworth to other resort towns, it's very affordable. However, like most places that have tourism and access to endless outdoor recreation, it's becoming more of a destination and prices are going up," says Joel Martinez, general manager at Leavenworth's Icicle Brewing Company and a Leavenworth resident since 2000. "The community in Leavenworth is very tight. People say hi walking down the street and my kids can ride their bikes

wherever they need to go in town. The things I love most about living here are the people, the community, location, and access to everything that we want in the outdoors."

Durango, Colorado

Photo: jasonkajita/Flickr

Compared to some of Colorado's pricier mountain towns (we're looking at you Aspen, Vail, and Telluride), the college town of Durango, on the banks of the Animas River and in the heart of the San Juan Mountains, is considerably more liveable. You can rent a room for $400 or buy a fixer-upper for $300,000, plus jobs in tourism, oil and gas, and at Fort Lewis College are plentiful. This southwestern town has ample bike paths, river tubing, mountain biking, and skiing at nearby Durango Mountain Resort.

Population: 17,834
Median age: 33
Median home sale price: $368,590

Median household income: $55,014
Average rental price: $1,068

Local's take: "Quality of life is really important here and people prioritize health and well-being over working their tails off," says Kate Siber, a freelance writer who's lived in Durango for 11 years. "Part of what makes this place affordable is the culture. It's rare that I meet friends out at a bar or restaurant. We go for rides, hikes, and riverside happy hours instead. I frequently think to myself when I'm riding to work, 'I live in paradise. It's so safe and green and easy. How lucky am I?'"

Ludlow, Vermont

Photo: Rudi Riet/Flickr

Ludlow, Vermont, balloons each winter with visitors to Okemo Mountain Resort, but the rest of the year, the former mill town at the junction of Vermont's Route 100 and 103 feels pretty sleepy, with a small yet passionate year-round population of multi-generatioal Vermonters. You'll find ample four-season outdoor recreation here—the summer hiking trails are not to be

missed—plus zucchini festivals, craft shows, and a pedestrian village to remind you of small-town America at its finest.

Population: 795
Median age: 48
Median home sale price: $211,352
Median household income: $35,780
Average rental price: $683

Local's take: "What sealed the deal on opening our business in Ludlow was the great deal that we got on the building we bought for the hostel. We knew we couldn't beat the price for a Main Street location in any other ski town," says Eliza Greene, co-owner of Ludlow's Homestyle Hostel who grew up near Ludlow and moved back in 2014 after 10 years away. "As compared to other southern Vermont ski towns, Ludlow has the largest pool of available rental homes and apartments at affordable rates. Plus, we love the small-town feel in Ludlow where we get so much support from our community."

Airbnb: Innovation and Its Externalities

By Erich Eiselt, IMLA Assistant General Counsel

Chapter Two—The Online Lodging Revolution. *Municipal Lawyer* recently discussed the "ridesharing" revolution led by Uber and its ilk. The mobile app upstart and other "Transportation Network Companies" are inciting showdowns at local governments across the country as an indigenous taxi industry battles to preserve its turf against a nimble swarm of web-enabled ninja-cabbies.[1]

An analogous upheaval has emerged in the housing arena. Airbnb, a San Francisco startup, was founded in 2008 by two roommates who offered space on air mattresses to help pay their rent. It is in some ways a second cousin to Uber and the TNC's–from a technology perspective, they may well share analogous genetic material. Just as Uber transforms everyday auto owners into self-employed taxi drivers, Airbnb enables the ordinary homeowner or apartment dweller to generate dollars (or euros, pounds, rupees, or yen) by renting out a home, room or even a couch. The company now numbers some 600,000 "hosts" across 192 countries around the globe.

Along with other web-based lodging sites including Austin based HomeAway.com (Nasdaq-"AWAY") and its subsidiary VRBO.com, Airbnb has revolutionized the world of short-term rentals, bringing landlords and tenants together in cyberspace, often avoiding taxes and regulations. These "disruptive" lodging websites allow armchair travelers to preview accommodations, room by room, whether a loft overlooking the Seine, a Mont Tremblant ski chalet or a second bedroom in Boston. Prior visitors' comments are scrutinized, features compared, and deals signed–with rents generally paid in advance. But unlike the other short-stay companies, which focus substantially on vacation locales, Airbnb has also become especially proficient in the alchemy of urban lodging, converting downtown residential condos and apartments into goldmines. And whereas its competitors make their money largely by collecting listing fees,[2] Airbnb positions itself in the middle of the rental transaction, charging the renter a commission of between 6% to 12% above the lodging price (while still exacting a 3% listing fee from the host).[3] The company's web site describes the merits:

> Our convenient payment system supports many currencies and several types of payment and payout methods. Airbnb collects guest payments from the moment they make a reservation and waits until 24 hours after arrival before releasing funds to the host. This way, guests and hosts can feel confident knowing that Airbnb will process and deliver payments when a reservation is honored.[4]

As with Uber, the middleman role can be highly profitable–Airbnb is reputed to have pocketed some $250 million last year,[5] with nothing but growth on the horizon. Like Uber, Airbnb is already valued in the billions (some sources refer to a four-fold jump in valuation just since last July, vaulting the company's presumptive worth to an amazing $13 billion today).[6] Not surprisingly, like Uber, Airbnb is considering a public offering. And it has displayed similar political savvy–whereas Uber recently hired David Plough, formerly strategist to Barack Obama, in July Airbnb added Bill Hyers, New York Mayor Bill De Blasio's campaign manager.

Not a Boxing Match—A Riot. The similarities do not end there. In terms of diverse interests and market implications, the "lodging wars" are at least as complex as the "taxi wars" described in a companion article in this issue.[6] Disputes over housing involve an even broader array of litigants jostling to protect their interests–more of a riot than a boxing match–creating significant

challenges for municipalities.

On one front, the traditional hoteliers are battling the new entrants.[7] Municipalities with large hotel constituencies are supportive. In New York City, home to the largest aggregation of hotel rooms in the nation, the lodging industry has gotten the attention of Attorney General Eric Schneiderman and Mayor De Blasio, who have joined forces to pressure Airbnb. And with good reason—New York City hoteliers are estimated to generate a staggering $1.4 billion yearly in real estate and hotel occupancy taxes, as well as hundreds of millions of dollars in annual payroll taxes. In addition, New York hotels employ some 400,000 union members, giving them significant power at the ballot box.[8] Not surprisingly, the industry's primary trade group, the Hotel Association of New York City,[9] has been threatening class action warfare directed at Airbnb. It alleges unfair competition, pointing to the fact that Airbnb hosts do not pay lodging taxes or comply with safely and zoning standards.[10]

Another group of stakeholders are landlords—individual or corporate—who find that their supposed long-term tenants are secretly reaping handsome rewards by offering nightly or weekly stays to strangers. A small-time version of this battle unfolded in June, as a New Yorker began eviction proceedings and sought recovery on unjust enrichment grounds where her tenant was re-renting her $1,463 a month, rent-stabilized two bedroom Tribeca apartment for $250 per night.[11] And a Manhattan building owner recently brought suit after discovering that one tenant had long ago remodeled her unit to add a washing machine and baseboard heating—both in violation of building rules and safety ordinances—so that she could rent out her apartment via Airbnb. She allegedly pocketed more than $500,000 over a multi-year period. Despite losing her counsel after misrepresenting that an occupant in her unit was a "stepbrother" visiting from out of town," the miscreant nevertheless wrangled a $12,500 settlement payment in exchange for vacating the space.[12]

[U]nlike the Uber revolution, which arguably increases the supply of publicly-available transportation, drives down taxi fares, improves quality and expands service to remote areas, the Airbnb movement can reduce a city's housing and drive prices up.

Larger landlords have taken a more proactive approach. The Airbnb-enabled illegal sublet movement has led at least one large New York City property owner, the Ideal Companies, to "deputize" resident managers as "Airbnb marshals." Their mission? To identify renters who have become short-term landlords and are skirting rent stabilization laws.[13]

Still other fights are instigated on a more granular level, by individual Airbnb lessors who discover that their dwellings have been trashed or used for illicit activities. In July 2011, renters savaged an apartment owned by a San Francisco-based executive. The company responded by issuing a $1,000,000 retroactive insurance guarantee to protect hosts from property damage caused by Airbnb guests. In March of this year, a New York-based comedian rented out his apartment via Airbnb to a man who then used it to host an advertised "XXX Freak Fest." Not surprisingly, the prostitution trade finds that high-end urban apartments, rented from unknowing owners in short increments via Airbnb, can provide far better profits and greater privacy than costly hotels with nosy front desk clerks. As one sex-trade worker told the New York Post "It's more discreet and much cheaper than The Waldorf").[14]

Beyond Lost Tax Revenues: Municipalities themselves are also becoming combatants against Airbnb, for a variety of reasons. Obviously, they seek lost tax revenues from *sub rosa* commercial activities thriving within their jurisdictions—in some cases they would collect 20% or more as hotel taxes. They also require better knowledge about how and where short-term rentals are springing up so that they can ensure safety and enforce zoning standards. They respond to residents' complaints that neighborhoods are being overrun by weekly cycles of short-term vacationers, bringing with them noise, trash, traffic and a shortage of respect.

And some cities and towns have concerns about a more subtle Airbnb externality: unlike the Uber revolution, which arguably increases the supply of publicly-available transportation, drives down taxi fares, improves quality and expands service to remote areas, the Airbnb movement can reduce a city's housing and drive prices up. As owners triple or quadruple their incomes by converting long-term leases into weekly or daily lodging, the supply of long-term housing—places that will provide a stable home for permanent residents who are employed within the city, who form family units, who vote, who volunteer, who care for others, or who simply have no other place to live within city limits—is diminished. The laws of economics intercede, and prices for the remaining stock of long-term rentals are driven further out of reach. Against a flood of transients paying sky-high prices for overnight stays, cities struggle to preserve the shrinking stock of long-term housing that is still within the budgets of working-class residents.

New York on the Attack: States and municipalities have a variety of mechanisms to combat the short-term rental siege: zoning that restricts or prohibits commercial activity, occupancy codes limiting the number of guests, durational maximums (or minimums) for short stays, parking restrictions, requirements for notifying neighbors,

Continued on page 8

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Airbnb *Cont'd from page 7*

safety inspections, tax filings, business licenses, fees and the like. These can be buttressed with individual building rules and condo or homeowner association by-laws. The appropriate vehicle(s) will vary with the objective—from eliminating short stays altogether, to complete *laissez-faire*, with many gradations in between.

In New York, home to vigorous litigation on the subject, the State's Multiple Dwelling Law (the "MDL"), was amended in 2010 to implement a virtual prohibition against rentals of less than 30 days in a "Class A" multiple dwelling:

> A Class A multiple dwelling shall only be used for permanent residence purposes. For the purposes of this definition, "permanent residence purposes" shall consist of occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more and a person or family so occupying a dwelling unit shall be referred to herein as the permanent occupants of such dwelling unit. The following uses of a dwelling unit by the permanent occupants thereof shall not be deemed to be inconsistent with the occupancy of such dwelling unit for permanent residence purposes:
> (1) (A) occupancy of such dwelling unit for fewer than thirty consecutive days by other natural persons living **within the household of the permanent occupant such as house guests or lawful boarders, roomers or lodgers;** or (B) incidental and occasional occupancy of such dwelling unit for fewer than thirty consecutive days by other natural persons when the permanent occupants are temporarily absent for personal reasons such as vacation or medical treatment, **provided that there is no monetary compensation paid to the permanent occupants for such occupancy.**[15]

In other words, under New York law, it is unlawful to rent out an apartment in a "Class A" multiple dwelling (one occupied by three or more separate tenants) for fewer than 30 days unless a "permanent resident" is present during the rental period. If the "permanent resident" is absent, the temporary occupancy must be uncompensated.

The purpose of this prohibition is to protect permanent residents who "must endure the inconvenience of hotel occupancy in their buildings" and ensure that proper fire and safety codes are being enforced.[16] (Because transient, short-term residents are not as likely to be familiar with fire escape routes as long-term tenants, New York buildings used for short term tenancy are required to comply with a host of Fire Department safety-oriented provisions that are not required of long-term rental facilities. These include sprinkler systems, fire extinguishers, illuminated escape path lighting and so on. When ordinary apartment buildings become hostels and do not adopt these greater safety measures, they subject unknowing transient visitors to heightened risks—and building owners to fines and other penalties).

Armed with the MDL and other tools, New York has begun a frontal assault on Airbnb's activities. In May, Attorney General Eric Schneiderman served a subpoena on the company, seeking records about the number and nature of Airbnb leases in the state. After a series of legal maneuvers to avoid the subpoena, the company complied, at the same time removing some 2,000 New York City listings from its site. (Predictably, the provision by Airbnb of this data gave rise to its own lawsuit. Calling themselves "New Yorkers Making Ends Meet in the Sharing Economy," a group of property lessors filed a lawsuit in September against Airbnb in state supreme court to prevent the firm from sharing their private information with the the Attorney General).[17]

In mid-October, AG Schneiderman released his report.[18] Among other things, it found that the vast majority of Airbnb's New York City leases violate State and City laws including the aforementioned MDL. It also determined that, despite Airbnb's image as a collection of small-time mom and pop landlords picking up occasional income on the side, a substantial number of big commercial players have worked their way into the mix.

Among Schneiderman's findings were:

- **Up to 72% of New York Airbnb listings are illegal:** Of 35,354 private, short-term listings, more than 25,000 violated either the MDL and/or New York City's Administrative Code (zoning laws).
- **Commercial users run multi-million-dollar businesses on Airbnb:** Over 100 landlords controlled 10 or more apartments rented on Airbnb. These big-time players booked 47,000 reservations and earned $60 million in revenue. The most prolific landlord administered 272 unique listings, booked 3,024 reservations and made $6.8 million.
- **Numerous units appear to serve as illegal "hostels:"** In 2013, approximately 200 units were booked through Airbnb for more than 365 nights during the year, indicating that multiple, unrelated guests shared the same unit on the same night, as they would in a hostel (or other use). The ten most-rented units were booked for an average of 1,900 nights in 2013, with one top listing averaging thirteen reservations per unit per night.[19]

The Big Apple has already begun taking action. In October it obtained preliminary injunctions against two building owners who were using their lower Fifth Avenue properties for Airbnb-fueled short term rentals.[20]

The California Offensive: In California, the fight over Airbnb's short term housing bloom is part of a larger conversation, veering into Fifth Amendment territory. The Golden State's Ellis Act has long been a focal point of landlord-tenant hostilities. Passed by the California legislature in 1985, the Ellis Act was adopted in response to local measures which were making it increasingly difficult for owners to leave the rental housing business. One decision in particular, *Nash v. City of Santa Monica*, 37 Cal.3d 97, 688 P.2d 894 (Cal. 1984) engendered Ellis. In *Nash*, the owner wished to evict the one remaining tenant in his six-unit property and raze the structure, leaving the empty lot available for redevelopment. The Santa Monica City Charter had been amended to prohibit landlords from demolishing a

building without obtaining a permit. This required a showing that: (1) the building was not occupied by persons of low or moderate income, (2) it could not be afforded by persons of low or moderate income, (3) removal would not adversely affect the housing supply, and (4) the owner could not make a reasonable return on his investment.

The trial court agreed with Nash's contention that he would not be able to fulfill the criteria for the demolition permit, and it found that the challenged provision operated to deprive Nash of property without due process of law and without just compensation. It ordered that the City and the Santa Monica Rent Control Board grant Nash a removal permit for his property.

The California Supreme Court reversed, upholding the Santa Monica permit requirement and its application to Nash. Operating in a pre-*Nollan*, *Dolan* and *Koontz* context, it reasoned that *Penn Central* standards had been satisfied because the owner could still make a profit from his leasing activities and his investment-backed expectations had been preserved: "It is undisputed that both prongs of the Penn Central test are met here. We are aware of no authority which would impose different requirements under the California Constitution."[21] (The court did state in passing that Nash was protected by Thirteenth Amendment proscriptions against involuntary servitude, and could not be compelled to be a landlord).

The California legislature rapidly stepped into the breach with the Ellis Act of 1986, Cal. Gov't Code §§ 7060-7060.7. The Act explicitly states that the legislative intent was "to supersede any holding or portion of any holding in Nash v. City of Santa Monica, 37 Cal.3d 97 to the extent that the holding or portion of the holding, conflicts with this chapter, so as to permit landlords to go out of business." Under the Act, governmental entities cannot require a residential owner to remain in the rental business:

> No public entity, as defined in Section 811.2, shall, by statute, ordinance, or regulation, or by administrative action implementing any statute, ordinance or regulation, compel the owner of any residential real property to offer, or to continue to offer, accommodations in the property for rent or lease, except for guestrooms or efficiency units within a residential hotel . . . [22]

"Airbnb is committed to making cities stronger and more affordable, and the vast majority of our hosts do just that," the company stated. "If a small number of predatory landlords are abusing platforms like ours to illegally evict tenants in search of a quick buck, we wholeheartedly support efforts to bring those landlords to justice and applaud the City Attorney for his actions."

The Ellis Act allows the eviction of tenants where the owner has decided to take a property off the market. It is limited in its application and by no means a free ride for landlords. Under the Act and local regulations promulgated in its wake, owners must give up to one year's notice of eviction and pay upwards of $5000 per-person relocation costs. They are required to pay damages to a displaced tenant if they attempt to re-lease the property within two years—and must offer it first to that tenant, at rent-controlled rates. If they demolish a building to construct a replacement residential structure, they are prohibited from leasing the property for five years at anything above rent-controlled rates.[23]

Despite these ostensible protections against abuse, profit-oriented owners and builders hungry for redevelopment opportunities have predictably found ways to skirt California's Ellis Act barriers. Tens of thousands of moderately-priced units across the state have disappeared. In San Francisco, the birthplace of Airbnb, affordable housing has become an endangered species. City Attorney Dennis Herrera describes the shortage, and the brewing war against lawbreakers, in no uncertain terms:

> "In the midst of a housing crisis of historic proportions, illegal short-term rental conversions of our scarce residential housing stock risks becoming a major contributing factor. We intend to crack down hard on unlawful conduct that's exacerbating – and in many cases profiting from – San Francisco's alarming lack of affordable housing."[24]

Herrera has invoked the full power of available laws. The city brought suit against defendants Darren and Valerie Lee, who had invoked the Ellis Act when they ceased leasing three Pacific Heights dwellings in 2005. One of the displaced tenants was disabled. He had been living in the unit for ten years and was paying $1,087 a month. The city's suit alleges that in 2009, the Lees began short-term rentals of the three properties via VRBO.com and HomeAway.com for up to $595 per night—rates that would generate nearly $18,000 per month if all units were leased every night.[25]

Another San Francisco lawsuit cited defendants Lev, Tamara and Tatyana Yurovsky for similar violations – one of which also involved a disabled resident – at two Fisherman's Wharf properties they began renting through Airbnb and GreatSFVacation.com for as much as $320 a night.[26]

In a public statement, Airbnb expressed its support for Herrera's offensive, saying that it did not condone the use of its platform to violate regulations.

> "Airbnb is committed to making cities stronger and more affordable, and the vast majority of our hosts do just that," the company stated. "If a small number of predatory landlords are abusing platforms like ours to illegally evict tenants in search of a quick buck, we wholeheartedly support efforts to bring those landlords to

Continued on page 30

Airbnb *Cont'd from page 9*

justice and applaud the City Attorney for his actions."[27]

The Ellis Act had always left open the possibility of additional mitigation in favor of tenants. Sections 7060.1-7060.1(c) go on to explain that "[n]otwithstanding Section 7060, nothing in this chapter" . . . "[d]iminishes or enhances any power in any public entity to mitigate any adverse impact on persons displaced by reason of the withdrawal from rent or lease of any accommodations."[28]

In June 2014, San Francisco took additional–and detractors would say extreme–legislative steps to protect incumbent tenants from being displaced. The new measure significantly increased the cost to landlords for displacing renters above the then-existing levels (which allowed a maximum of $13,500 per unit, plus an additional $3,000 for elderly or disabled tenants).

San Francisco's new ordinance applies to all tenants who had not actually moved out as of June 1, 2014—even if they had received notice under the prior ordinance. Under the 2014 Ordinance, the landlord must pay the greater of the payout required by the prior ordinance, or an amount equal to twenty-four times the difference between the unit's current monthly rate and the fair market value of a comparable unit in San Francisco, as calculated by a schedule developed by the Controller's Office.[29]

The law was imediately challenged. Plaintiffs Daniel and Maria Levin own a two-unit house on San Francisco's renowned and picturesque Lombard Street. Earlier this year, they notified the occupant of one unit that they were taking it off the market. Under the new city ordinance, they would be required to pay nearly $118,000 to that single tenant, according to court documents. The Levins and other property owners filed suit against the city in late July.[30]

In October, the ordinance was found to be constitutionally deficient.[31] Northern District of California Judge Charles R. Breyer said in his decision that while the city was well-intentioned in attempting to solve its housing shortage, the recent ordinance did not survive Fifth Amendment scrutiny.

"San Francisco's housing shortage and the high market rates that result are significant problems of public concern, and the city legislature's attempts to ameliorate them are laudable," Judge Breyer wrote. "The ordinance apparently is unprecedented in requiring a massive lump-sum payout from one private party to another in exchange for regaining possession of property. But that trail had not been blazed before for good reason."[32]

The decision concluded that "the city has crossed the constitutional line between permissible government regulation of land and an impermissible monetary exaction that lacks an essential nexus and rough proportionality to the impact of an Ellis Act withdrawal." [33] In essence, the imposition of such a high barrier to taking one's leasehold off the rental market amounted to a virtual taking of the property—or a significant portion of the property's value—by the city. While requiring an owner to compensate a displaced tenant for moving and moving costs, as required under the Ellis Act, was constitutionally acceptable, holding the landlord responsible for skyrocketing rental rates was not.

"I think [Judge Breyer] got it right. This is an unprecedented law that forced a few property owners to solve a larger societal problem by paying a king's ransom to stop being landlords," said Pacific Legal Foundation pro bono attorney J. David Breemer on behalf of his clients. "There may be a broader crisis, but that doesn't justify forcing the burden of solving the crisis on the backs of a few property owners."[34]

Dennis Herrera announced an appeal in short order. "There should be no doubt that when a landlord evicts a rent-controlled tenant, the immense rent increase the tenant faces is the direct result of the landlord's decision to evict. . . .San Francisco is facing a housing affordability crisis that's historically unprecedented, and our tenant relocation law serves a legitimate and lawful public purpose in helping tenants to adjust to the loss of rent control and mitigating the harms of displacement."[35]

Levin and other landlord-tenant cases lay bare many of the complex—and often conflicting-best intentions of state and municipal governments as they try to reconcile free enterprise with societal goals. In San Francisco, New York City and other metropolises, one major reason for the huge disparity between existing rents and fair market value is obvious – the artificial ceiling on annual rent increases for occupied units. San Francisco's rent control plan, for example, covers nearly all rental property in buildings constructed before June 1979, thereby affecting a large proportion of the city's leasehold inventory. Rent increases are strictly limited to a rate lower than inflation under the guidelines published by the San Francisco Rent Control Board-specifically, to sixty percent of the Bay Area Cost of Living Index. Under this rubric, rent increases generally hover between one and two percent per year, resulting in an ever-diminishing return on investment for property owners.[36]

An Attempt at Compromise

Even as San Francisco has continued to fight the loss of long-term affordable housing, it recognizes the syllogism that by allowing permanent residents to rent out their properties on occasion, their prospects for staying in the city may actually increase. In October, the City Board of Supervisors passed an ordinance explicitly *authorizing* short -term rentals—within reason. In explaining its about-face, the Board cited a fuller appreciation of the role that Airbnb and its cohorts play in the city's housing market:

> The widespread conversion of residential housing to short-term rentals, commonly referred to as hotelization, was prohibited by this Board because, when taken to extremes, these conversions could result in the loss of housing for permanent residents. But, with the advent of new technology, the rise of the sharing economy, and the economic and social benefits to residents of sharing resources, short-term rental activity continued to proliferate. This has not only led the City to strengthen enforcement of short-term rental laws, but also prompted an examination of parameters to regulate short-term rentals and create a pathway to legalize this activity. The goal of regulation is to ensure compliance with all requirements of the Municipal Code, including but not limited to the Business and Tax Regulations Code

and the Residential Rent Stabilization and Arbitration Ordinance, and accountability for neighborhood quality of life.

(1) Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent Resident may offer his or her Primary Residence as a Short-Term Residential Rental if:

(A) The Residential Unit is occupied by the Permanent Resident *for no less than 275 days* out of any given the *calendar year* in which the Residential Unit is rented as a Short-Term Residential Rental or, proportional share thereof if he or she if the Permanent Resident has not rented or owned the Residential Unit for the full preceding calendar year, for no less than 75% of the days he or she has owned or rented the Residential Unit.[37]

This measure seems to be a creative and forward-thinking solution. Whether it will actually help curb San Francisco's runaway rental rates and protect long-term housing is unclear. Enforcement will become more complex if greater numbers of owners get into the short-term act. Some detractors will no doubt carp that, if apartments come with a legalized sublease profit opportunity, owners will boost rents even more to participate in the potential upside.

In fact, a challenge has already been launched against the new law–but from a most unexpected source: HomeAway.com. The Airbnb competitor brought suit against the city in November, raising unfair competition and even Commerce Clause challenges because Airbnb is a California-based company.[38] HomeAway objects to the 90-day annual limitation on short term leasing, given that it specializes in second homes rented out to vacationers for most, if not all, of the year. Although Airbnb will lose some San Francisco listings under the new law, the majority of Airbnb landlords rent out primary residences and do not vacate them for extended periods.[39] HomeAway may also be threatened by provisions requiring the payment of lodging tax–unlike Airbnb's system, which puts the company in the middle of the payment process from the outset, making collection of taxes relatively easy, HomeAway is only a listing service. It cannot ensure that its clients are complying with tax laws.

Economic Infusion or Code Violation?: The competing considerations behind San Francisco's give and take are evident across the country. Many jurisdictions are only now beginning to grapple with the right balance. Local governments continue to seek the right balance between residential stability and free market entrepreneurialism. In vacation areas that are not fighting the loss of long-term housing and want to accommodate the proprietors of short-term rentals, whose transient tenants are a vital part of the locality's economy, the focus is on registration, notice, safety–and fees.

San Bernardino's mountains, to the east of Los Angeles, are such a locale. There the San Bernardino County Development Code provides that: "A short-term private home rental, within the Mountain Region, shall be allowed, provided that a Special Use Permit is first obtained and all of the standards and conditions contained in this Chapter are fulfilled." The San Bernardino Code further specifies that a short term rental is 30 days or less, that fire and safety standards must be met, that the number of occupants cannot exceed available "raised sleeping beds" (furniture on which to sleep, elevated at least two feet above the floor) and that sufficient parking must be available at each house. In addition, owners of contiguous properties must be notified.[40]

The 5-page San Bernardino Special Permit application requires payment of a $671 fee (renewal is biennial) and includes a "Uniform Transient Occupancy Tax" form, to be filed directly with the County Tax Collector.[41]

In Fort Meyers Beach, the rules are a bit less generous to landlords. Owners are permitted to rent out their residential properties, but only once in any calendar month, and for not less than one week at a time.[42]

In sunny Gilbert, Arizona the policies are stricter still. There, big-time profits have led homeowners to open their residences to winter-weary Northerners. The city has no intention of seeing established neighborhoods overrun with short-term out of towners. The Gilbert Code prohibits any leases of less than 30 days, period. Violators are charged $255 for the first offense with more costly disincentives thereafter. Some Gilbert homeowners associations have gone further, requiring minimum stays of 90 days or more. [43]

And in Ashland, Oregon, an R-1 zoning designation means that the owner cannot legally offer any short term rental whatsoever, with or without Airbnb–there is no process for registering and no standards or fees that will enable compliance.[44]

The response to regulation varies around the country. There appears to be little patience for a recent legislative solution in Austin, Texas. There, the city is more interested in safety and tax revenues than preserving affordable housing. The Lone Star State mecca for leading-edge music and laid-back lifestyles ("Keep Austin Weird" is a local bumper sticker and tee-shirt theme) is home to a number of heavily attended festivals during the year. Many residents have built a healthy income by offering up their properties–on a temporary basis or as year-round vacation rentals. Operating through Airbnb, HomeAway.com, VRBO.com and others, owners have been skirting safety requirements and ignoring lodging taxes (recall that Texas has no state income tax).

In August 2012, the Austin City Council determined that the situation required action. It voted overwhelmingly to pass Ordinance No. 20130926-144, which imposed new requirements on Short Term Rentals (STR's). The definition of "STR" was expanded to virtually anyone in city limits who made accommodations available for less than 30 days at a time, if they charged $2 or more per day. The number of "secondary" STR's–those where the rented property was not the owner's principal residence–was limited to no more than 3% of each census tract in the City. STR operators were required obtain licenses, be inspected, obtain at least $500,000 in liability insurance and file reports of lodging activities. Finally, made STR income became taxable under "Hotel Occupancy Tax" and other laws–resulting in a 7% hotel impost to Austin, an additional special 2% Austin assessment, plus a 6% Texas state sales tax. Application fees were set at $235, with a further $241 charge to cover the municipality's cost of notifying all neighbors within 100 feet of the short-term rental property. Penalties for non-compliance could reach $2,000 per night.[45]

According to press accounts, the new rules were met with non-compliance and anger. Although they went into effect in October 2012–shortly before the Austin City Limits music festival and the City's first ever Formula 1 race (preparations for that event were evident to IMLA

Continued on page 32

Airbnb *Cont'd from page 31*

2012 Annual Conference attendees in Austin) only four landlords had fully registered as the ACL began. The City estimated that over 1,000 had not.[46]

The City Council has recently softened one of the most objectionable portions of the short-term tax package—it reduced the charge for notifying neighbors to $50, resulting in a $285 annual license application cost. [47]

But the bigger disagreement continues. In a convergence reminiscent of the legalized marijuana movement, conservatives and liberals have joined to decry the intrusion of government into Austin's way of life. Further massaging of the city's hotel occupancy tax ordinance will be needed, it seems.

More Work to be Done: As with the ride sharing wars, enforcement of the short-term lodging rules is a challenge. It is difficult to catch scofflaws in the act, expensive to deploy already-busy code enforcement officers, and time-consuming to litigate when Airbnb and its free-market disciples take to the courts. The impact on municipal governments of Airbnb and its web-lodging relatives is certain to increase—whether they bolster local economies or undermine safety and tax laws and threaten long-term housing. Despite their broader spectrum of characters and potential constitutional implications, the short-term rental wars do share one significant characteristic with the app-enabled taxi wars. Both involve leading edge (for the moment) technologies, which are embraced by the younger cohort in our society and worldwide–with older converts joining every day. Airbnb and HomeAway are not going to disappear anytime soon, any more than Uber or Lyft. The challenge for local lawmakers is to fashion rules that allow the benefits of entrepreneurship and new technology, while comporting with Constitutional parameters, protecting the public and meeting fiscal responsibilities. Municipal decision makers—and IMLA members as their counselors—need to devise effective and responsible regulations that protect the best parts of the status quo but allow innovation to take root and flourish.

Notes

1. The TNC uprising continues to undermine traditional taxis. A recent New York Times article describes the precipitous decline in the value of taxi medallions across the US. Medallions, which are often a bigger investment than a home mortgage, have dropped 20 percent or more in the past 2 years in New York (to an average of $872,000), Boston and Chicago. Philadelphia recently scrapped a new medallion auction altogether. N.Y. TIMES, Friday November 27, 2014, page a-1.
2. Homeaway's 10Q dated November 5, 2014 indicates that, for the 9 months ended September 30, 2014, roughly $290 million of the company's $350 million in revenues came from listings. http://files.shareholder.com/downloads/ABEA-6A2WZS/3667792059x0xS1193125-14-398235/1366684/filing.pdf
3. http://www.nbcnewyork.com/news/local/Airbnb-NYC/-Data-Battle-227773671.html
4. https://www.airbnb.com/help (see "getting paid").
5. "An Airbnb Rival Challenges San Francisco's Airbnb Law," BUSINESSWEEK, Nov. 3, 2014. http://www.businessweek.com/articles/2014-11-03/san-francisco-faces-a-lawsuit-over-its-airbnb-law
6. *Id.*
7. http://rochester.twcnews.com/content/lifestyles/780202/hotel-industry-weighs-impact-of-airbnb/
8. http://betabeat.com/2014/04/schneiderman-smacks-airbnb-at-crains-breakfast/#ixzz3JLYf25bn
9. http://www.hanyc.org
10. http://therealdeal.com/blog/2013/08/19/hotels-seek-to-file-class-action-lawsuit-against-airbnb
11. http://mashable.com/2014/06/10/new-york-airbnb-lawsuit/
12. http://therealdeal.com/blog/2013/10/01/nolita-landlord-pays-thousands-to-boot-airbnb-buff/
13. http://therealdeal.com/blog/2014/10/03/airbnb-has-a-new-adversary-related/
14. http://nypost.com/2014/04/14/hookers-using-airbnb-to-use-apartments-for-sex-sessions/
15. Laws of New York, Chapter 225 (emphasis added) http://www.nyc.gov/ html/dob/downloads/pdf/NYS_chapter_225.pdf
16. *See* New York State Assembly Memorandum in Support of Legislation (S. 6873-B, 233rd Leg. (N.Y. 2010 (Sponsor's Memo) Bill No. A10008).
17. http://time.com/3260313/airbnb-sued-by-group-of-users-in-new-york-city-for-breach-of-privacy/
18. http://www.ag.ny.gov/press-release/ag-schneiderman-releases-report-documenting-widespread-illegality-across-airbnbs-nyc
19. http://www.ag.ny.gov/pdfs/AIRBNB%20REPORT.pdf
20. http://www.nydailynews.com/new-york/de-blasio-administration-files-lawsuit-apartments-operating-hotels-sites-liairbnb-article-1.1977461
21. Nash v. City of Santa Monica, 37 Cal.3d 97, at 102 (Cal. 1984).
22. Cal. Gov't Code § 7060(a).
23. Cal. Govt Code §7060.2 (d).
24. http://www.sfexaminer.com/sanfrancisco/city-attorney-files-lawsuits-against-landlords-renting-property-as-illegal-hotels/Content?oid=2778976
25. *Id.*
26. *Id.*
27. *Id.*
28. Cal. Govt Code §7060.1-7060.1(c).
29. Ordinance No. 54-14, S.F. Admin. Code. § 37.9A(e)(3)(E).
30. http://www.sfaa.org/pdf/levin-complaint-july-2014.pdf
31. Daniel Levin et al. v. City and County of San Francisco, no. 3:14 cv 03352 (Oct. 22, 2014).
32. *Id.*
33. *Id.*
34. http://www.sfexaminer.com/sanfrancisco/city-attorney-to-appeal-federal-judges-ruling-against-tenant-relocation-law/Content?oid=2909951
35. *Id.*
36. *see generally* S.F., Cal., Admin. Code §§ 37.2(r)(5), 37.3(a), and 37.9.
37. https://sfgov.legistar.com/View.ashx?M=F&ID=3292337&GUID=67C37394-6A63-49DC-A886-675E294384C1
38. BUSINESSWEEK, *supra*, footnote 5.
39. Airbnb claims that 87% of its San Francisco rentals are primary residences. The San Francisco Chronicle disputes that number, finding that 30% of Airbnb landlords in the city are offering two or more locations. Carolyn Said, "Window Into Airbnb's Hidden Impact on S.F.," S.F. CHRONICLE http://www.sfchronicle.com/business/item/airbnb-san-francisco-30110.php
40. http://cms.sbcounty.gov/Portals/5/CodeEnforcement/Short%20Term%20Rental%20ORD%2084. 28%202014.pdf
41. *Id.*

Airbnb *Cont'd from page 32*

42. Fort Meyers Beach Development Code Ch. 34 sec. 622k. http://www.fortmyersbeachfl.gov/DocumentCenter/Home/View/320
43. http://www.azcentral.com/community/gilbert/articles/2010/05/14/20100514gilbert-vacation-homes-0515.html
44. http://www.kdrv.com/short-term-rentals-against-city-code/
45. http://austintexas.gov/str
46. http://www.statesman.com/news/news/local/as-austin-short-term-rental-rules-take-effect-hund/nSZbj
47. http://austintexas.gov/sites/default/files/files/Code_Compliance/STRs/S ML

Day In the Life *Cont'd from page 20*

the mayor's office, and even a state senator. Because of the community's demands for immediate action, several governmental entities felt compelled to join an already complicated situation.

On Sept. 5, the final show cause hearing for the tenant's eviction was held. The tenant failed to appear at the hearing, the order was issued, and the King County Sheriff posted notice the following day. Over the next week, I visited the home with officers and the home owner, verified that the tenants had not yet vacated, and developed a timeline with the sheriff's detective assigned to execute the eviction. Additionally, I was the point person to keep the increasing number of governmental agencies up to date on our progress and plans.

As eviction day grew closer it became evident that simply kicking the tenants out would not solve all the problems. Their mess still had to be cleaned up and it was clear that the tenants weren't going to do it. One of our office's land use attorneys, Tamera Van Ness, pushed DPD to issue a citation and expedite the abatement process. Once the citation was posted, the owner consented to a voluntary abatement. This cleared the City to have the property cleared immediately after the eviction.

In the weeks leading up to the eviction I worked closely with SPD to make sure all the pieces were in place. I maintained contact with the sheriff's office to make sure all parties would be present as required. The owner, with neighborhood cooperation, secured a contractor to board up the doors and windows of the home. The owner and neighborhood volunteers would clear out any "valuables" left behind by the tenant. CPT conferenced with the Conservation Corps to confirm they had the necessary tools, namely a large dumpster, standing by to clear the garbage off the property.

Finally, the day had arrived. On Sept. 18, we all headed out to the property for the 10 a.m. eviction. When we arrived, the Conservation Corps was ready to go with a large dumpster and a back hoe! This was important because as we quickly realized using a hand shovel to clear the garbage would have taken days. All we needed was the sheriff and the owner, who both arrived on schedule. The eviction went smoothly and the tenants left peacefully, despite the media's attempts at encouraging confrontation. Once the tenants had left, the cleanup frenzy began and, by 3:00 p.m., the place was unrecognizable. Almost everything proceeded according to plan. The only issue remaining was a need for a second dumpster that we were told we just couldn't have; that was easily remedied with calls from the North Precinct operations lieutenant and an assistant city attorney doing his best to sound intimidating. Overall, the day went smoothly, and the biggest reward was the neighbors' gratitude that the tenants were gone and the property was clean.

Since the property is still in the process of being listed as a short sale and technically abandoned, I worked with the owner to draft and sign a trespass agreement. That gives SPD authority similar to that in the retail trespass program (http://www.seattle.gov/law/precinct_liaisons/seattletrespass.htm). Between the neighbors' vigilance and SPD's ability to enforce trespassing with the owner's permission, the home should remain secure until it is sold and demolished. ML

Second Look *Cont'd from page 27*

5. Fed. R. Civ. P. 34(b)(2)(E)(i).
6. *Id.*
7. Although the magistrate judge makes light of this fact, the requesting party in *Venture Corp.* waited until shortly before the end of discovery to seek clarification about the produced ESI and documents, and may therefore have improperly sought to extend discovery. *See* 2014 WL 5305575 *2.
8. 2014 WL 5305575 *2.
9. 2014 WL 5305575 *3.

Code Enforcement *Cont'd from page 19*

ordinance. One of the orders the city may seek is closure of the building for a period of not less than 30 days. With the possibility of a closure order being put in place where the landlord would potentially lose rental income, we anticipate that landlords will be far more likely to address the problems at their property once they receive a notice from the city. In fact, we have used this tactic with successful results.

One peripheral issue that has arisen with respect to nuisance ordinances of this nature was framed in an e-mail from IMLA Executive Director Chuck Thompson. His note related that the ACLU is challenging these types of ordinances on the basis that they can have a negative impact on victims of crime. An example they cite is a woman who was being evicted from her residence—because the property had been found to violate nuisance ordinances due to her repeated calls to law enforcement about domestic violence against her, taking place in her rental. In essence, her complaining about intolerable (and likely criminal) actions occurring against her in her own apartment caused the property to be classed as a nuisance and taken off the rental rolls.

These are challenging problems. Like many issues in municipal law, there are valid concerns to be considered on both (or many) sides of the argument. I believe that nuisance ordinances can be drafted to accommodate the concerns raised by the ACLU. (I would encourage those of us who use these types of ordinances to send a copy to IMLA, along with any comments on your experience with the provision; as IMLA seeks to work with the ACLU on this issue, I am certain that any additional information would be useful).

To sum up, one element of a successful college town - whether home to a major university or a smaller community college—is adequate student housing. When a younger, transient student population lives within established, stable neighborhoods, conflicts are sure to arise. I am confident most of these issues can be resolved via some of the ideas I have referenced above, including carefully crafted housing ordinances. ML

Why Quashing Short-Term Rentals Is a Zero-Sum Game for Housing Affordability

Seattle's data-blind rush to regulate Airbnb is a recipe for unintended consequences.

An example of how apartments and hotels compete for the same scarce urban land, the Hyatt Place hotel abuts the Anneliese apartments on the north edge of downtown Seattle, by Dan Bertolet, used with permission.

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Author: Dan Bertolet
(@danbertolet) on June 15, 2016 at 6:30 am
This article is part of the series Legalizing Inexpensive Housing

Founded just eight years ago, Airbnb has become a $25 billion company that handles more rooms than any other hospitality entity on the planet. Suffice it to say: people like it.

Also suffice it to say that Airbnb—a textbook "disruptive innovation"—is sending shock waves through the hotel industry and beyond. One such shock wave is Airbnb's potential to exacerbate the housing affordability crunch in high-priced cities. Advocates fear that short-term rentals (STR) offered through online marketplaces such as Airbnb and VRBO cut into the supply of long-term rentals (LTR), reducing the availability of housing and driving up rents for locals.

It's a plausible apprehension, and it explains the waves of controversy that have overtaken Airbnb in New York City, San Francisco, Austin, Portland, and Vancouver, BC, among others. This year, the fear has roiled Cascadia's largest city, Seattle.

In response, the Seattle City Council is considering new restrictions targeted at hosts who use Airbnb or similar services as a sort of mini virtual hotel to manage numerous STR accommodations located anywhere in the city. The key piece of the proposed legislation would prohibit hosts from renting a space for more than 90 days per year if it's located on a property that is not their primary residence. Policymakers believe that capping the revenue from STRs in this way will encourage owners to offer their off-site units to long-term tenants instead, estimating that it could return 300 units to Seattle's LTR pool.

The proposal is intuitively appealing. It suggests a way to prioritize local renters over "well-heeled" visitors. Unfortunately, this rush to smack down Airbnb is unwarranted. No one yet knows if Seattle's housing affordability would get better or worse from the rule. To impose regulations now would be premature at best. The appropriate action is to watch and study.

The meteoric rise in popularity of online STR services speaks for their tremendous value to both hosts and guests. Meanwhile, data confirming any negative impact on housing affordability are lacking.

But more importantly, what policymakers may be missing is that web-based STRs, LTRs, and hotels are each interrelated components of the same citywide housing market, each utilizing the same basic resource: bedrooms. Restricting a specific type of STR will have the unintended but

unavoidable consequence of shifting demand to bedrooms elsewhere in the city. It's like sticking your finger into a balloon: it just bulges out everywhere else. And that's why regulating away Airbnb units is unlikely to yield any net gain in housing affordability for Seattle.

What we know (and mostly don't know) about Airbnb's influence on local housing markets

Anecdotes abound of people taking LTRs off the market and using them for Airbnb instead—or even worse, of premeditated evictions to clear out long-term tenants and make way for more lucrative STR guests. Any reduction in long-term rental supply increases rents, while economic evictions traumatize families and fray the community fabric. In rapidly growing cities, enacting policies that prevent these serious harms would serve public interest, no question.

Whether or not Seattle's proposed restrictions would achieve the desired outcome, however, *is* an open question. There is a paucity of *non*-anecdotal data on the potential relationships between Airbnb and affordability. Without solid data to untangle the complex web of the housing market, we can only speculate about what the proposed regulations would do for net housing supply.

What we do know is that home-sharing services such as Airbnb offer big benefits to both hosts and tenants, including not only monetary value, but also flexibility, choice, convenience, and cultural enrichment. On top of those personal perks, we also know that home-sharing delivers sustainability dividends to the greater community by enabling more flexible and efficient use of existing housing resources.

In Seattle on any given night, more than one in four bedrooms lie empty. Those rooms are heated, plumbed, painted, furnished, and provided with bathroom and kitchen access. Channeling the growing demand for STRs into these unused rooms decreases demand for hotel rooms—and consequently the demand for urban building lots zoned to allow new hotels—and eliminates the carbon footprint associated with building and operating those new hotels.

Hotels are also inherently less flexible because their rooms are designed for a single purpose and not easily converted to LTRs. Houses and apartments, in contrast, tend to be adaptable for either STRs or LTRs.

We also know that housing markets in North America are extremely rigid and inflexible, discouraging all manner of inexpensive housing that could otherwise be helping to ease the affordability squeeze. Cities impose legal barriers to roommates, rooming houses, in-law apartments and backyard cottages, micro-housing, tiny houses, and townhouses, and put far too much land off-limits to anything but single-family houses. Regulating Airbnb ratchets down flexibility in the housing market even more, moving things in the wrong direction for affordability.

But much is still murky about the dynamics of Airbnb. To the point: no one can predict how hosts of off-site STRs will respond to a 90-day rental limit. Some may switch to LTR as policymakers assume. For one counterexample, though, consider the scenario of a family that owns a second home it uses to spend summers in Seattle. That family would never put their

home on the LTR market, and with a 90-day restriction the house would then sit empty for six months a year—a waste of resources and a lost opportunity for soaking up demand for short-term accommodations.

Or consider the couple that decides to live together on a trial basis, using Airbnb to generate income from his home and live in hers while they decide whether they're meant to be together for the long term. He will not put his place on the long-term market, because he may need it soon. The regulation could force them to leave his unit empty, again wasting resources and foreclosing short-term housing options for others.

Similarly, no one knows how often Airbnb catalyzes the conversion of unused rooms or units into new LTRs. The prospect of Airbnb income has inspired countless hosts-to-be to upgrade an underutilized space for STR. Anecdotally, some of them find it a hassle to be inn-keepers—managing an ongoing stream of new tenants, cleaning the linens every few days, and so on—so they switch their spaces to LTR, increasing the supply.

At a larger scale, the expectation of additional income from Airbnb hosting could already be motivating the construction of whole new apartment projects or expanding their size. Likewise, the existence of Airbnb may be encouraging families to rent or buy houses and apartments with fewer bedrooms, knowing that they do not need guest rooms when dozens of neighbors offer rooms through Airbnb. Is Airbnb therefore allowing the whole housing market to slightly downsize its demands, freeing up larger houses and apartments for larger households?

Reporting and enforcement introduce another layer of uncertainty to the cost-benefit equation of restrictions. Monitoring and inspecting thousands of Airbnb units would require significant city resources. Regulations perceived as unfair and unenforceable are routinely flouted in all parts of life, and other cities' experience suggests Airbnb rules may fall in that category.

In 2015, Portland passed an ordinance requiring STR hosts to get permits for their listings, but less than 10 percent of hosts met the city's deadline to do so. A similar story played out in San Francisco, and the city recently responded by imposing a $1,000 per day fine on STR websites that offer listings not registered with the city. The need to resort to such draconian measures suggests a policy out of touch with reality.

Seattle's Airbnb legislation: Let's do some math

Seattle's proposed legislation targets "commercial" hosts—those who list multiple whole apartments or houses on Airbnb, as opposed to those who make a bit of extra income off a spare bedroom. To make the distinction, policymakers assume that any STR not located on the property of the host's primary residence is a commercial listing: "Rentals past the cumulative 90 nights where the operator does not live on site are business ventures and deserve to be regulated and restricted as such."

To be clear though, "restricted" means hosts are *prohibited* from renting off-site units more than 90 days per year. The intent is straightforward: if hosts are prevented from earning more than 90

days' worth of STR income per year, offering the unit as a traditional long-term rental becomes the more lucrative option. How many units might this restriction convert?

Airbnb's data for Seattle show that only 22 percent of "entire homes" listed are rented out 90 days per year or more, amounting to 630 Airbnb units suitable for LTR that the proposed 90-day restriction would impact. The fraction of those 630 units that hosts would convert to LTR depends not only on the financial equation but also on the hosts' personal priorities. For some hosts, the value of keeping the unit available for family or personal needs will outweigh the loss of rent income. To assess the financial incentive, Airbnb estimated that 296 of its STRs rent for enough days per year to generate more income that could be earned annually from a LTR, based on current Seattle rents.

- Find this article interesting? Please consider making a gift to support our work.

Six hundred units is less than half of a percent of the total rental units in Seattle, and as Peter Orser, director of the University of Washington's Runstad Center for Real Estate Studies, noted, it's unlikely to "make a significant inflationary impact on housing prices." That said, in the battle against displacement, every additional home matters. However, there are reasons to question whether the proposed restriction would yield even that number of additional LTR units.

The fundamental flaw in the rationale for restrictions is that demand for STRs won't disappear if the supply of STRs offered through services such as Airbnb is cut back. Where would the unmet demand for STRs go? The prime suspect, of course, is conventional hotels. But here's the catch: when there is more demand for hotels, more hotels get built. Hotel and apartment developments compete for the same scarce urban land, so more new hotels means fewer new apartments, and fewer apartments means higher rents. If so, then STR restrictions may be a zero-sum game for affordability.

The only reason it wouldn't be zero-sum is if Airbnb creates its own STR demand—that is, if some Airbnb users would not travel to Seattle if Airbnb didn't exist. Surprisingly, several studies (here, here , here) have found that the growth of Airbnb has had little impact on hotel revenues, suggesting that Airbnb does in fact expand demand from out-of-town visitors. Because Airbnb tends to offer relatively cheap accommodations, lower-cost hotels are likely to feel any such pinch the most. And it makes sense that Airbnb could entice a handful of casual, low-budget tourists to travel when they otherwise couldn't afford it.

On the other hand, intense support from both the corporate hotel lobby and hotel worker unions for restrictions on home-sharing platforms is perhaps the best evidence that conventional hotels and Airbnb compete for the same tenants. Why would the hotel industry be making so much noise about Airbnb if it weren't a threat?

In any case, not all STR tenants are casual, low-budget tourists. According to Airbnb, 31 percent of Seattle guests visited for reasons other than vacation or leisure. Those other reasons include family visits, business, conferences, short-term housing during relocation, and job-seeking—visits that would happen with or without Airbnb. Of the leisure travelers, surely a majority

wouldn't give up their chance to ascend the Space Needle just because they would have to stay at a generic Holiday Inn.

The push-pull competition between new hotel development and new apartment development may not be a pure one-to-one relationship, but the two are strongly coupled. In higher-density areas of Seattle, hotels and apartments are commonly located in close proximity (see the photo above) or even within the same building. In lower-density areas, hotels are less common than apartments, but even if there are locational mismatches, STR demand will find the hotel supply wherever it's located, just as it did before Airbnb. (This highlights a side benefit of Airbnb: it spreads lodging options throughout the city.)

Hotel and apartment real estate development processes have different risk profiles, timelines, and other quirks, but over the long term, these marginal effects balance out. More hotel demand generated by shutting down Airbnb units will result in fewer apartments, and less hotel demand generated by leaving Airbnb alone will result in more apartments. The magnitude of these effects, like most other questions about Airbnb and housing affordability, remains unknown.

To b or not to Airbnb? That actually shouldn't be the question.

In cities struggling to maintain housing affordability, the explosive growth of web-based short-term rental services such as Airbnb and VRBO warrants serious consideration. But given the newness of the trends, the lack of data, the relatively small number of housing units at stake, and the uncertainties over how shifts in STR demand would percolate through the whole housing system, enacting new restrictions would seem hasty and premature.

Seattle Times columnist Jon Talton nails it: "Would [the proposed restrictions] deliver on a promise to free up more apartments for long-term leases in a growing city? Maybe at the margins, but unintended consequences occur."

The efficacy of affordable housing policies hinges on their working in concert with the fundamental reality that demand drives everything. Like Cascadia's other great cities, Seattle is in the midst of a huge surge in housing demand as its population and incomes swell. Trying to micromanage the duration of people's stays in different dwellings across a city of hundreds of thousands of homes neither stems this demand nor satisfies it. Because housing and hospitality compete for the same scarce resources—urban land and bedrooms—restricting STRs is like rearranging deck chairs on a ship that has already plowed into the iceberg of the housing shortage.

Seattle would better serve its needs by embracing the spirit of the Housing Affordability and Livability Agenda: open up the housing market to more supply and flexibility while steering the resulting growth toward equity and affordability. For STRs, that means simply following HALA's recommendation (see R.9): a tax on STRs dedicated to affordable housing subsidies.

The real work we must pursue on affordability is putting more new roofs over people's heads. And if Seattle—and other cities—could successfully address the housing shortage, few people would care one way or the other about Airbnb.

Come Stay in our Village Coalition

ADVOCATING FOR SHORT TERM RENTALS IN LEAVENWORTH, WASHINGTON

Presentation to City of Leavenworth Planning Commission

September 7, 2016

by the

Come Stay in our Village Coalition Packet

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Keep Leavenworth Clean

The first day of spring will be here soon, and with that in mind the City Council would like to remind the citizens of Leavenworth and the business community that we all have the responsibility of contributing to the public cleanliness of the City.

Let's all do our part to keep our city clean and litter free.

Vacation / Overnight Rental Properties within the Residential Neighborhoods

The Leavenworth Planning Commission is looking for your input about regulating short-term/ overnight rental properties within the residential neighborhoods. The current City code does not allow for overnight (short-term/less than a month) rentals in residential zones within the City.

On April 6, 2016, the Commission will hear the first round of public comments on the topic of short-term/ overnight rental regulation. We need your feedback.

Currently, any owner of a single family home can rent out his or her property for monthly periods. These properties are considered and regulated the same as home owner occupied properties. However, short-term / vacation / overnight rentals are becoming more popular with some property owners within the City, currently offering properties for short -term / overnight rental, resulting in illegal or "black market" rentals, and in violation of City regulations. In light of the popularity of this rental market, we can expect more property owners to consider offering their properties for this use.

The Planning Commission is looking for options on addressing this issue and is seeking your input. Listed below are just a few of the questions they will be exploring:

⇒ Should short-term rentals be allowed in residential neighborhoods?

⇒ What does a neighborhood look like? Is there a concern for the loss of community character with the addition of this use? What implications are there with short-term rentals; noise, parties, and parking/too many vehicles.

⇒ If short-term / overnight rentals are allowed with a Business License, what needs to be included in licensing? For example, regular inspection for rental properties, with penalties for landlords who crowd more occupants in than the City allows?

⇒ What care of the property and clean up should be needed? Does the owner need to live on site or hire a property manager?

⇒ What is necessary to prevent excessive traffic, parking shortages, loud noise, and increased garbage and sewage?

⇒ Are there areas within the residential neighborhoods that would be more appropriate for short-term / overnight rentals? Are there lot size limits to mitigate impacts?

⇒ What issues and policy options do you want the Planning Commissioner's to consider? Multiple policy options may be needed to address a single issue.

Many communities are facing this issue, it is relatively new with the online reservation service companies being available to property owners. The opportunity on April 6, 2016 is your chance to help frame the conversation. We hope to see you there!

Short-term rentals are an integral part of Leavenworth's economy. Not only do STRs in the city, they also bring more people to less-trafficked areas, helping compete.

of Chelan County's 2013 taxable purchases were made by tourists*

Leavenworth

stay in a Leavenworth HomeAway vacation rental is

From , Leavenworth saw an in projected from STRs

STR renters typically stay longer and travel in larger groups than traditional travelers

54% of STR owners nationally generate enough rental income to cover 75% of their mortgage^

STRs generate activity in underserved areas, supporting local restaurants & boutiques

In 2014, tourism brought in spending to Chelan County*

HomeAway

* Dean Runyan Associates, "Washington State County Travel Impacts & Visitor Volume," 4/15
^ 2016 HomeAway, "Vacation Rental Report," 6/29/16

5. OPEN TO REASONABLE REGULATION

Since the courts in Washington state have ruled that there is no difference between short-term and long-term rentals, we believe that fair and equitable regulation can be applied equally to both visitors and residents alike. This makes it easy for the sheriff to enforce and easy for our community to follow.

Here are some examples that provide illustrations for some of the common concerns for all types of rentals:

- Short term rentals are used between 100 and 120 days per year. Much less than full time residents or long term rentals. Less wear and tear and better kept.

- NOISE: Current code is enforceable as it stands now. Any resident or occupant of any property making noise or disturbances after 10 PM, can be reported to the sheriff who has the authority to deal with them accordingly. Title 9 and 9.33. The sheriff's office has confirmed more calls come from regular residents and long term rentals than short term rentals.

- PARKING: Current city codes outline parking regulation in the city of Leavenworth. Vacation rental owners and managers are willing to limit the number of cars at each property based on local ordinances and the size of each home. We believe that simple parking ordinances or any amendments to the code should apply to guests, visitors and residents alike. Title 10.08

- OCCUPANCY: Vacation rental owners and managers are willing to limit the number of occupants for each property based on local ordinances and the size of each home. We believe that this can and should apply to long-term rentals as well. One example would be a maximum of two people per bedroom and two additional per property.

- TRASH MANAGEMENT: Vacation rental owners and managers agree to adequate containment and timely removal of all trash. Any city codes regarding trash can and should apply to all residences, short or long-term. Title 8.04

- EMERGENCY CONTACT: Vacation rental owners and managers are happy and willing to give the city their 24 hour contact number and believe that this should apply to long-term rentals as well.

- COLLECTING AND PAYING CITY HOTEL TAXES: Opening up the entire city to short term rentals encourages property owners to collect and pay for the city hotel taxes. We believe the city is losing tax revenue and would gain revenue if it encourages the hospitality and lodging industry in all areas of the city. Further applying these taxes to all rentals, short and long-term could thereby provide additional revenue.

- We are willing to work with the city to address any other concerns in these areas to make it work for everyone.

6. The larger the lot, might make some of the impact on neighbors a little easier because of the natural buffer that may be created with a larger property,

however is this fair and equitable to the owner who may have a smaller property?

My feeling is that it should be made to work for everyone.

If someone has a 2 bedroom home, then maybe they should be allowed to rent to 6 people and parking for 3 cars if space allows.

7. Just some thoughts to consider:
   - To ban nightly rentals seems counter to what Leavenworth stands for- Tourism
   - A homeowner should have flexibility on how they use their property.
   - Do we really want tourist to go elsewhere because we don't allow nightly rentals?
   - This has created an avenue for some people to be able to afford to live here by renting a room in there home. Do you want to take that away?
   - Do you want to remove jobs that nightly rentals support?
   - You are taking away the right to make an income for some people. Just because a group makes the loudest noise doesn't mean their

cause is right [referring here to the group opposed to nightly rentals]

- This ban on nightly rentals is comparable to banning a home office, if you are a lawyer, accountant, engineer, developer or any other trade that makes a living out of their home.
- Is the city aligning themselves with the Chamber, who is promoting tourism in Leavenworth?
- We would like to see you recommend to the city to give us one year to make this work for everyone.

The only reason I am involved in this is because feel strong about property rights issue.---- I'm losing property rights and YOU are losing property rights.

This is for the planning commission
to read at a later time.

8. The group that is in favor of the ban on nightly rentals is using this platform to include "affordable housing" as part of the discussion. Nightly rental has very little to do with "affordable housing". I think this discussion needs to be taken off the table for the reasons listed below:

- According to the county profiles website only 19% of the land in Chelan county is privately owned. Which would translate to an even smaller % in the area of Leavenworth. We are surrounded by federal and state forest land plus orchards. Whenever you have a shortage of land, the costs for that land is driven way up. The minimum cost for a lot in Leavenworth starts at 100K and goes up from there. Add to that sewer and water hook ups, drafting, engineering permits and fees the city requires – another $50K. So you hit at least $150K before you even break ground. Add a minimum house to that and you are close to $300K. Does not seem very affordable.
- Wikepedia and several other articles list the most important factor in "affordable housing" as wages, not the price of the home.
- The accepted standard per government guideline is that 30% of income can go to housing. Even though most banks like to see 25%. An entry-level wage earner in Leavenworth may make $15.00 per hour x 160 hours per month per earner = $2400 X 30% = $720 per month for rent or house payment (single income household). Even with a 2-earner

household at that rate it is difficult in Leavenworth.

- The most recent MEND project off Titus Rd tells us how difficult it is in Leavenworth and that project had nothing to do with nightly rentals. Affordable housing is fine in the right area, or if it can be subsidized; but who is going to subsidize it, the group that is complaining to the city about it?

Other Statistics:
REAL ESTATE OVERVIEW – TRULIA.com – Leavenworth

Median Sale Price: $314,000 - Zillow: $349,000
Price Per square foot: $251 Zillow: $277
Median Rent: $795 per month (includes Government Subsidized)

Median Prices in surrounding areas:

Peshastin: $243,000
Cashmere: $260,000
Wenatchee: $253,000

COST OF LIVING – SPERLINGS BEST PLACES

Cost index of 100 for average US city

LEAVENWORTH:	WENATCHEE:
Overall: 118	106
Grocery: 102.7	102.7
Health: 112	112
Housing: 149	112
Utilities: 90	90
Transportation: 106	106
Misc: 103	103

Interesting note this site claims apartment rent in Leavenworth is $910.00 per month. The national average is $920.00 per month.

Come Stay in Our

Village Coalition

ADVOCATING FOR SHORT TERM RENTALS
IN LEAVENWORTH, WASHINGTON

END THE BAN on Short-term/Overnight Rentals in the City of Leavenworth!

The City of Leavenworth is currently considering continuing and enforcing a ban on short-term/overnight rentals of homes in all residential zones and expanding this ban to all urban growth areas.

In addition, a coalition of Leavenworth Neighbors Unite have been very vocal and supportive of a total ban of short-term/overnight rentals and have voiced strong opposition to the promotion of tourism.

However, Leavenworth's successful tourism industry is a direct result of the promotion of itself as Washington's family-friendly Bavarian village. Tourism is our whole economy. Many families visiting the village want to experience it in a family environment offered by a single family home. Excluding that opportunity is completely inconsistent with our vision for our town.

The residential use of a home does not change because of the length of a stay (1 night, 30 nights or 365 nights, a rental is a rental), and, reasonable regulations can govern the use of homes—whether used long-term or short-term, so that everyone can enjoy Leavenworth – both residents and visitors alike!

Our coalition urges you to support short-term/overnight rentals by signing this petition.

To the Leavenworth City Mayor and City Council

Whereas,

- tourism is our economy, and
- many tourists prefer to stay in single family dwellings while visiting, and
- the residential use of a home does not change because of a difference in the length of a stay, and.
- reasonable regulations can govern the use of homes—whether used long-term or short-term.

Therefore,

- We think Short-Term/Overnight Rentals should be available to Leavenworth visitors, and
- We urge the City of Leavenworth to amend the current code (with reasonable regulations) to allow short-term /overnight rentals in all residential zones.
- PLEASE END THE BAN and Welcome Tourists as Guests in the City of Leavenworth.

SIGNATURES of CITY of LEAVENWORTH & URBAN GROWTH RESIDENTS TO END THE BAN ON SHORT-TERM RENTALS IN THE CITY OF LEAVENWORTH:

US Conference of Mayors

PROMOTION OF ECONOMIC DEVELOPMENT THROUGH THE VISITORS INDUSTRY

WHEREAS, communities throughout the United States rely on local hotel taxes to promote travel and tourism and support the local visitors industry; and
WHEREAS, local hotel taxes often fund convention and visitors bureaus, convention centers, sports arenas and sports teams; and
WHEREAS, local hotel taxes often support local cultural programs including music, film, gaming, visual arts, dance and more; and
WHEREAS, short-term rental of homes can often be subject to hotel taxes; and
WHEREAS, short-term rental of homes can provide a flexible housing stock that allows family travelers spending longer periods of time in a community a safe accommodation while contributing to the local economy; and
WHEREAS, short-term rental of homes can provide homeowners an opportunity to hold property as an investment, for a better sales market, or for future planning; and
WHEREAS, fair regulation of short-term rentals ensures greater compliance and greater receipt of local hotel taxes; and
WHEREAS, regulations of short-term rentals that establish a reliable way for a municipality to identify and contact the short-term rental owner, make the tax collection and remittance obligation clear and treat the short-term rental owner the same as long-term rental owners can achieve the highest level of compliance; and
WHEREAS, onerous regulations of short-term rentals can drive the industry underground, thus evading local regulations and local hotel taxes;
NOW, THEREFORE, BE IT RESOLVED, that the U.S. Conference of Mayors urges support for economic development opportunities through the visitors industry by encouraging regulations of the short-term rental industry that (1) establish a reliable way for the municipality to identify and contact the short-term rental owner; (2) make the tax collection and remittance obligations clear to the short-term rental owner; and (3) treat short-term rental tenants the same as long-term rental tenants. Regulations that accomplish all three can achieve a high level of compliance, and are highly effective.

Standard Practices

PREAMBLE
The Vacation Rental Managers Association of Washington State (VRMAWA) exists to serve its property owners, its vacation rental customers and its communities in a way that benefits all.

VRMAWA members seek to conduct their vacation rental practices ethically and wisely in accordance with the Articles on VRMAWA Standard Practices set forth below.

These Articles establish guidelines. All VRMAWA members shall strive to raise the standards of the vacation rental industry, providing value and service to the owners,customers, and to the communities that each agency serves.

ARTICLE 1: Occupancy
VRMAWA members shall limit the number of occupants according to the size of the home and local ordinances.

ARTICLE 2: Qualifications
VRMAWA members and property owners may establish guest qualifications relating to minimum age and whether pets are allowed and agree to publish the same information accurately.

ARTICLE 3: Advertising
VRMAWA members shall accurately advertise the quality of each property and provide adequate information, including limitations and deficiencies, on each property that will enable a guest to make a satisfactory choice.

ARTICLE 4: Parking
VRMAWA members shall limit the number of cars allowed at each property in accordance with local ordinances.

ARTICLE 5: Pricing
VRMAWA members shall publish all rates and extra fees accurately and make these rates available to all guests prior to arrival. Members agree to fully disclose all other fees and taxes that apply to every guest reservation.

ARTICLE 6: Housekeeping
VRMAWA members shall provide for thorough cleaning of each home after each rental departure and to provide for, at minimum, an annual deep clean of every rental property under management.

ARTICLE 7: Repair and Maintenance
VRMAWA members shall maintain each property at the highest standard possible and to commit to a regular preventative maintenance program. Members agree to respond in a timely fashion to any and all needed repairs.

ARTICLE 8: Emergency Contact and Business Hours
VRMAWA members shall publish their contact information, normal business hours, and emergency contact information at each property

ARTICLE 9: Customer Service
VRMAWA members shall provide the best possible customer service, responding to questions, requests and problems in a timely manner.

ARTICLE 10: Deposits, Payments and Cancellation Policies
VRMAWA members shall publish their deposit, payment, and cancellation policies clearly, and agree to a timely return of any deposits and agreed upon refunds.

ARTICLE 11: Trash Management
VRMAWA members shall agree to adequate containment and timely removal of all trash from every property under management.

ARTICLE 12: Damages
VRMAWA members shall publish all policies relating to damage. Members shall provide a statement detailing damages and related expenses to guests in a timely manner.

ARTICLE 13: Good Neighbor Commitment
VRMAWA members agree to a "Good Neighbor" policy in the management of their vacation rental properties by minimizing impact on neighborhoods. In conjunction with the above Articles, Members shall publish established quiet hours for all properties.

ARTICLE 14: Owner Disbursements
VRMAWA members agree to provide thorough statements and timely payment to each property owner under contract with each agency.

Presentation to City of Leavenworth Planning Commission

by Leavenworth Neighbors Unite

September 7, 2016

Leavenworth City Hall, Leavenworth, WA

Goals and Objectives

1) **Protect Resident Housing (Ownership and Monthly Rentals*)***
2) **Maintain quality of a thriving residential neighborhood**
3) **Promote and support education and enforcement of City Residential Code**

- The City of Leavenworth is 1.36 square miles (788 acres)
- The residential zone is roughly ½ sq. mile.
- Over half of City of Leavenworth is already Commercial-zoned or zoned to allow Transient Rentals *(Nightly)*

Commercial: (from commerce) – the exchange of goods and services for a fee

Affordable housing = Residential **housing that is rented or owned by a person or household whose monthly housing costs, (including utilities other than telephone), do not exceed thirty percent of the household's monthly gross income.**

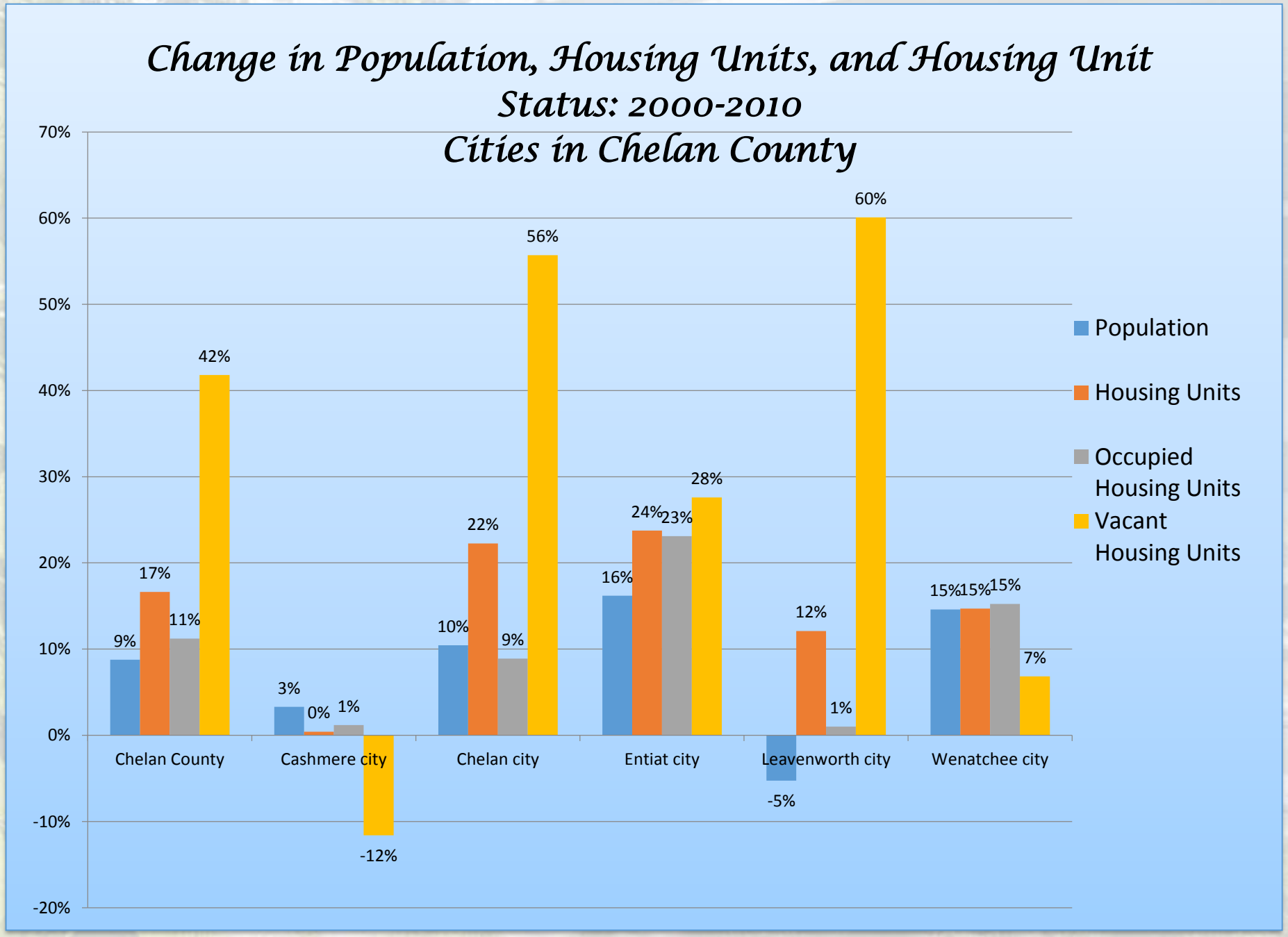
Real Estate Market In the Upper Valley

- 219 Residential Properties Listed for Sale (5/16)
  - Leavenworth, Peshastin, Dryden, Lk Wenatchee, Steven's Pass
  - Single Family Median List Prices (183)
    - $465,000 Leavenworth (Range: $109,000-$2.0m)
    - $349,000 Peshastin/Dryden (Range: $125,000-$1.1m)
  - Condo Median List Prices (36)
    - $259,900 (Range: $173,000-$549,000)
  - 40 Properties $250,000 or less
    - Single Family
      - 8 City of Leavenworth
      - 16 Other Upper Valley
    - 16 Condos, Median $219,000

Affordability

% Area Median Income	Income	Hourly	Maximum Home Price	Cash Required
120%	$70,320	$33.80	$267,000	$49,000
100%	$58,600	$28.20	$227,000	$42,000
80%	$46,880	$22.50	$178,000	$33,000
60%	$35,160	$16.90	$134,000	$25,000

Based on conventional mortgage, 6.25% fixed for 30 years, no other consumer debt.


Change in Population, Housing Units, and Housing Unit Status: 2000-2010
Cities in Chelan County
70%
60%
50%
40%
30%
20%
10%
0%
-10%
-20%
9%
17%
11%
42%
3%
0%
1%
-12%
10%
22%
9%
56%
16%
24%
23%
28%
-5%
12%
1%
60%
15%
15%
15%
7%
Chelan County
Cashmere city
Chelan city
Entiat city
Leavenworth city
Wenatchee city
Population
Housing Units
Occupied Housing Units
Vacant Housing Units

The REAL issue:

How to enforce what is already ILLEGAL so it is discouraged and is not done with impunity.

Maintain Quality of a Thriving Residential Neighborhood

Maintain Quality of a Thriving Residential Neighborhood

- "The Leavenworth City Council specifically amended the City codes in the 1990s to eliminate Transient Accommodations from the Single-family and Multi-family zones of the City based on finding a lack of compatibility with the solitude, privacy and family-oriented lifestyles our residents wish to maintain."

-- City of Leavenworth letter, July 28, 2015

Maintain Quality of a Thriving Residential Neighborhood

- City Code 18.20.010 Purpose is:

This is a restricted residential district of low density in which the principal use of land is for single-family dwellings, together with recreational, religious, and educational facilities required to serve the community. The regulations for this district are designed and intended to establish, maintain and protect the essential characteristics of the district, to develop and sustain a suitable environment for family life where children are members of most families, and to **prohibit all activies of a commercial nature and those which would tend to be inharmonious with or injurious to the preservation of a residential environment.**

[Ord. 1089 sec. 1(Exh. A) 1998]

Maintain Quality of a Thriving Residential Neighborhood

- Our Neighborhood, Their Neighborhood
- Tourists are our Friends
- Sad
- Tourists are not …

Promote and support education and enforcement of City Residential Code

- **Education** - Make information available to city residents regarding violations of code as applied to overnight rentals
- **Enforcement** - Monetary fines should be well published and readily enforced
- **Monetary penalties** - Should be assigned for first, second and subsequent violations. Enforcement should proceed along a escalating scale

Promote and support education and enforcement of City Residential Code

- **Initiate monetary fines** and end with a termination of city services
- **Commercial entities** are prohibited in the residential zone
- Monetary fines are a normal consequence for **violating** established zoning laws-such as the sanctuary of a residential neighborhood

Goals and Objectives

1) **Protect Resident Housing (Ownership and Monthly Rentals*)***
2) **Maintain quality of a thriving residential neighborhood**
3) **Promote and support education and enforcement of City Residential Code**

Conclusion

- 291 neighbors -- to date -- have signed a petition to **MAINTAIN** the City Code that prohibits Transient Overnight Rentals
- **No overnight rentals in Leavenworth Residential Zones!**

(6)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

At this time the City of Leavenworth has an existing code written in 1989 that allows **Bed & Breakfasts and 30-day rentals** BUT prohibits all **overnight rentals** in the **residential** zone.

* will pickup Monday 7/25/16

Overnight rentals:

- **eliminate affordable** housing for people who work and want to live here
- **bring loud parties**, parking congestion, garbage issues, the tourist trade into our residential neighborhoods
- **disrupt and destroy** the neighborhood culture and lifestyle that we now enjoy and which promotes safety for children
- **make it difficult for Seniors** on fixed incomes to remain in their neighborhood homes due to **rising property taxes**

At this time, there is **significant pressure** to **change the existing code** to **allow overnight rentals** in **our neighborhoods.**

By signing this petition you are telling the City Council to **leave the existing code in place**-which **prohibits overnight rentals** in our neighborhoods. You will be promoting affordable housing, maintaining the solitude and safety of our neighborhoods, and allowing seniors to remain in their homes.

Call Momi Palmieri 509-433-2211 Questions? Zeke Reister 548-0406

Signature	Printed Name	Residence	Optional Phone # / e-mail
Paula Meyer	Paula Meyer	110 Park Ave	paulameyer9@nwi.net
Christine Emmel	CHRISTINE EMMEL	575 ALPINE PL #B2	
Olivia R	Olivia Race	238 Park Ave	olivia@mountainschool.com
Jan Johnston	Jan Johnston	301 Cascade	artsy1@nwi.net
[illegible]	Tom Peckham	507 Cedar St	679-6380
Anne Lotz	Anne Lotz	216 West St	8-4212

#6

— OVER —

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail

(1)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

At this time the City of Leavenworth has an existing code written in 1989 that allows **Bed & Breakfasts and 30-day rentals** BUT prohibits all **overnight rentals** in the **residential** zone.

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Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	Zeke Reister	508 Ash St.	548-0406
[illegible]	Mark R Magnuson	323 Price Ave	
[illegible]	Katrina Rostedt	323 Price Ave	
B. Grove	Bridget Grove	509 Birch St.	bridgetgrove@gmail.com
Paul Talme	Paul Talme	505 Birch St.	
[illegible]	Judy Head	504 Ash Street	jhead96@gmail.com
Denise S. Darling	Denise Darling	507 Cedar St	548-4047

#7

— OVER —

(25)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
	Curt Johnson	502 CEDAR ST	548-4170
	Laurie Peek	516 Cedar St.	548-7186
	Elisabeth Saunders	515 " "	" 5726
	Pierce Hedrick	524 Cedar S	5096700147
12.	Cappy Bond	524 Cedar	509 548-1267
	Tara Tucker	526 Ash st	(509)670-1635
	Robert Schuenemann	509-608-8339	405 Cedar St.
	JEW BLOSS	~~509 548 7249~~	525 Central Ave
	~~THOMAS MAGEE~~	~~509 548 5964~~	~~416 ELM ST~~
	Adam Parsons	415 Evans St	509-679-5772
	Sylvia Nicholas	528 Sherbourne	360-870-2211
	Teresa Hassinger	421 Orchard	509-881-7854
	Mark Hassinger	421 Orchard	509-881-0630
	CRAIG HESS	125 PINE	384-0153
	LORI HESS	125 PINE	384-0153
	Fred Frederick	228 Centre St	360-970-5574
	Mike Janski	216 West St	509-548-2006
	PETER JENKINS	259 PARK AVE	425 238 4833
	Deanna Jenkins	259 PARK AVE	509 670 5293
	Robert Parrish	226 Park Ave.	509-393-2012
	Talia Butler	230 PARK AVE	206-427-3243
	RYAN BUTLER	230 PARK AVE	2069920588
	Samantha Goff	248 Park Ave	206 455 5569
	James Haberberger	242 Park Ave	509-470-2119
	LAURIE RENFRO	508 ASH st	509 5480406

#25

1

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Signature	Printed Name	Residence	Optional Phone # / e-mail
	TIM D SEAMAN	221 West	548-5936
	Kris Seaman	221 West	548-5936
	JAN FENDER	223 West	548-5303
	James Fender	223 West	548-5303
	MATT W. FIELDS	217 West St.	
	Kathryn Fields	217 West St.	
	Sarah Horowitz	225 West St.	507-233-1679

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— OVER —

(4)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
	Nick Pope	225 West	503-358-3195
	Rachel Strand	227 West Street	509.699.1850
	Clint Strand	227 West St.	509.860-1169
Nikki Pelley	Nikki Pelley	17538 Chumstick	mzsureshot77@aol.com

(4)

6

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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Signature	Printed Name	Residence	Optional Phone # / e-mail
	M. Abbott	414 Cascade St	
Courtney Cook	Courtney Cook	146 W Whitman	509-929-8301
	Cameron Barnett	1557 Alpensee strasse	
	Carson Conklin	620 Birch	509-981-4584
	Malerie Morgan	123B W Whitman	Malerie.Morgan@gmail
	Hunter Paul	138 W. Whitman	

#6

— OVER —

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail

0

(4)

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Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	Stacy Comeau	4 in town	
Heidi Swoboda	Heidi Swoboda	101 Enchantment Parkway in town	548-5391
[illegible]	Jeff Ward	515 Birch in town	
K. Ward	Kristen Ward	515 Birch	630-3221

#4

— OVER —

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail

0

(1)

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Signature	Printed Name	Residence	Optional Phone # / e-mail
Susie B Jensen	Susie B Jensen	12463 Shore St.	hilltoppic@aol.com 509 548 2158
[illegible]	Emily March	102 Joseph St Leavenworth	noemigreenleaf@gmail.c
[illegible]	Lynn Chadd	Cedar St PO Box 387 Leavenworth	
Judith A Donovan	Judith A Donovan	525 Alpine Place F2	509-699-1243
Mary Pat Barton	Mary Pat Barton	1611 Cedar St, Leavenworth	Marypat.barton@gmai
[illegible]	Alicia Walters	14865 Chumstick Hwy Leavenworth	aliciawalters83@gmail.co
[illegible]	Heidi Russ	14865 Chumstick Hwy	heidiandgarth@aol.com

(7)

— OVER —

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Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

#2

Signature	Printed Name	Residence	Optional Phone # / e-mail
Al Bickel	AL Bickel	213W Commercial	548 - 7209
Veronika Bickel	Veronika Bickel	213W Commercial	548 - 7209

2

(2)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	Vince Allis	West Whitman Leavenworth	—
O. Pauline Anaya	Pauline Anaya	E. Leavenworth Rd.	o.paulinne.a@gmail..

#2

— OVER —

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail

10

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Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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Signature	Printed Name	Residence	Optional Phone # / e-mail
	Karmen Ohme	422 Ash St.	509-630-1597
	Anna Breniser	422 Ash St	509 423.1141
	MONI PALMIERI	426 ASH ST	509-433-2211
	Selah Morgan	425 Ash St.	509-670-7505
	Andrew Arnold	409 Ash St.	
	Blaze Paul	426 Ash St.	
	Emmanuel Brito	425 Ash St.	509-470-4261

#7

(OVER)

(17)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
Karin Pinckney	Karin Pinckney	222 Summit Ave, Leavenworth	Karinpinckney965@msn.com
Gary Pinckney	Gary Pinckney	222 Summit Ave	
Michael W. Blaker	Michael W. BLAKER	216 Summit AVE	
Danielle Head	DANIELLE HEAD	504 ASH ST. UNIT B	jhead90@gmail.com
R.C Medley	Russell C Medley	250 Central Ave	
Elia Alaitima Daley	Elia Alaitima Daley	424 Orchard St.	daley4@nwi.net
Kristy Daley	Kristy Daley	424 Orchard St	
Holly Blue	Holly Blue	504 Ash	679-5280
Travis Blue	TRAVIS BLUE	504 ASH	548-2379
Kelly Millman	Kelly Millman	311 Cascade St	kellymillman@gmail.com
Jana Sparks	Jana Sparks	307 1/2 Cascade	509 548 7443
Beth Mulana	Beth Mulana	220 Cascade	509 423 3084
Emma Allen	Emma Allen	208 Cascade	509-548-1504
Karen Haire	Karen Haire	1380 Commercial St	509-433-6402
Andrea Brixey	ANDREA BRIXEY	303 CASCADE ST	509-860-0737
Chris Brixey	Chris Brixey	303 Cascade St.	509·860·0737
LaJuana McClure	LaJuana McClure	320 Cascade St	509-548-5603

#17

(2)

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Signature	Printed Name	Residence	Optional Phone # / e-mail
Rosa Brito	Rosa Brito	425 ½ Birch st	
Manuel Brito	Manuel Brito	425 ½ Birch st	

(2)

— OVER —

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail

Susan

6

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Heidi Paul	Heidi Paul	402 Orchard St.	Heidialoha@msn.com
Terry E. Paul	TERRY E. PAUL	402 ORCHARD ST.	topsurf@msn.com
Scott Siemion	SCOTT SIEMION	205 PINE ST	SCOTTSIEMION@gmail.com
Kathryn Praye	Kathryn Praye	173 Ski Hill Dr	bkpkhp@hotmail.com
Stephanie Asted	Stephanie Asted	123 Cherry St.	homer@nwi.net
Greg P. Thayer	Greg Thayer	9656 Marsan Dr	548-7817

#6

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
Angie Gunderson	Angie Gunderson	426 Skihill DR	548-8092
	Susan Noland	427 Orchard St	548-3537
Jennifer Noland	Jennifer Noland	427 Orchard St	679-6178
	Randall W. Noland	427 Orchard St.	669-3524
Diana Runions	Diana Runions	424 Ski Hill Dr.	679-9260

#5

(6)

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Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	JENNIFER GROOS	101 BENTON ST. LEV. WA	GOOSELYNE421@gmail.com
[illegible]	Anne Wicker	12872 Shore St	annie.wicker@yahoo.com
[illegible]	Thomas Hite	117 Comercial St	
[illegible]	Jim A. Martin	117 Commercial St	
[illegible]	Becky Gehri	12872 Shore St.	
[illegible]	Jesse Hammerstrom	317 Tumwater Dr. 98264	jessehammerstrom@hotmail.com

#6

— OVER —

(4)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
Anna O'Neill	Anna O'Neill	~~E. Leavenworth Rd~~	outside RL-6
Jenny Bourgeois	JENNY BOURGEOIS	LEAVENWORTH	
Ellie Chikkaraju	Ellie Chikkaraju	Leavenworth	
Katie Walz	Katie WALZ	Leavenworth	
Charlotte Massey	Charlotte Massey	Leavenworth	

#4

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ORIGINAL

(21)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
Marina M Haley	Marina M. Haley	130 Stafford St	548-7410
Tia Perry	TIA PERRY	191 O'Grady St.	548-0370
Dean Groby	DEAN GROBY	187 Ogrady St	253-486-5143
Eileen Groby	Eileen Groby	187 Ogrady St.	253-486-9461
[illegible]	TONY HOL	179 OGRADY ST	509-630-9514
[illegible]	ELIZABETH WINDSOR	132 WHEELER	
[illegible]	Dawn Paterson	131 Wheeler	509-548-3122
[illegible]	Tamara Preston	131 wheeler	206-353-3122
[illegible]	DAVID R. SERLES	127 WHEELER ST	509 548-7032
[illegible]	DEANNA SERLES	" "	" " "
[illegible]	John Pflugrath	130 wheeler st	509-548-7777
Marguerite Bryson	Marguerite Bryson	135 Stafford St.	509-548-4571
Laura O'Haver	Laura O'Haver	131 Stafford St	509 548-5077
Thomas A Jones	THOMAS A JONES	125 STAFFORD	509548-4629
Jeanette Heinrichs	JEANETTE HEINRICHS	195 O'Grady	509 293-0296
Roland Heinrichs	JEANETTE HEINRICHS	195 OGRADY ST.	(509) 293-2830
[illegible]	JAMES R BRYSON	135 STAFFORD ST	548 4571
Sharon Waters	Sharon Waters	336 Birch St.	(509) 548-7959
Barbara Kelly Ringel	Barbara Kelly Ringel	200 Mine St.	509-699-0283
Sharon Ruffer	Sharon Ruffer	10647 US. HWY 2	810-923-6766
Nick R	Nick Ruffer	10647 US. HWY 2	248-935-5346

do not count

#18

7/26/16

(21)

#28 Signatures This page

Total = 166 so far (7)

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Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	Mayra A. Juarez	520 Mine Street, Leavenworth	juarez.mai@gmail.com
[illegible]	Daniel J. Roche	524 Mine St, Leavenworth	danroche5@gmail.com
[illegible]	Debra A Roche	524 Mine St Leavenworth, Wa	rochedebra220@gmail.com
[illegible]	Kelli Riddle	309 Tumwater Dr 98826	206-617-1746
[illegible]	Mary Bywater	325 Tumwater Dr.	509 548 2268
[illegible]	Linda Claeson	553 Mountain View Dr.	509-888-3894
[illegible]	Robert CLAESON	"	"

(7)

— OVER —

(21)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	Brandon Lacey	328 Tumwater Dr	
[illegible]	JAN ANDERSON	312 Tumwater Dr	
[illegible]	MILT ANDERSON	312 TUMWATER DR	
[illegible]	JOHN DOWLING	308 Tumwater Dr	360-265-3106
[illegible]	HILDA WALL	304 Tumwater	509-548-7946
[illegible]	Lynn Stirling	300 Tumwater	509-548-5971
[illegible]	DEE ALFORD	215 WEST S.	509-548-4505
[illegible]	CLAUDIA J. ELLIOTT	137 West St.	425-308-8942
[illegible]	Roger Knutson	135 West St.	
[illegible]	Marianne Kellen	135 West St.	
[illegible]	Clarence McMillan	129 Ski Hill Dr	(928) 587-6572
[illegible]	Leah Hemberry	231 Cherry st.	hemberry@hotmail
[illegible]	Russ Rickett	231 Cherry St	
[illegible]	Andrew Lundquist	309 Meadow Dr	509 423 0483
[illegible]	Mary Rose	312 Meadow Dr	509-548-4479
[illegible]	Norman Rose	312 Meadow Dr	509-548-4479
[illegible]	Carl Smith	307 Meadow Dr	509-548-0910
[illegible]	Gloria Bergren	316 Meadow Dr.	509-470-6269
[illegible]	Claire Tompkins	328 Meadow Drive	
[illegible]	BARBARA MARTINEZ	329 Meadow Dr.	509-548-0153
[illegible]	MaryLou Bailey	317 Meadow Dr.	509-548-1135

(21)

6 signatures

ORIGINAL

132
34
166

(6)

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Signature	Printed Name	Residence	Optional Phone # / e-mail
Alyson R Berman	Alyson R Berman	420 Orchard	iciclealy@nvi.net
Rochelle A. Shugrue	Rochelle A. Shugrue	10306 Sunnerest Dr.	shugrueraa@msn.com
Mary	Mary Cushman	18210 Eagle Creek	
Sally Bauer	Sally Bauer	12395 Village View	
William J Bauer	William J. Bauer	12395 Village View	
Lawrence P. Nelson	Larry Williams	12623 Spring St.	WILLAPLESIO@HTMAIL.com

(6)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mal

* OUTSIDE CITY LIMITS *

(2)

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#2 justinechampion@hotmail.com

Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	Michelle Demmer	10595 Merry Canyon	mdemmer@hotmail.com
Justine Champion	Justine Champion	7310 Icicle Rd.	5094817665 hm

—OVER—

2

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail

OUTSIDE CITY LIMITS [redacted] [redacted] (7)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

* Not Residential - Spring St.

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Signature	Printed Name	Residence	Optional Phone # / e-mail
#7 [illegible]	Lawson Willman	12623 Spring Leavenworth	509-548-6851
Marcia Willman	Marcia Willman	12623 Spring Leavenworth	509-548-6851
Stephen Hufman	Stephen Hufman	12743 Spring St Leavenworth	509-548-4064
Bonnie J. Klenda	Bonnie J. Klenda	12591 Spring St Leavenworth	509-548-5315
Wayne F. Klenda	WAYNE F. KLENDA	12591 Spring St	509-548-5315
D. C. Kellison	DANIEL C. KELLISON	210 Prospect St. Leavenworth	509 630-2209
Carl V. Borg	Carl V. Borg	Leavenworth Spring St.	509-548-0590

— OVER —

7

(4)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
Tom Borg	Tom Borg	Spring St. Leavenworth	509 548 0370
Rick Blackburn	Rick Blackburn	Spring St, Leavenworth	
Kelly Folden	Kelly Folden	Leavenworth, WA	421.1715
Dorothy Kellison	Dorothy Kellison	210 Prospect Leavenworth	509 630 2209

3

(13)

(7)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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Signature	Printed Name	Residence	Optional Phone # / e-mail
Glen Ferrier	Glen Ferrier	YES-Leavenworth	jacnglen@nwi.net
Jacquie Kisling-Ferrier	Jacquie Kisling-Ferrier	YES - 25 yrs	"
[illegible]	Adrian Ferrier	Leavenworth	West St.
Ali Ferrier	Ali Ferrier	Leavenworth	West St.
Tyler Watson	Tyler Watson	Leavenworth	
Rosalyn Francis	Rosalyn Francis	Leavenworth	
7 Marieta M Westbrook	Marieta Westbrook	Leavenworth	

— OVER —

7

(6)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	Marcus Westbrook	Leavenworth	
[illegible]	Leslie Hontou	Leavenworth	
[illegible]	Pross Hontou	Leavenworth	
[illegible]	Kim Tieken	Leavenworth	
[illegible]	Jessica Kendall	Leavenworth	
[illegible]	Colin Forsyth	Leavenworth	

13

(6)

(11)

(6)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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Signature	Printed Name	Residence	Optional Phone # / e-mail
Eileen Kelly	Eileen Kelly	1300 Commercial Leavenworth Wa	
~~Mag~~			
Maggie Quirk	Maggie Quirk	1300 Commercial Leavenworth	
Linda B DeLong	Linda B DeLong	1300 Commercial #116 Leavenworth, WA 98826	
[illegible]	Deresa Kinkade	124 Stafford St. Leavenworth WA	
Edna Owens	EDNA OWENS	1300 Commercial St. Leavenworth, Wa	
6 Laura Colynn	Laura Colynn	1300 Commercial Leav., Wa	

— OVER —

6

5

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
Mary Jo Wanger	Mary Jo Wanger	9768 Dye Rd	548-6476 bmwanger@aol.c
Suzanne Price	Suzanne Price	9777 Dye Rd	
Kathy Beckes	KATHY BECKES	144 Commercial ST.	906 618 2586
Erika Ruderman	Erika Ruderman	1552 Alpensee Strasse	poole.erika@gmail.com
(AARON RUDERMAN)	AARON RUDERMAN	1552 ALPENSEE STRASSE	(208) 944-5777

(11)

5

(8) (6)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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Signature	Printed Name	Residence	Optional Phone # / e-mail
~~[illegible]~~	~~Carol Seaman~~	~~419-420 Ash~~	~~5096608055~~
[illegible]	Andrew E. Martin	309 Tumwater Dr.	206-949-0461
[illegible]	Sarah Larson	309 Tumwater Dr	206-949-083[illegible]
[illegible]	Michelle Logan	218 west st	(509) 679-0209
[illegible]	Marvin L. Hinz	144 Cherry St.	509-433-4029
[illegible]	Ann C. Hinz	144 Cherry St.	509-433-4652
[illegible]	Andy Jaynes	101 Benton St.	465-406-9808

DUPLICATE SIGNATURE

8 Total

OVER

(6)

C

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
7 [illegible]	JoAnn Zugel	1300 Commercial	509-670-5102
8 [illegible]	Kaylin Bettinger	213 Whitman St.	425-221-3434

C

(5)

(5)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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* will pick-up on Mon. 7/25/16

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Moni Palmieri
509-433-2211

Questions?

Zeke Reister
548-0406

Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	Hannah Schons	320 Ski Hill	hannahschons@gmail.com
[illegible]	Tara Walter	321 Commercial	509-679-0260
[illegible]	Judy Derpack	231 West	206-953-8889
[illegible]	Tom Derpack	231 West	206 601-7739
[illegible]	Carl Florea	204 West	206-715-9045

-over-

5

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail

6

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	Jerrid Johnson	Leavenworth	Jerrid86@gmail.com
[illegible]	Madeline Praye	Leavenworth	madeline.praye@gmail.com
[illegible]	Brian Praye	Leavenworth	Ski Hill Dr
[illegible]	Skyler Praye	Leavenworth	Ski Hill Dr.
[illegible]	RHONA BARON	238 Gunter St Leavenworth	
[illegible]	Tanner Paul	902 Orchard St. Leavenworth, WA	

#6

— OVER —

6

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail

4

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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#6

Signature	Printed Name	Residence	Optional Phone # / e-mail
A S Massey	Amy S. Massey	612 Cedar St.	masseyamy2@gmail.com 509-548-0514
R. Dayle Massey	R. Dayle Massey	612 Cedar St.	masseydayle@yahoo.com
Joseph Winters	Joseph Winters	8200 Riverview Rd.	509 293 4272
Charlotte Massey	Charlotte Massey	612 Cedar St	
[illegible]	Jeff Ward	515 Birch St	jeff@mountainguides

— OVER —

4

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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Signature	Printed Name	Residence	Optional Phone # / e-mail

— OVER —

7

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

#7

Signature	Printed Name	Residence	Optional Phone # / e-mail
Dan Savage	DAN SAVAGE	1300 Commercial #216 -98826	
Bill McAuley	Bill McAuley	#212 "	
Lawrence Reed	Lawrence Reed	#214 "	
[redacted]	[redacted]	[redacted]	
Wayne Thompson	WAYNE Thompson	1300 Commercial St	Lvth. 98824
Alvin Coyne	ALVIN COYNE	1300 commercial	
Betty Custer	Betty Custer	1300 Commercial	
John Owens	John Owens	138 W. Whitman LEK	

7

(7) X

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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#15

Signature	Printed Name	Residence	Optional Phone # / e-mail
Jana Sparks	Jana Sparks	103 ½ Cascade	
[illegible]	Kelcey Ennis	204 Birch	
[illegible]	Rusty Mulanex	220 Cascade St	
Randy Jackson	Randy Jackson	307 Cascade St	
Evelyn Kimbill	Evelyn Kimbill	307 Cascade St.	
[illegible]	MARY SPEEP	318 CASCADE	
[illegible]	CORY MENING	224 CASCADE ST	

— OVER —

7

8

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
[illegible]	Wendi Mingo	224 Cascade St.	
[illegible]	Verne Hay Barnes	202 Evans	
[illegible]	Zack DeLuca	224 Evans	
[illegible]	TIA HERDMAN	224 EVANS ST	
[illegible]	ANN CROSBY	306 CASCADE ST	
[illegible]	CARL Rosendahl	105 Birch	
[illegible]	John Schons	320 Ski Hill dr.	
[illegible]	Hannah Schons	320 Ski Hill Dr.	

8

4332274
Sharon Waters

(1)
ORIGINAL

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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Signature	Printed Name	Residence	Optional Phone # / e-mail
Jim M Vincent	JIM M. VINCENT	253 SCHOLZE ST.	548-5781
Robin DeMario	Robin DeMario	118 Evans	393-5122
Larry Hansen	LARRY HANSEN	9290 Mt. Home Rd	206.940.0235
SALTORICH	[illegible]	9290 Mt Home	~~206~~
Michael Clegitor	MICHAEL CLEGITOR	11468 Riverbend Dr Leavenworth	503 307 5783
Cathy Clegitor	Cathy Clegitor	11468 Riverbend Dr Leavenworth	503-307-5783
Janice Sumitsch	Janice Sumitsch	11540 Riverbend Dr.	548-4488

7/16/23

7

(10)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
Susan Adams	Susan Adams	11540 Riverbend Drive Leavenworth	670-8607
Randi Holland	RANDI HOLLAND	11624 Riverbend Dr. Leavenworth	253-905-5693
Jim Holland	Jim Holland	11624 Riverbend Dr. Leavenworth WA	253 432 6050
Ray Mosser	RAY MOSSER	11600 RIVERBEND LEAVENWORTH	509-548-7088
Paul Milan	Paul MILAN	11612 River Bend Dr	206-321-5123
Drusha Salisbury Milan	Drusha Salisbury	11612 River Bend Dr	206-321-5123
Virginia L Ernster	Virginia L. Ernster	11570 River Bend Dr	415-587-2307
Martin F Ernster	MARTIN F. ERNSTER	11570 River Bend Dr	415-587-2307
Vicki Prickett	Vicki Prickett	11454 Riverbend Dr	N/A
Blake Prickett	Blake Prickett	11454 Riverbend Dr.	206 849 1142
Duane Goehner	Duane Goehner	11670 Riverbend Dr.	509-293-9919
Corretta J Goehner	Corretta J. Goehner	11670 River Bend Dr	(509) 293-9919
Jerry Iselin	Jerry Iselin	11632 Riverbend Dr.	(253) 226-0742
LuAnn Iselin	LuAnn Iselin	11632 Riverbend Dr.	253 223 8411
Bartholomew S Norman	Bartholomew S Norman	3261 Peshastin WA	509-393-5609
Shaylee Norman	Shaylee Norman	3261 Peshastin WA	509-548-5515

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(9)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

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Signature	Printed Name	Residence	Optional Phone # / e-mail
	TUCKER HAVEKOST	213 WHITMAN ST.	425-941-3685
	Kaylin Bettinger	213 Whitman St	425-221-3434
	LUIS (Fernando) Trujillo	213 Whitman St.	(509) 393 1926
	Anabel Gomez	213 Whitman St.	(509) 423-1301
	CARRIE Kingsley	146 Prospect St.	(206) 310-2680
	Kristi Karpenko	144 W. Benton St.	(509) 630-5906

(12) TOTAL

— OVER —

(5)

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
	Courtney Bradburn	198 Commercial St.	209.986.9125
	REESE BRADBURN	198 COMMERCIAL ST.	509-679-8072
	Kerry Kemp	7106 Icicle Rd.	303-507-4603
	Max Chaney	7106 Icicle rd	541-602-4104
	Catalina Arellano	7900 Stine Hill Rd Cashmer WA	(509) 470-4173

not sure

I work in town

1

Petition to Prohibit Any and All Overnight Rentals in Our Residential Neighborhoods

Signature	Printed Name	Residence	Optional Phone # / e-mail
7	JoAnn Zugel	1300 Commercial	509-670-5102
8	Kaylin Bettinger	213 Whitman St.	425-221-3434
9	SHAUN SEAMAN	419/420 ASH ST	509-664-4934

6.00+
7.00+
25.00+
7.00+
4.00+
6.00+
4.00+
7.00+
2.00+
2.00+
7.00+
17.00+
2.00+
6.00+
5.00+
6.00+
4.00+
21.00+
7.00+
21.00+
6.00+
2.00+
7.00+
4.00+
7.00+
6.00+
6.00+
5.00+
6.00+
2.00+
5.00+
6.00+
4.00+
7.00+
7.00+
8.00+
7.00+
16.00+
7.00+
5.00+
1.00+
290.00*

Nathan Pate

From: Becki Subido <beckisubido@gmail.com>
Sent: Thursday, April 07, 2016 10:30 AM
To: Nathan Pate
Cc: Cary Siess
Subject: Re: Conditional Use Permit

Hi Nate,

Thank you for getting back to me. I appreciate it.

Have a great day:).

Becki

On Mon, Apr 4, 2016 at 1:15 PM, Nathan Pate <dsmanager@cityofleavenworth.com> wrote:

Becki, good afternoon. A CUP is vested with continued compliance with the conditions. Your Bed and Breakfast CUP should be valid unless there have been changes or non-compliance. I hope that this helps. Have a great. Nate

From: Becki Subido [mailto:beckisubido@gmail.com]
Sent: Friday, April 01, 2016 3:58 PM
To: Cary Siess <planner1@cityofleavenworth.com>; Nathan Pate <dsmanager@cityofleavenworth.com>
Subject: Conditional Use Permit

Good afternoon,

I am following up on a previous email. I am sure that you guys are busy this time of the year. I do want to check to see if my Conditional Use Permit will be effected by the recent and upcoming issues/policy changes to the CUPs.

Can you let me know if my CUP will be effected?

Thanks,

Becki Subido

Mar 18

Becki Subido <beckisubido@gmail.com>

to dsmanager

Hi Mr. Pate,

My name is Becki Subido and about 14 years ago, I received a permit to operate the nightly rentals in my home which is in a residential neighborhood. I received the Leavenworth Courier with the segment addressing the nightly rentals and the possible new requirements / adjustments to the current code.

Quick question: With any of the possible changes, will I lose the existing permit for my property and be required to start the permit processing over or lose the permit all together?

I have operated my lodging business in my home for many years and I have not had problems. I am quite strict with my guests which has allowed things to go smoothly. Losing my steady source of income that has been in place this long will definitely affect my finances.

Could you please advise if in the process of changes, will I still be able to maintain my existing CUP for the lodging or will the changes affect only new permit applications and/or addressing those that are not properly permitted for lodging?

Thank you,

Becki Subido

Nathan Pate

From: Bruce Long <Bruce.Long@CO.CHELAN.WA.US>
Sent: Tuesday, June 07, 2016 10:46 AM
To: Nathan Pate
Subject: FW: Narrative to Council

Also Nate,

Is the city still looking at banning all/every vacation rental not in commercial zones?

I am staunch proponent of NOT banning, mainly because the city of Leavenworth is vacation central, and to ban vacation rentals within vacation USA seems moronic.

Seems like residential lots of 0.25 (1/4) acre or larger would be prime for vacation rentals since they would be large enough for on-site parking, have buffers with neighbors, etc. There are also very few lots of this size in the city so the # of permitted vacation rentals would not be impactful. You could also require houses built pre-1978 to go through a property owner funded inspection for things like lead paint, lead water pipes, asbestos, non-code fire/woodstove pipes.

Manson went through the same thing about 10 years ago and they have a permitting process administered by the county that works.

From: Bruce Long
Sent: Tuesday, June 7, 2016 10:33 AM
To: Nathan Pate
Subject: RE: Narrative to Council

Criminal violations the sheriff's office handles are defined within RCW 9A. Primarily these criminal violations would be noise, littering, trespass, malicious mischief, and public street parking violations.

From: Nathan Pate [dsmanager@cityofleavenworth.com]
Sent: Tuesday, June 7, 2016 10:18 AM
To: Bruce Long
Subject: Narrative to Council

Bruce, good morning. Can you help me? Below is a narrative for the Council meeting, and the desire is to explain enforcement..... AND I'm stuck. You will see that the Sheriff's section is really short. Can you call me, or point me in the right direction? Many thanks. Nate

This time is set aside to discuss the code compliance process. The Development Services Department believes the best approach to enforcing local codes is voluntary compliance. The Development Services Department work with residents to resolve violations before enforcement actions are necessary.

The following steps are taken to resolve code violations:

1. Complaint review - When a complaint is received, it is reviewed by the Development Services Department to determine whether a violation of code may have occurred.

2. Investigation - If the issue is a violation of code, a City employee will visit the property or conduct research to verify the problem.

3. Property owner notification - If the City finds a violation, property owners receive a phone call or letter detailing the violation/s, necessary corrective actions and a deadline to make the corrections. This is called "voluntary compliance," and a preferred option.

4. Re-inspection - The City again inspects the property at the end of the time frame. If violations still exists, further enforcement is taken.

5. Notice and Order - If voluntary compliance is not achieved, a Notice and Order is issued giving property owners a timeline (for example -10 days) to comply before fines begin.

6. Appeals - Property owners may appeal a Notice and Order to the Hearings Examiner. If the Hearings Examiner affirms the Notice and Order (or no appeal is requested), fines are imposed and will continue each day until the violation is corrected. Unpaid fines are recorded as a lien on the property.

7. First new letter – This is confirmation of the Notice and Order; and the first level of fines of the amount of $250 for failure to comply.

8. Second new letter - This is confirmation of the Notice and Order; the First new letter; and the next level of fines of the amount of $1,000 for failure to comply.

9. Third new letter - This is confirmation of the Notice and Order; the First new letter; the Second new letter; and the highest level of fines of the amount of $1,500 for failure to comply.

10. Fines and Notice and Order repeats – At this time, the City will repeat the process, and fines are cumulative for each day of non-compliance.

11. Legal action - When compliance cannot be reached, the case is forwarded to the Prosecuting Attorney for legal action.

Development Services and Chelan County Sheriff Office (land use vs behavior)

Civil law and criminal law are two broad and separate entities of law with separate sets of laws and punishments. According to William Geldart, Introduction to English Law 146 (D.C.M. Yardley ed., 9th ed. 1984),

"The difference between civil law and criminal law turns on the difference between two different objects which law seeks to pursue - redress or punishment. The object of civil law is the redress of wrongs by compelling compensation or restitution: the wrongdoer is not punished; he only suffers so much harm as is necessary to make good the wrong he has done. The person who has suffered gets a definite benefit from the law, or at least he avoids a loss. On the other hand, in the case of crimes, the main object of the law is to punish the wrongdoer; to give him and others a strong inducement not to commit same or similar crimes, to reform him if possible and perhaps to satisfy the public sense that wrongdoing ought to meet with retribution."

Land Use and Building Code Enforcement is a special type of law enforcement that regulates land use and construction. The City obtains its authority to regulate land use from the police powers conferred upon it by the Washington State Constitution which permits cities to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws of the land. Unless in conflict with state law, the courts generally view land use ordinances as valid exercises of police power when reasonably related to public health, safety, and welfare.

City Council has adopted several land use ordinances to combat public nuisance including but not limited to:

- Zoning ordinance
- Public nuisance ordinance
- International building and fire codes including dangerous buildings

Development Services' philosophy is that compliance is our primary goal and education is the key to reaching that goal. Many citizens do not realize that they are violating local ordinances. However, most people are willing to play by the rules if they know them. This system is not based on punitive measures or punishment, but gaining compliance to promote and maintain a safe and desirable living and working environment.

The Chelan County Sheriff Office deals with criminal (behavior) enforcement.????????

Nathan Pate, AICP
Development Services Manager
City of Leavenworth
PO Box 287
700 Highway 2
Leavenworth, WA 98826
509-548-5275 phone
509-548-6429 fax
www.cityofleavenworth.com<http://www.cityofleavenworth.com/>

Nathan Pate

From: Cheri Farivar
Sent: Tuesday, November 24, 2015 6:15 PM
To: Nathan Pate
Cc: Joel Walinski
Subject: FW: Hi, Cheri.

This is the letter from Tom Keziah I mentioned, (regarding ADU's)

C

Cheri Kelley Farivar, Mayor
City of Leavenworth
700 Highway 2
Leavenworth, WA 98826
509-548-5275
mayor@cityofleavenworth.com

From: Cheri Farivar [mailto:cfarivar@touchstoneappraisal.com]
Sent: Tuesday, November 24, 2015 9:56 AM
To: 'Tom Keziah'
Cc: Cheri Farivar
Subject: RE: Hi, Cheri.

Hi Tom,

This issue is one that is important to many property owners in town. Actually, I have just recently asked the Planning Commission to tackle several issues regarding ADU's, and this is one of them that they will study at the first of the year. I would like to talk to you about it and how you can help to solve the problems the City faces. Could you call me? 548-7867 or 670-9086.

Cheri

From: Tom Keziah [mailto:tkeziah@gmail.com]
Sent: Monday, November 23, 2015 8:35 PM
To: Cheri Farivar
Subject: Hi, Cheri.

Cheri – November 14, 2015

Thanks for serving our town.

A few months ago, Bettina and I began thinking about renting out, on a nightly basis, the Accessory Dwelling Unit behind our house. But after reading Leavenworth's municipal code, our understanding is that homeowners with either attached or unattached apartments are unable to rent them out on a nightly basis unless they obtain a variance in accord with 18.20.030 (S). Before investigating a variance, we thought we would inquire about the possibility that the code one day would be altered to allow homeowners to rent their ADUs under certain circumstances.

Our ADU was built under permit, and in compliance with municipal code 18.20.020 (B). It was designed by architect, Kris Zehm, built by Vern Peterson, and inspected by Patrick Dalton. It is a great space; I use it as my office, and as an apartment for our frequent, out-of-town guests. It would also be perfect for weekend tourists who, like Bettina and me, prefer renting a furnished apartment or home (through airbnb.com, for instance) to staying in a hotel room. It is 70 feet behind our house, and has a nice view of Icicle Ridge and Tumwater Canyon. It's a great little retreat.

I believe that there are good reasons for the restrictions in the code, and I can imagine that without such restrictions, any of our neighborhoods could potentially lose some of their residential character (though I have stayed in nightly rentals in vacation town neighborhoods in Aspen, Telluride, and Victoria, BC, that did not seem to change the character of the neighborhoods). My guess is that the zoning restrictions were enacted, in part, to prevent absentee owners from renting out their property's sole dwellings without being on the premises to manage their lodgers, and thereby turning their homes into unregulated commercial enterprises. So we're grateful that the city is interested in protecting our neighborhoods, and we ourselves are glad to abide by these restrictions.

But we have kids in college. So Bettina and I have wondered if we could one day make a periodic and modest income from our apartment/office, and one that does not involve renting it out on a month-to-month or annual basis (an option we might eventually need pursue). I'm asking if you would consider the possibility that while the pertinent restrictions in our code generally serve a good purpose if the residents abide by them, they may also be overly restrictive in cases like ours.

Here are some reasons we believe that renting out our ADU periodically to one or two guests would not change the character of our neighborhood, and therefore why we hope the city will one day review municipal code 18.20.020 (B) with our situation, and similar situations, in mind:

1. Because we have a very large, double lot (approx. 26,000 square feet), there is no danger of overcrowding.

2. Because we would rent out our apartment while living in our home, we would be able to prevent any behavior that would be "inharmonious with or injurious to the preservation of [the] residential environment" (18.20.010) of our neighborhood. We would be neither "absentee," nor willing to rent our space to anyone who will be loud or otherwise disruptive (on airbnb.com, homeowners can check "reviews" of renters, and find out more about them, and decline to host them).

3. Because the per night income from a nightly rental would be about three times greater than the per night income from a monthly or annual rental, and because our apartment would therefore be occupied for fewer days, their would be less impact to our neighborhood.

4. If the current predictions are accurate of a healthy and consistent growth in the number of visitors to our town over the next few years, then rentals like this would be a benefit to the tourism industry, while in no way competing with existing hotels and bed-and-breakfasts.

Cheri, thanks so much (once again) for hearing my thoughts.

Sincerely,

Tom Keziah

Nathan Pate

From: Cheri Farivar
Sent: Monday, January 04, 2016 11:46 AM
To: Nathan Pate
Subject: FW: vacation rentals within city limits

As we discussed,

C

Cheri Kelley Farivar, Mayor
City of Leavenworth
700 Highway 2
Leavenworth, WA 98826
509-548-5275
mayor@cityofleavenworth.com

From: Tim Seaman [mailto:tkseaman@gmail.com]
Sent: Thursday, December 31, 2015 5:13 PM
To: Cheri Farivar
Subject: vacation rentals within city limits

Dear Mayor Farivar,

I would like to submit my opinion to you about allowing vacation rentals within city limits. It is my understanding that this is against city regulations, but that it is not being enforced, as evidenced by the growing number of rentals that are being used for vacation purposes. They are being rented by the day or week-end and there is no owner present. In many cases, the owner lives somewhere else.

This practice is bringing people into our neighborhoods who have no ties (nor obligations) to the City of Leavenworth. We all know that people tend to party and be raucous when they are feeling anonymous.
A
lso, in many cases, more than one family will rent a house for the week-end bringing more cars to be parked on the street. In winter, they do not heed the no parking in the street rule, which apparently is not enforced either.

Furthermore, there is a critical shortage of rentals in Leavenworth. Families who wish to move here are unable to find a house to rent, because the vast majority of them are now being rented by the week-end. It's understandable, since a home owner can make a great deal more money renting their house by the day or week-end than to a family who moves in for a year or

more. But I would venture a guess that they do not have business licenses that would be required to operated a vacation rental.

On our street, West Street, our neighborhood recently went through a difficult time with what can only be described as a "Flop House." I is my understanding that MEND was sending people to stay in the house directly across the street from our house when they had no other place to go. There were, at any given time, four or five families crammed into that house.
New people were coming and going all the time. Children were sleeping in closets, People were sleeping in a shed in the backyard. Ten cars would be parked in the driveway and street. People were thrown together who didn't even know each other. One night, there was a stabbing. How can that be allowed in a residential area? The owner finally threatened to evict the people and they moved on, but this was only after many complaints from residents. The house was all but destroyed.

The residents of Leavenworth put up with a great deal of inconvenience due to the tourist industry. I don't need to list those issues here; I'm sure you're well aware of them. But enough is enough! Please **enforce the law** that prohibits vacation rentals within the city limits. And if my information is incorrect, that there is no such law, please make one!

I would appreciate a response.

Sincerely, Kris Seaman
221 West Street 548-5936
tkseaman@gmail.com

Nathan Pate

From: Cheri Farivar
Sent: Wednesday, May 18, 2016 3:04 PM
To: Nathan Pate
Subject: FW: Overnight rentals

To add to your list.

C

Cheri Kelley Farivar, Mayor
City of Leavenworth
700 Highway 2
Leavenworth, WA 98826
509-548-5275
mayor@cityofleavenworth.com

From: Colin Forsyth [mailto:colinforsyth@gmail.com]
Sent: Friday, May 13, 2016 7:57 AM
To: Cheri Farivar; Elmer Larsen; Gretchen Wearne; Mia Bretz; Carolyn Wilson; Robert Francis; Richard Brinkman; Margaret Neighbors
Subject: Overnight rentals

Hi All,
My name is Colin Forsyth and I am a homeowner in Leavenworth. I just wanted to briefly state that I am very opposed to allowing overnight rentals in town. I feel that we need to do everything possible to maintain the community nature of Leavenworth and that overnight rentals would negatively impact our community.

Thanks!
Colin
141 W Benton St

Nathan Pate

From: Joel Walinski
Sent: Wednesday, March 16, 2016 7:54 AM
To: david ryan; Cheri Farivar; Elmer Larsen; Carolyn Wilson; Michael Molohon; Robert Francis; Gretchen Wearne; Mia Bretz; Margaret Neighbors
Cc: Nathan Pate
Subject: RE: rentals

David,

Thanks for the comments, I will forward them on to the Planning Commission and have them entered as part of the record of the discussion for this item. If you are available on April 6, 2016 7:00 PM you can provide your comments to them directly at the public hearing. Thank you again for providing a comment on this issue.

Joel

Joel Walinski
City Administrator
Post Office Box 287
Leavenworth, WA 98826
509 548-5275

From: david ryan [mailto:jdavidjryan@yahoo.com]
Sent: Tuesday, March 15, 2016 9:33 PM
To: Cheri Farivar; Joel Walinski; Elmer Larsen; Carolyn Wilson; Michael Molohon; Robert Francis; Gretchen Wearne; Mia Bretz; Margaret Neighbors
Subject: rentals

To Whom It Might Concern - All Of You!

I noticed recently that there's an open request for commentary regarding overnight rentals within the city limits. In a nutshell, I'm all for it - if only because it levels the playing field and thus appeals to my sense of fairness. As it currently stands, this is an opportunity that is only available to those (often just) outside of the city limits, and frankly this makes no sense. I'm not hearing of any uproar among my numerous friends who live near such places, no rage over untoward traffic and rowdiness, etc. And, should that be the case, it's not like they don't have recourse with the county to deal with it. I think the same should apply within city limits.

As things currently stand, I believe that - quite legally - someone in town can have paying roommates in each spare bedroom or there can be a general shared housing situation. That's potentially a lot of cars and people, and contrasts with, for example, the situation I have: one person in a house. I actually know of numerous such situations that are quite copacetic for all involved. In comparison, should I replace myself with a couple spending the weekend here at my house, or even one with a kid or three, I'm probably still having less of an impact. If not, once again, neighbors still have recourse to have noise ordinances and the like upheld. (As a side note, I'm guess that it's often the case that someone renting out their house is going to keep it in better shape - a plus for the community.)

My final point is a general one. We live in a town wholly given over to tourism, yet it seems that those who chiefly benefit from it are those who own properties or businesses almost exclusively on Front Street or Highway 2. The rest only get their piece of the pie by predominantly working minimum-wage, dead-end jobs FOR them. I think the base of opportunity in this town can be expanded and should be, and indeed it will offer tourists (or the odd worker passing through, even) a different, less corporate and more personal side to housing in the area.

Thanks for hearing me out -
Dave Ryan
238 Mine

Nathan Pate

From: Joel Walinski
Sent: Monday, April 04, 2016 8:55 AM
To: Nathan Pate
Subject: FW: ADU's

Please add comment to the record on this topic, thanks.

Joel

Joel Walinski
City Administrator
Post Office Box 287
Leavenworth, WA 98826
509 548-5275

From: Mia Bretz
Sent: Thursday, March 03, 2016 11:33 PM
To: Joel Walinski
Subject: ADU's

Joel,

I had a neighbor Michelle Logan ask me to relay her uneasiness of nightly rentals in single family. She thinks we could do monthly, but she did not want nightly.

I am not sure how the planning commission is collecting this input??

Thanks,
Mia

Nathan Pate

From: Joel Walinski
Sent: Wednesday, April 27, 2016 7:45 AM
To: Nathan Pate
Subject: FW: Vacation Rental

FYI

From: Rebeca Wadkins Bagwell [mailto:rebecawadkins@gmail.com]
Sent: Tuesday, April 26, 2016 3:45 PM
To: Joel Walinski
Subject: Vacation Rental

Joel,

Good Afternoon, I just wanted to reach out about the vacation rental topic. Cary said I should email you.

I was going to attend the meeting this evening but I am still so tired from Ale-Fest. I hope council will take the approach to Vacation rentals of allowing them as Washington State has. I was too nervous to express my opinion at the public meeting a few weeks ago as things were a little tense and I was not interested in being attacked. I am in favor of Vacation rentals, I feel strongly that one should be able to do what you like with your property with in guidelines.

Also, on another note, Thank you very much for being so kind and coming down to Ale-Fest on Saturday. I appreciate all of your kindness over the past few years. I appreciate all that you do!!

Thank you,
Rebeca

--
Rebeca Wadkins Bagwell
Nussknacker Haus | Tannenbaum Shoppe
P.O. Box 129 | 735 Front Street
Leavenworth, WA 98826
Store #:1-800-892-3989
Personal Cell: 509-306-0081

Nathan Pate

From: Joel Walinski
Sent: Friday, June 03, 2016 8:33 AM
To: Skip Claeson
Cc: Nathan Pate
Subject: RE: Ideas on: Parking, Skate Park Location & Nightly Rentals

Dear Mr. Claeson,

Thank you for your comment. We will be providing your comments to the City Council and add it to the record for the projects you addressed.

On the skate park, the voters of the Cascade School District approved the reconstruction of the District Schools. The City supports the voter's decision and School District in their efforts to plan, design and construct those facilities to provide quality education facilities for the district. The planning and design for reconstruction of the High School was a decision of the School District. The City will be working with the community on identifying a new location for the skate park and constructing a new skate park that serves the needs of the community. Your suggestion of the Water Front Park site will be added to a list of possible sites for consideration.

Several past Councils have reviewed the costs associated with constructing a parking garage and several current Council Members are also reviewing those costs. The question on any large capital project is identifying costs, identifying the funding, and then addressing a revenue source which can cover the cost of annual operations and maintenance and any associated debt service for the project.

Your comments on the overnight rentals/nightly rentals within the residential neighborhood will be added to the record. We are still in the process of taking public comment on this issue and no decisions been made at this time to amend the LMC which prohibits this use. Appreciate your comments.

Thank you for your ongoing support.

Joel

Joel Walinski
City Administrator
Post Office Box 287
Leavenworth, WA 98826
509 548-5275

From: Skip Claeson [mailto:skipclaeson@hotmail.com]
Sent: Thursday, June 02, 2016 8:48 AM
To: Cheri Farivar; Elmer Larsen; Gretchen Wearne; Mia Bretz; Carolyn Wilson; Robert Francis; Richard Brinkman; Margaret Neighbors; Joel Walinski
Subject: Ideas on: Parking, Skate Park Location & Nightly Rentals

Dear Leavenworth City Mayor, Administrator & Council Members,

First I want you to know that I remain impressed & thankful for the exemplary way you act to maintain & improve Leavenworth. Thank you.

Letter to the Leavenworth Mayor, City Administrator and City Council Members June 2, 2016

Here are a few thoughts on this wonderful village:

1. A potential site for the new skate park: Along Riverfront Park between the bathrooms and the parking lot below the hospital there is a children's playground with 3 pieces of equipment including a swing. It appears there might be enough room for a skate park there if this equipment were to be moved to the grass area in front of the bathrooms.

2. A Possible Parking Solution: Please study the cost and benefits of adding a parking level above the lower lot by the Festhall.

3. Nightly rentals in the urban growth area: I am thus far pleased with City Council leaning toward NOT allowing nightly rentals within the city limits. I would suggest that this be extended to the urban growth area. My reasoning is this: 1) If it is allowed in the urban growth area now, you will have a very difficult time not allowing it when that area becomes part of the city. 2) Lot sizes in what is now the urban growth area may change in the future. 3) Noise is NOT significantly reduced by the distance of a several hundred feet. Noise is reduced by barriers. The current lot sizes in the urban growth area will NOT provide any real noise abatement between houses. Several residents of the Ski Hill area of the urban growth area have told me repeatedly that they hear the sounds from downtown every weekend. If they can hear that, they will surely hear a party in an adjacent dwelling. 4) Nightly rentals in the urban growth area will negatively affect that area for all the same reasons it will negatively affect the city. 5) Nightly rentals in the urban growth area and in the city limits will significantly increase the price of housing in both areas. This will totally negate any efforts to encourage and develop affordable housing in the Leavenworth area.
4. Amend the definition of nightly rentals: I am opposed to nightly rentals in a house or dwelling that is NOT also occupied by the owner, not a manager. An owner occupied Bed & Breakfast (B&B) seems completely reasonable to me. The owner occupier of a Bed & Breakfast (B&B) has all the motivations of a regular home owner to maintain the property, the property of the neighborhood, and to keep healthy relationships with the neighbors.

Respectfully submitted June 2, 2016

Skip Claeson 553 Mountain View Dr, Leavenworth, WA 98826 Ph 888 3894

Nathan Pate

From: Joel Walinski
Sent: Thursday, July 28, 2016 7:32 AM
To: Nathan Pate
Subject: FW: City of Leavenworth Mayor / City Administrator Comment Form

FYI

From: Barb Kelly Ringel [mailto:barbkelly@live.com]
Sent: Tuesday, July 26, 2016 4:09 PM
To: Joel Walinski; Cheri Farivar; Sue Cragun
Subject: City of Leavenworth Mayor / City Administrator Comment Form

Name – Barb Kelly Ringel Email – barbkelly@live.com Message – I am STRONGLY opposed to allowing nightly rentals within the residential neighborhoods of Leavenworth. This would essentially change our neighborhoods into commercial areas where paying tourists could stay. We would no longer have neighborhoods. Affordable housing is a big issue in Leavenworth. Currently homeowners can have roommates or rent part of their own home out to others – this is a big help for providing more affordable housing and in making it more affordable for new homeowners. Allowing nightly rentals would likely give homeowners more $ and be a disincentive to having roommates. I am also strongly opposed to allowing homeowners to rent a home they do not reside in to 2 parties – this essentially changes single family zoning to multi family zoning. I bought my home in 1996 in a single family residential area. We had a house mate for two years to help us afford our home. I have had neighbors with roommates (good), renting out the upstairs of their garage (ok), and several homes where the owners do not live here (quiet but I wish I had neighbors). These absent homeowners could easily change my neighborhood into a tourist area with overnight rentals.

Nathan Pate

From: Joel Walinski
Sent: Thursday, July 28, 2016 7:47 AM
To: Eric Bartanen
Cc: Nathan Pate
Subject: RE: July 26 City Council Meeting

Hello Eric,

Thank you for your input, your comment will be added to the record of information that has been collected on this issue and will be provided to the Planning Commission and City Council as they deliberate this issue. Thank you again.

Joel

Joel Walinski
City Administrator
Post Office Box 287
Leavenworth, WA 98826
509 548-5275

From: Eric Bartanen [mailto:eric.bartanen@gmail.com]
Sent: Tuesday, July 26, 2016 6:05 PM
To: Joel Walinski; Gretchen Wearne; Mia Bretz; Margaret Neighbors; Carolyn Wilson; Richard Brinkman; Elmer Larsen; Robert Francis
Subject: July 26 City Council Meeting

Members of the Leavenworth City Council,

I'm aware that a large contingent of my neighbors will be at the city council this evening to voice their opposition to any and all overnight rentals within the residential neighborhood. I am unable to attend the meeting in person this evening but I'd like to voice my opinion.

As a property owner in Leavenworth's small residential neighborhood it's important to me that we maintain the residential character of the area. It's clear that unchecked overnight rentals will encourage outside investors to drive up housing prices and lead to commercial tourism which is not fitting with the residential character of the area.

However, I don't view this as an either/or proposition. We can have smart policies that allow homeowners to earn extra income and also maintain housing affordability and residential character. I feel a fair compromise would be owner-occupied nightly rentals. This would discourage outside investors from buying up properties to use solely as nightly rentals while also giving homeowners an opportunity to earn additional income by renting out a room in their house or ADU.

We all know affordable housing is a challenge in this town and I see two scenarios by allowing owner-occupied nightly rentals: first, when a young family is making the decision to buy a home in town they can factor in the income from occasional nightly rentals and feel confident they can afford to live here; second, if one of our

neighbors on a fixed income is being pushed out by rising property taxes they can cover the difference with a few nights of nightly rentals in a spare bedroom.

I fully understand the concerns of my neighbors opposed to any changes but I think this matter requires careful, nuanced thinking. I'm sure we can find a solution that benefits everyone.

Thank you for your time,

Eric Bartanen
425 Central Ave
Leavenworth, WA 98826
206.399.2938

Nathan Pate

From: Sharon Waters <yomama21@frontier.com>
Sent: Sunday, July 31, 2016 6:47 PM
To: Joel Walinski; Nathan Pate
Cc: Cheri Farivar
Subject: Re: B&Bs and Overnight Rentals

Nate: per your phone call I would appreciate picking up 3 copies each of the 4 attachments you emailed me. You also mentioned that I was the only one asking for information. In our Leavenworth Neighbors Unite group, we are all against "overnight rentals" within the City limits as you know. It's a big project and time consuming for us as we each lead busy lives. We are also diverse in our own ways of researching information. You are aware of how I operate. I tend to go right to (excuse the term) the horses mouth. We each pass on what we find. I hope it is alright with you because I also pass on what I find...so they each have copies of what I find through city hall.
I guess in that way...you are only "bugged" by me instead of a lot more people. We are working very diligently to educate ourselves so we can not only ask intelligent and thought out questions, but discuss issues with other residents and be accurate in sharing what we have learned. Trying to come up to speed is a lot of work and won't happen overnight, but we are doing our best!
Thanks for all you do to help me...I am glad you are listening,
Sharon

Joel: I appreciate your taking the time to clarify the Chelan County Commissioners direction at this time and the council and CPC.
Questions I have:
Are these changes to the City Code only for the Urban Growth Area based on the sizes of lots in the UGA?
Are there any lots in the Residentially Zoned Area that compare to these approved changed lot sizes?
What were the old lot sizes and what are the changed lot sizes?
What is the largest current residential lot size?
Do the Chelan County Commissioners have a say in whatever the City Council eventually decides to do about overnight rentals within the City limits?
If there is a study discussion between the council and Chelan County Planning Department/Commissioner in August will that be open to the public?
If public, will you please let me know...
If I follow what you wrote correctly...your clarification most certainly helped...I am glad you are listening,
Sharon

From: Joel Walinski
Sent: Saturday, July 30, 2016 9:31 AM
To: Sharon Waters ; Nathan Pate
Cc: Cheri Farivar
Subject: RE: B&Bs and Overnight Rentals

Good Morning Sharon,

For clarification, earlier this year the Council approved changes in the City Code that would allow for larger ADU's based on the size of the lot and non owner occupied rental of ADU for long term rental (greater than 30 days). The city has requested Chelan County adopt those changes for the Urban Growth Area. The County Commissioners have some questions on accepting those changes for the Urban Growth Area. They have asked the City to provide more information on this issue.

The second issue is the question on overnight rentals within the residential zone areas, and the Planning Commission and City Council are still considering if any changes are necessary, this is not the same issue that the County Commissioners are discussing at this time.

In regards to the County Commissioners issue, we are trying to schedule a study discussion between the council and Chelan County Planning Department/Commissioner in August. Hope this clarification helps.

Joel

From: Sharon Waters [yomama21@frontier.com]
Sent: Friday, July 29, 2016 9:39 PM
To: Nathan Pate
Cc: Joel Walinski; Cheri Farivar
Subject: Re: B&Bs and Overnight Rentals

Nate...thank you...I really appreciate your willingness to help me (and in turn help the Leavenworth Neighbors Unite group try to make heads or tails out of the overnight rental issue within the City limits). Quite frankly, it is "mind boggling". I feel surrounded by legal words and phrases that circle around weaving in and out of clarity. I listened to Keith Goehner's interview with KOHO. It sounded like the Chelan County Commissioners have an expectation that the City will be handing over information to the Commissioner's by August 2nd, when they will continue their Public Hearing on this issue. He said they want consistency with the code for the Urban Growth Area and City. I am under the impression that the City and PC are still studying and researching and have not yet come up with a decision to pass on to the commissioners. Am I off base? I feel panicky trying to wade through all you sent me with the Commissioners "breathing down the cities neck". Are the commissioners going to make their decision regarding ADUs in the county and city on August 2nd?
Sharon

From: Nathan Pate
Sent: Friday, July 29, 2016 3:13 PM
To: Sharon Waters
Cc: Joel Walinski ; Cheri Farivar
Subject: RE: B&Bs and Overnight Rentals

Sharon, please find attached the PC agenda and applicable materials. If you have any questions, let me know. Nate

From: Sharon Waters [mailto:yomama21@frontier.com]
Sent: Sunday, July 24, 2016 9:01 PM
To: Nathan Pate <dsmanager@cityofleavenworth.com>
Cc: Joel Walinski <jwalinski@cityofleavenworth.com>; Cheri Farivar <mayor@cityofleavenworth.com>
Subject: Re: B&Bs and Overnight Rentals

Hi Nate,
Just wondering if there is another public "overnight rental" meeting in the works...before the council has more discussion or makes any decisions on this issue.
Have an amazing Monday!
Sharon
From: Sharon Waters
Sent: Tuesday, July 12, 2016 8:22 AM
To: Nathan Pate
Cc: Joel Walinski ; Cheri Farivar
Subject: Re: B&Bs and Overnight Rentals

Thanks Nate...my phone number is 509 548 7939...cell 509 433 2274...I am hard to get ahold of during the day at the pool...evenings are better after 6 pm. Enjoy your time away from the office.
Sharon

Joel and Cheri...teaching swim lessons at Study Session time, will be at meeting tonight.
Sharon

From: Nathan Pate
Sent: Monday, July 11, 2016 7:53 AM
To: Sharon Waters
Cc: Joel Walinski ; Cheri Farivar
Subject: RE: B&Bs and Overnight Rentals

Sharon, good morning. I am away from the office for the next week. Carry is working on the very list that you would like, and you can call her at city Hall. Please add your phone number to the reply, and I can call you from home. The below email has alot of substance, and a call may work best. Nate

Sent from my Verizon 4G LTE smartphone

-------- Original message --------
From: Sharon Waters <yomama21@frontier.com>
Date: 7/11/16 1:56 AM (GMT-08:00)
To: Nathan Pate <dsmanager@cityofleavenworth.com>
Cc: Joel Walinski <jwalinski@cityofleavenworth.com>, Cheri Farivar <mayor@cityofleavenworth.com>
Subject: B&Bs and Overnight Rentals

Good Morning Nate;

I am requesting a list of all currently permitted B&Bs, legally permitted Overnight Rentals and legally permitted AUDs operating as overnight rentals inside the residentially zoned area, within the Leavenworth City Limits. I believe this information will help those of us involved with the "overnight rental" issue to get a picture of what currently exists. I understand that there is no current list and that it would take some work to produce one. Call me crazy, but I can't understand why a list hasn't been kept. Seems it would be beneficial to the City at this time also.

I further believe, that as a courtesy to those of us who attend meetings of the Council or Planning Commission, we should be provided with copies of what is being discussed by the council or commission. At the last Planning Commission meeting, for example, I believe it would have made a huge difference to see what was and what wasn't being added as suggested changes. Being able to follow along, for me, would have made all the difference in the world.

Nate, it felt like you were leading or trying to persuade the members on the Planning Commission to accept what you had come up with. You would say...don't have any changes to this one...but now here is new language (which you would read). We in the audience were totally in the dark. Even if we just had some copies to share. There was a feeling amongst some of the residents in attendance; that you were leading the Planning Commission to support overnight rentals. I have to admit that it sounded like it to me too, because I had nothing to reference. I have talked to you and I understand what your job is...but hearing things like changing the name of B & Bs to Home Sharing scared me too, for example. I think a lot of the audience questions could have been resolved if we had a copy of what was being looked at, discussed, and decisions being made from...instead of trying to interpret what was being discussed in our minds. I know you had a lot to get through in a "hoped for" time frame and your frustration with audience questions was dully noted. But you have a lot of worried property owners in the residential district, who are afraid they are not being heard and that big money and big business from tourists talks louder than we do. And that our lives, in our homes (as we know them today) could be altered forever by people who don't live here and don't care what happens to us as long as they can make money.

Cheri and Joel...same thing with City Council Study Sessions and Meetings. I come to them and often wonder why I do, because everything is accepted or not, from the paperwork on the table in front of the council members; which the audience doesn't have in front of them. We come to understand and often go away misunderstanding and confused, unconnected to the agenda and proceedings, not believing we have been heard, and not wanting to come back to spend our time in a vacuum. Maybe the paperwork could be put up on a screen the audience can see and read with the council members or commission members as they discuss it. It might be worth a try (if the words are large enough to read from our seats)...what do you think? Please don't be offended by my words...they are meant to help.

Thanks for your consideration,
Sharon Waters
336 Birch Street
Leavenworth, WA 98826

Nathan Pate

From: Stephen Hufman <stephen@nwi.net>
Sent: Friday, July 29, 2016 10:10 AM
To: Joel Walinski; Sue Cragun; Nathan Pate; Elmer Larsen; Richard Brinkman; Robert Francis; Carolyn Wilson; Margaret Neighbors; Mia Bretz; Gretchen Wearne; Cheri Farivar
Subject: nightly rentals

I recently read in the minutes for the July 12th Leavenworth city council meeting that Greg Morisoli stated that overnight rentals have a positive influence on the neighborhood (i.e. Spring Street). I have lived on Spring Street since well before there were any overnight rentals, but I do not feel the effect has been positive. This past weekend I had to escort overnight renters yet again off a hillside on my property. In the past people have left beer cans, trash, and tried to carve graffiti into the hillside as well as use my property as a sledding and playground for their children in the winter.

Late night noise is a continuing significant problem from the overnight rentals.

People want to come to Leavenworth to enjoy the beauty, but often their behavior infringes upon others. In a commercial setting there is someone on site to deal with the issues that arise. Unfortunately, running a nightly rental where you are not in the same building 24/7 clearly leads to difficulties in control. This has had a negative affect on relationships of neighbors along Spring Street - we are no longer a residential neighborhood.

Please restrict overnight rentals and keep them out of our residential neighborhoods.

Thank you.
Stephen Hufman

Nathan Pate

From: Stephen Hufman <stephen@nwi.net>
Sent: Tuesday, July 05, 2016 4:45 PM
To: Nathan Pate
Cc: Lanny Willman
Subject: Short term rentals

Nate,

Here is an article about short term rentals. I thought it interesting that they tried allowing them only to find the number of rentals ballooned and they had to put a moratorium on permits and finally an out right ban.
http://www.ocregister.com/articles/city-721046-term-short.html

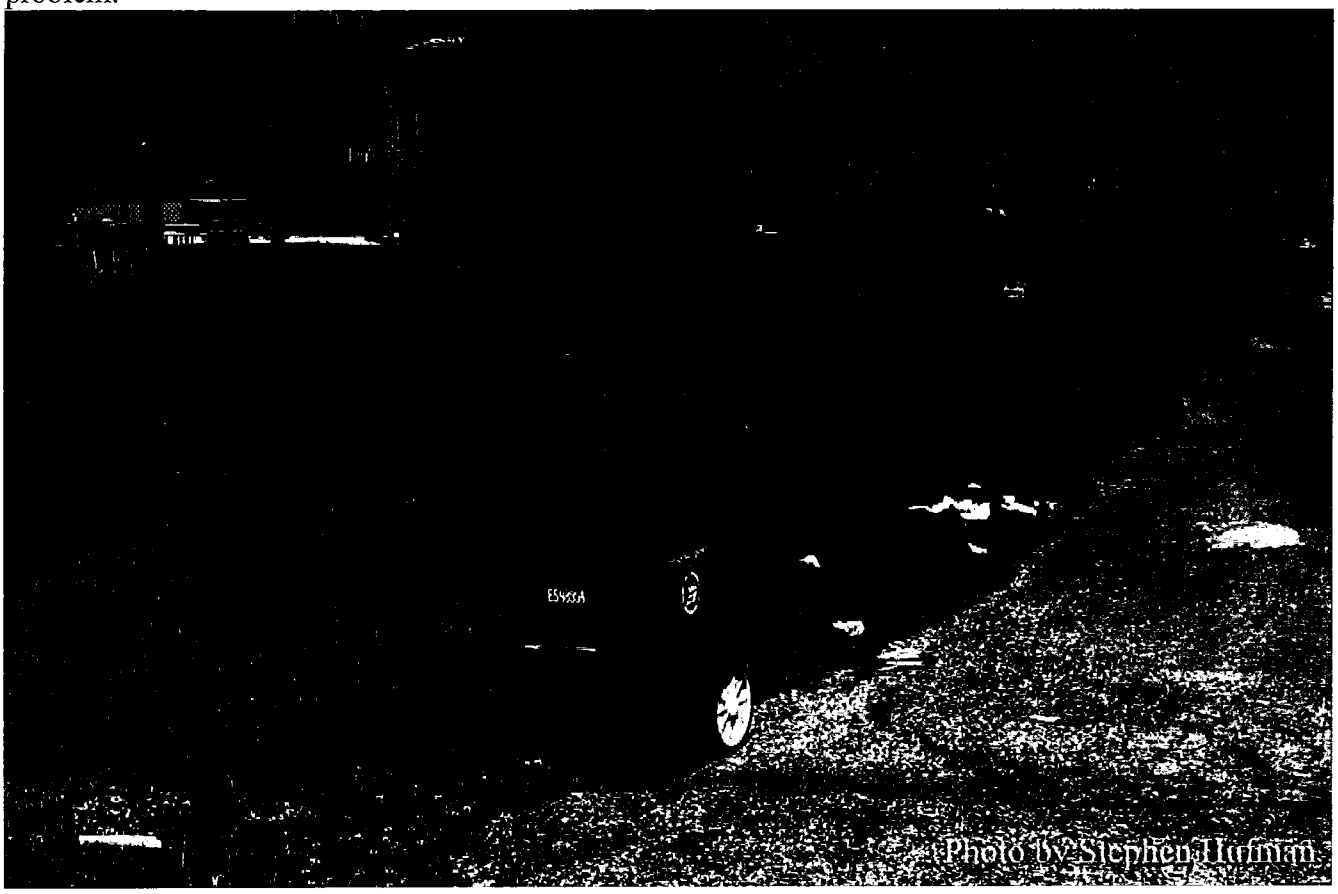
Stephen Hufman
stephenhufman.com
stephen@nwi.net

Nathan Pate

From: Stephen Hufman <stephen@nwi.net>
Sent: Monday, May 09, 2016 2:58 PM
To: Nathan Pate
Subject: Short term rentals in residential zone

Nathan Pate,

This is but another reminder of the problems Spring St. residents have with short term rentals. The garbage cans are left out all week and in this case trash is everywhere. There is no one to contact about this problem.



Stephen Hufman
stephenhufman.com
stephen@nwi.net

Nathan Pate

From: Stephen Hufman <stephen@nwi.net>
Sent: Thursday, April 28, 2016 6:26 PM
To: Nathan Pate
Subject: residential zoning

Nathan Pate,

I have been trying to figure out a way to limit the density of nightly rentals. Right now 3 of 14 homes on Spring St are nightly rentals. Unfortunately, I do not know how to you can limit whole streets from becoming predominately nightly rental units. It is therefore my opinion that nightly rentals be precluded from areas zoned residential.

Stephen Hufman
stephenhufman.com
stephen@nwi.net

JOY JUELSON

512 Birch Street, Leavenworth | 509-433-2999 | jjuelson@gmail.com

July 8, 2016

Leavenworth Planning Commission
700 Highway 2
Leavenworth, WA 98826

Dear Leavenworth Planning Commission Members,

I am writing in support of the recent City of Leavenworth's request to the Planning Commission to reconsider the ban on short-term vacation rentals in our town. As a 25-year resident, I share many of our resident's concerns regarding the increase in vacation rentals that include increased noise, parking problems, loss of long-term rental space, and loss of community identity. Yet, I would encourage the Commission to consider a more balanced approach.

The ban on short-term rentals impacts our community member's ability to share in our tourist economy. Many rental hosts in small mountain communities are moderate to low income individuals and hosting helps them gain income from their biggest investment so they can afford to live in these special places. Aspen Mayor Steve Skadron, who serves as president of the Colorado Association of Ski Towns stated the "renting out space to visitors in their homes relieves some of the burden of living in an expensive town and keeps many Aspen workers afloat". Hosting locally also allows for affordable-lodging options for visitors who are looking for experiences beyond a hotel. Some of my families most memorable experiences traveling in Europe were from staying in local homes.

Potentially the commission could consider solutions like the ones stated below as well as other solutions:

- Consider exploring models that have worked to in similar tourist communities. For example, Durango, Colorado passed regulations last fall that included solutions like capping the number of permitted vacation-rental homes at 3 percent of the total homes in neighborhoods.
- Consider options to minimize impacts like minimizing occupancy or allowing residents to rent no more than 1-2 bedrooms to overnight guests instead of the entire house.
- Consider restrictions on the number of nights per year a house or rooms can be rented.
- Although hosts do not technically quality as hoteliers, consider that hosts pay taxes, with limited exemptions for those hosts who earn under a certain threshold.

- Explore ways to increase incentives for long-term rentals or affordable housing projects to reduce the need for housing.

I believe there is a thoughtful way of allowing for short-term rental options without harming our close knit community and way of life. Thank you for your time and consideration.

Respectfully,

Joy Juelson

Cc:
Mayor Cheri Kelly Farivar
City Administrator Joel Walinski

Nathan Pate

From: morsefarm@charter.net
Sent: Thursday, May 26, 2016 8:39 AM
To: Nathan Pate
Subject: Vacation Rentals

Hi Nate,
I would like to weigh in on the subject of Vacation Rentals.
I am in favor of them.
Have you had a chance to look at the Vacation Rental policy the city of Manson established?
The one in Manson has been in place for quite some time. And, it is a nice form of revenue for the city.

Having run a Bed and Breakfast / Vacation Rental (the one on Lone Pine Orchards Road) in the past I can tell you from my experience there have not been any complaints from neighbors - however, I do realize this may be a bit different than being right in town. Also, we had written rules for guests and we met with them personally which I think made a difference that they saw we were real people. Also, those who have vacation rentals have an incentive to have their property look good all of the time.
I do take exception with those who have expressed not wanting vacation rentals in town when they say that those who rent a dwelling as a vacation rental are some type of different people than those who live or rent in a neighborhood. They are people just like you and I.
Also, I have rentals in town and over the years with our rentals I have had complaints from neighbors regarding our long term renters. All of the neighbors know who we are and know how to reach us if there ever is an issue.

I do agree there should be rules to reduce the potential of there being any problems with neighbors with having the owner of the property be within say 30 minutes or less of the property, if they are personally managing the property and, the same if it is managed by a vacation rental management company.

There was a note in the Newspaper that if vacation rentals are not allowed that the city is considering hiring someone to seek out offenders by going onto vacation rental websites to specifically look for these offenders. I don't know if the newspaper got this right but, I really don't think this would be wise. Not a very positive or friendly approach to our village property owners who do spend a lot of money supporting our local government.

Check out the Manson rules if you have not done so already - they were a local trail blazer in this area and it does seem to work well for them.

Thanks for listening,
Mary

Nathan Pate

From: 11worth Design <11worthdesign@11worth.com>
Sent: Monday, August 08, 2016 9:04 AM
To: Nathan Pate; Cary Siess
Subject: More information regarding the Aug. 3 Planning Commission Meeting, "Residential-Uses-Draft-July-2016.pdf"

Nathan and/or Cary,

This is a request for an update and/or clarification before tomorrow's Aug. 9 City Council Meeting.

I was unable to attend the August 3, 2016 Planning Commission Meeting. From the agenda for that meeting, there was a "Second Reading - Residential uses review and update Chapters 18.20, 18.21, 18.22, 18.23, and 18.52", as outlined in the document "Residential-Uses-Draft-July-2016.pdf" which is available for download on the Planning Commission page of the City of Leavenworth website.

In the above document, under "18.52.120 Conditional use permit - Bed and breakfast., B. Detached units with rooms are allowed", there is a line of text highlighted in yellow, "Accessory dwelling units allowed?? Not allowed??". Further down, under "J", there is the same line of text highlighted in yellow, "Accessory dwelling units allowed?? Not allowed??

Was there any determination regarding those two lines of text (i.e. Allowed, Not Allowed)? This is my basic question.

For full disclosure, *I must say I'm very much in favor of "detached units with rooms" as opposed to previously-defined ADUs "allowed" per the Bed and Breakfast Conditional Use Permit. This would separate Bed and Breakfasts (transient lodging permitted via a traditional shared home-space model) from ADUs (non-transient lodging, long-term rental). As such, it would deter a resident from obtaining a Bed and Breakfast Conditional Use Permit solely to deploy the ADU as transient lodging only. Such ADU use counters the intent specified in "Ordinance No. 1523, City of Leavenworth, Washington". The ordinance specifies the intent of permitting ADUs is to mitigate the shortage of affordable housing and long-term rentals; no mention is made regarding ADU use as short-term rentals.*

An email response is fine, however feel free to call me if phone contact is better.

Thank you very much!

Matt
--

Matt Fields
11worth Design
P.O. Box 175, Leavenworth, WA 98826
509.630.7130

"Do what you can, with what you have, where you are." *Theodore Roosevelt*

Nathan Pate

From: Andy Lane
Sent: Thursday, September 15, 2016 10:11 PM
To: Nathan Pate
Subject: FW: Outside Magazine Article, "10 Real People on the Cost of Living in a Mountain Town The places you'll never be able to afford and the ones so welcoming, you can move in tomorrow", that includes Leavenworth, WA

FYI

From: 11worth Design [11worthdesign@11worth.com]
Sent: Thursday, September 15, 2016 9:45 PM
To: Joel Martinez; Chuck Reppas; Andy Lane; Pete Olson; Scott Bradshaw; Larry Hayes; Anne Hessburg
Cc: Joel Walinski; Cheri Farivar
Subject: Outside Magazine Article, "10 Real People on the Cost of Living in a Mountain Town The places you'll never be able to afford and the ones so welcoming, you can move in tomorrow", that includes Leavenworth, WA

To All Planning Commission Members,

I recently conducted research on the current "Transient/Overnight/Short-Term" Rentals problem in Leavenworth, and what it portends for our community. By entering the search key-phrase "Affordable Mountain Towns" in Google, I found the following link at the top of the first results page:

https://www.outsideonline.com/2098101/top-five-mountain-towns-youll-never-be-able-afford-live

The article, "10 Real People on the Cost of Living in a Mountain Town The places you'll never be able to afford and the ones so welcoming, you can move in tomorrow", appeared in Outside Magazine's online version on July 18, 2016. Our own Leavenworth, Washington is featured in this article.

The article's opening paragraph says this:
"Living in a mountain town comes with serious perks: backyard trail access, midweek powder days, and a community of adventurous spirits. But it also comes at a price. The cost of living in resort towns across the country continues to rise, while the high demand for housing means availability is just as scarce as affordability. Still ready to make the plunge? Here are our picks for the least and most livable mountain towns."
The article continues to describe five towns as "Least Livable" (Aspen, Colorado; Jackson, Wyoming; Ketchum, Idaho; Stowe, Vermont; and Park City, Utah). It then continues to describe five towns as "Most Livable" (Ogden, Utah; South Lake Tahoe, California; Leavenworth, Washington; Durango, Colorado; and Ludlow, Vermont).

Please read the article and see if you reach the same conclusion I did: "The cost of living in resort towns across the country continues to rise, while the high demand for housing means availability is just as scarce as affordability" applies to us now.

Thanks,

Matt

--

Matt Fields
11worth Design<http:www.11worth.com>
P.O. Box 175, Leavenworth, WA 98826
509.630.7130

"Do what you can, with what you have, where you are." Theodore Roosevelt

Nathan Pate

From: Joel Walinski
Sent: Wednesday, March 16, 2016 7:54 AM
To: david ryan; Cheri Farivar; Elmer Larsen; Carolyn Wilson; Michael Molohon; Robert Francis; Gretchen Wearne; Mia Bretz; Margaret Neighbors
Cc: Nathan Pate
Subject: RE: rentals

David,

Thanks for the comments, I will forward them on to the Planning Commission and have them entered as part of the record of the discussion for this item. If you are available on April 6, 2016 7:00 PM you can provide your comments to them directly at the public hearing. Thank you again for providing a comment on this issue.

Joel

Joel Walinski
City Administrator
Post Office Box 287
Leavenworth, WA 98826
509 548-5275

From: david ryan [mailto:jdavidjryan@yahoo.com]
Sent: Tuesday, March 15, 2016 9:33 PM
To: Cheri Farivar; Joel Walinski; Elmer Larsen; Carolyn Wilson; Michael Molohon; Robert Francis; Gretchen Wearne; Mia Bretz; Margaret Neighbors
Subject: rentals

To Whom It Might Concern - All Of You!

I noticed recently that there's an open request for commentary regarding overnight rentals within the city limits. In a nutshell, I'm all for it - if only because it levels the playing field and thus appeals to my sense of fairness. As it currently stands, this is an opportunity that is only available to those (often just) outside of the city limits, and frankly this makes no sense. I'm not hearing of any uproar among my numerous friends who live near such places, no rage over untoward traffic and rowdiness, etc. And, should that be the case, it's not like they don't have recourse with the county to deal with it. I think the same should apply within city limits.

As things currently stand, I believe that - quite legally - someone in town can have paying roommates in each spare bedroom or there can be a general shared housing situation. That's potentially a lot of cars and people, and contrasts with, for example, the situation I have: one person in a house. I actually know of numerous such situations that are quite copacetic for all involved. In comparison, should I replace myself with a couple spending the weekend here at my house, or even one with a kid or three, I'm probably still having less of an impact. If not, once again, neighbors still have recourse to have noise ordinances and the like upheld. (As a side note, I'm guess that it's often the case that someone renting out their house is going to keep it in better shape - a plus for the community.)

My final point is a general one. We live in a town wholly given over to tourism, yet it seems that those who chiefly benefit from it are those who own properties or businesses almost exclusively on Front Street or Highway 2. The rest only get their piece of the pie by predominantly working minimum-wage, dead-end jobs FOR them. I think the base of opportunity in this town can be expanded and should be, and indeed it will offer tourists (or the odd worker passing through, even) a different, less corporate and more personal side to housing in the area.

Thanks for hearing me out -
Dave Ryan
238 Mine

Nathan Pate

From: Andy Lane
Sent: Monday, September 19, 2016 7:25 AM
To: Joel Walinski; Nathan Pate
Subject: FW: Short term rentals in Leavenworth
Attachments: IMG_20160918_0001.jpg

Joel and Nate. See forwarded email and attached article. I haven't read the article, yet.

FYI - we're heading to southeastern Idaho and northern Nevada on a camping trip, so will be out of digital range starting later this morning and for the next 7-10 days or so.

From: Andy Lane [alane@cairncross.com]
Sent: Monday, September 19, 2016 7:06 AM
To: Andy Lane
Subject: FW: Short term rentals in Leavenworth

CH& Andy Lane
Attorney
Cairncross & Hempelmann
524 Second Avenue | Suite 500 | Seattle, WA 98104-2323
d:206-254-4409 | f:206-587-2308

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This email message may contain confidential and privileged information. If you are not the intended recipient, please contact the sender by reply email and delete the original message without reading, disclosing, or copying its contents.

From: Bob Fallon [bobfallon@gmail.com]
Sent: Sunday, September 18, 2016 3:16 PM
To: Andy Lane
Subject: Short term rentals in Leavenworth

Andy
We met in February at the film festival and exchanged a couple emails on easements.

I just read the article in the Leavenworth ECHO about the Leavenworth planning commission meeting on short term rentals in the residential areas(a prospect I view as a disaster for the city and area).

The article ended with the statement that you were interested in other similar communities experience with the issue. I have attached a scanned article from the HIGH COUNTRY NEWS (pg 23, August 22, 2016 issue) describing the untoward effects of short term rentals on housing in Sun Valley, ID.

I'd love to talk a lot about this issue, but I know you're busy and I can be tedious.

Thanks

--
Bob Fallon
PO Box 939
12275 Village View Drive
Leavenworth, WA 98826
bobfallon@gmail.com<mailto:bobfallon@gmail.com>
509-548-4684<tel:509-548-4684> H
509-881-8504<tel:509-881-8504> C

Nathan Pate

From: Zeke Reister <zreister@gmail.com>
Sent: Friday, June 10, 2016 12:39 PM
To: Nathan Pate
Subject: Re: Residential information

Nate,
Thanks a bunch,

Zeke

On Fri, Jun 10, 2016 at 9:30 AM, Nathan Pate <dsmanager@cityofleavenworth.com> wrote:

> Zeke, good morning.
>
> The total acreage of residentially designated lands within the City Limits of Leavenworth is 380 acres.
>
> Have a great day.
>
> Nate
>
> Nathan Pate, AICP
>
> Development Services Manager
>
> City of Leavenworth
>
> PO Box 287
>
> 700 Highway 2
>
> Leavenworth, WA 98826
>
> 509-548-5275 phone
>
> 509-548-6429 fax
>
> www.cityofleavenworth.com
>
> **From:** Zeke Reister [mailto:zreister@gmail.com]
> **Sent:** Thursday, June 09, 2016 3:07 PM
> **To:** Nathan Pate <dsmanager@cityofleavenworth.com>
> **Subject:** Re: Residential information

Nate
, Thanks-much appreciated-for the code listing. As for the size of the residential zone an approximation such as 3/4 X 1 1/2 miles would be fine. Thanks again for your attention to this matter,

Zeke

On Thu, Jun 9, 2016 at 9:39 AM, Nathan Pate <dsmanager@cityofleavenworth.com> wrote:

Zeke, this is somewhat complex, and below is the standard information on rentals. I have the total acreage of residentially designated lands within the combined city and UGA, and will need a bit of time to get the number for within the City Limits. Nate

LMC Titles 18.32, 18.28 and 18.44 which are zoning regulations for commercial zones (all within City limits) call out transient accommodation uses (hotels, motels, bed and breakfasts) as outright permitted uses. "Transient accommodation" means a dwelling unit or motel room regularly rented to transient guests with a less than monthly rental period for each individual or group of guests".

LMC Titles 12.20, 18.21, 18.22 and 18.23 which are zoning regulation for the residential zones (some within the UGA) do not include any transient accommodations as outright permitted uses. They all allow "bed and breakfasts" as the only transient type accommodation as a conditional use. "Bed and breakfasts" must meet a strict definition (LMC 18.08.040) and requirements (LMC 18.20.030 S) in order to be allowed by CUP.

LMC states....."Those uses not listed as permitted or allowed by a conditional use permit are prohibited; provided, that if a proposed use is not specifically listed, the city administrator and/or his/her designee shall determine if the proposed use is similar to one that is already enumerated in the listed permitted uses and may therefore be allowed, subject to the requirements associated with that use and all other applicable provisions of the Leavenworth Municipal Code."

Basically, overnight rentals are specifically listed for commercial districts. Overnight rentals are not listed in residential districts (except for B&B).

Furthermore, there is no administrative interp option available when the use is specifically identified as a permitted use in another zone district.

Nathan Pate, AICP

Development Services Manager

City of Leavenworth

PO Box 287

700 Highway 2

Leavenworth, WA 98826

509-548-5275 phone

509-548-6429 fax

www.cityofleavenworth.com

From: Joel Walinski
Sent: Thursday, June 09, 2016 7:36 AM
To: Nathan Pate <dsmanager@cityofleavenworth.com>
Cc: Zeke Reister <zreister@gmail.com>
Subject: RE: Residential information

Nate,

Would you provide Zeke the information he requested on the residential zone and an electronic version of the code language on overnight rentals, thanks.

Joel

Joel Walinski

City Administrator

Post Office Box 287

Leavenworth, WA 98826

509 548-5275

From: Zeke Reister [mailto:zreister@gmail.com]
Sent: Wednesday, June 08, 2016 5:06 PM
To: Joel Walinski
Subject: Residential information

Hi Joel,

Can you tell me just what is the approximate size of the area that is zoned residential in Leavenworth? Also if you would include a copy of the existing code that now prohibits overnight rentals - that would be much appreciated.

Thank you..

Zeke

Nathan Pate

From: Joel Walinski
Sent: Thursday, July 28, 2016 8:40 AM
To: lorena nunn; Nathan Pate; Cheri Farivar
Subject: RE: thoughts

Hello Lester,

Your comments are always appreciated,

Joel
Joel Walinski
City Administrator
Post Office Box 287
Leavenworth, WA 98826
509 548-5275

From: lorena nunn [mailto:nunnlm@yahoo.com]
Sent: Tuesday, July 26, 2016 3:47 PM
To: Nathan Pate; Joel Walinski; Cheri Farivar
Subject: thoughts

I just wanted to express my thoughts on a few items that are of concern.
#1 is that there should be no overnight rentals allowed in the residential zones.
#2 is that the skate park should be located at choice #1
#3 is that there should be little if any alcohol sales allowed in the parks.Tell the chamber to get the people here and let the business owners take care of their needs.

Dear City of Leavenworth,

RECEIVED
APR 06 2016
BY: .....

April 5, 2016

I am writing to you as a resident, a parent, an employee of the Cascade School District and as a neighbor. I am completely against the legalizing of overnight rentals in the City of Leavenworth and there are so many reasons why.

Just the mention of the term "nightly rentals" hurts my heart because I lived in a beautiful, small, beach town In Hawaii that has been completely devastated by this practice. Once destroyed, there is no turning back.

My family moved to Leavenworth over twenty years ago, not only for its breathtaking beauty, but for its charm, quaintness, serenity, friendly neighbors, good schools and the SAFETY factor. All of these qualities will immediately disappear if we allow a revolving door of loud, partying, drunken, careless strangers into our homes on a daily, rotating basis! Think Oktoberfest, year-round! I can handle that 3 weeks out of the year but not 52 weeks of the year!

Not only would our quality of life be gone, but our young families and struggling middle-class families would be priced out of here immediately due to greedy landlords. The number of school-aged children would drastically decrease as the families flee—and many jobs would be lost. (In Hawaii, the locals could no longer afford to survive in their own town—so the crime rates shot up and many started harassing and preying on the tourists --who are the ones with money). Not good.

We would no longer chat at the fence or invite neighbors over for BBQ's. Our 'neighbors' would become faceless, careless strangers. We would lose everything that we LOVE about Leavenworth. *Please* do not allow this to happen to our beloved village.

Heidi Paul

402 Orchard St. Leavenworth, WA 98826

April 8, 2016
110 Park Ave.
Leavenworth, WA
98826

RECEIVED
APR 08 2016
BY: .....

Dear City of Leavenworth Staff,

I am sorry I missed the meeting Wednesday evening on the nightly rentals. I had a previous engagement that night.

I am against the nightly rentals in the residential area. The residential area need to remain residential! The residents don't want to be taken over by the tourists. These are our hones for our families and children. One doesn't know who they are renting to. Another big problem is the extra cars parked throughout the community.

My husband and I have fought the car problem this winter with a rental property across the street. The house was purchased late last year and rented to five or more people. Their parking space was very limited and so they parked on the street in front of our home. They blocked our mail box so that we couldn't get our mail delivered, they blocked our garbage can from being picked up, and in front of the fire hydrant. What would of happened if we had a fire and the hydrant was not accessible due to their parked car / cars?

The snow plow had difficulty plowing the street with the cards parked on the street. More then one car was snowed in for 10 days and more. This added additional inconveniences to more then one neighbor, that we had been talking with about the problem.

In short, it was a miserable winter with these extra cars parked in front of our home!

We spoke with the owner of the property and there would be slight improvements for a short period of time. We spoke with some of the renters and they said the street was the only place they could park. Next year we will call Sgt. Long every time we have a car parked in front of our home.

Now you are discussing the topic of putting more cars in the residential area? If they want to make money due to the success of our community they should become legitimate lodging establishments and follow all of the rules and regulations.

Thank you for taking the time to read my letter and consider my comments.

Sincerely,

Paula Meyer

Paula Meyer

May 27, 2016

Anna Dougherty
227 Benton St.
Leavenworth, WA

RECEIVED
MAY 27 2016
BY: .....

Dear Nate,

The issue of overnight rentals in the city limits has been on my mind. I live in the city, not far away, and have weekend homes on both sides of my house and across the street. On three sides of us the home owners live in Seattle. They're great folks! It has given me a perspective, however, that I think influences my opinion on this topic. So, here is my opinion (with suggestions)...

Please consider allowing overnight rentals in the city. It is fun to meet new people. The families that visit (and all ages) are usually very kind and fun. Please consider requiring the home owner to live in the house when renting. This ensures a community. Please consider, lastly, a city written and required Guest Agreement that must be used for all in city overnight rentals to give a better sense of security, unity and common knowledge for all residences to know the limits and expectations of all renters. Thank you for reading.

Sincerely, Anna

Gmail

Momi Palmieri <momihula@gmail.com>

Nightly Rentals

2 messages

RECEIVED
APR 06 2016
BY:

Tim Seaman <tkseaman@gmail.com> Tue, Apr 5, 2016 at 2:11 PM
To: momihula@gmail.com

As a lifelong resident of Leavenworth I can tell you what an impact the increase of population has done to this town. Temporary (nightly) visitors at nightly rentals will have a more negative impact overall about the gestalt of Leavenworth. There is a negative impact to our infrastructure with overuse of sewers, water, parking and garbage. There are no rentals available. Meadowlark is no longer an option. Why would anyone rent a house long term when there is so much money to be had short term?Why have an ordinance if no one enforces them? Shame on the City of Leavenworth for allowing the illegal activity to continue simply "Because no one complained."
This is a lucrative under the table business and money almost always wins. I do not hold much hope in stopping this activity but we should TAX THE CRAP OUT OF THEM!
Tim Seaman

Virus-free. www.avast.com

Momi Palmieri <momihula@gmail.com> Tue, Apr 5, 2016 at 3:19 PM
To: Tim Seaman <tkseaman@gmail.com>

Thanks, Tim. Are you going to the meeting tomorrow night?

[Quoted text hidden]

RECEIVED
APR 0 6 2016
BY: .....

April 6th Nightly Rental Hearing

I am writing to share how I believe that Nightly Rentals within City Limits will negatively impact our town.

Short term visitors will increase traffic in the non-commercial part of town. There is already a severe lack of parking; parking which becomes non-existent during the winter months. I do not want vacationing, partying visitors making noise and upset in our neighborhood. The overall safety of our little ones who walk to school and play in the streets would be severely impacted. We have kids on skateboards, scooters and bicycles. Their safety is our first concern. Our neighborhood is one where we talk over fences, take care of each others' animals when neighbor families are traveling. We babysit for one another. This is a neighborhood. Turning these homes into nightly rentals will destroy that way of life.

I have lived in two lovely beach towns prior to moving here in 1997. Both Carlsbad, CA and Kailua, O'ahu, Hawai'i have lost their original charm and warmth as they went from beach/family towns to places which are high end cash machines, taken over by nightly rental business. Charm is gone. Traffic in both is a nightmare. Property values have risen so astronomically that only the rich can afford to purchase property. There is no room for the locals who use to live in, and still work in the town. A high percentage of homes are owned by out of town/city/state owners. People who already have second and third vacation homes and rarely visit. These owners have no care or concern for the residents; only the money that can flow from nightly rentals. Their end game is maximizing their investment dollar.

Now is the time for our Leavenworth and her people to begin to reimagine our beautiful village in the mountains. To create a place for all of us; where our children can grow up safely and in a cohesive community that works for the benefit of all.

Live aloha,

Momi Palmieri
Momi Palmieri
426 Oak St
509-433-2211

Vacation/Overnight Rental Regulations Statement

RECEIVED
APR 0 6 2016
BY: .....

I love living in Leavenworth. I love the mountains and the rivers and the snow. I actually love that there is festival after festival. I love that there are three grocery stores, 2 outdoor stores, tons of restaurants and bars, a hat shop, a cheese shop, and an Australian store. You probably love it here too for your own reasons.

But the thing that makes Leavenworth a great place to live, and not just a great place to visit, is the community. It's the stuff that happens more than a block or two away from either side of the highway, where families are starting, and kids are learning, and friendships are growing that make this place our home.

It is the potential impact to this part of Leavenworth that concerns me with possible new regulations around vacation and overnight rentals.

My concerns are twofold:

The first is what could happen to the nature of residential neighbors if a large enough percentage of homes become nightly rentals. Right now I live on a street where the kids across from us set up a stick ball net and are riding their bikes in the middle of the road all summer long. If half of our street were suddenly occupied by people who were going to be here for a night or two on vacation, would the traffic be as sensitive to the families and the kids that are out and about? Will groups having a good time on their well-deserved vacation be concerned about how their noise level impacts someone's bedtime next door? We already struggle with the horror stories from Oktoberfest. Do we really want to potentially expand the geographic footprint of tourists to the entire city?

The second concern I have is for the impact these regulations could have on property value and therefore the livability of our town. It is already the case that any property which has the option to become a weekly/nightly rental type investment property will have a much higher market value and will draw much more interest from a buyer who lives in another area code than a similar property which cannot be as easily turned into a cash cow. We already struggle with the difficulties of finding affordable housing in Leavenworth and what that does to the workforce and the community. If a significant portion of town suddenly becomes a viable investment opportunity, what will happen to those who want to make this place their home?

As a homeowner in the residential district of Leavenworth, I would potentially stand to receive significant financial benefit from the ability to turn my house into a vacation rental, and the subsequent increase in my property's value. As a community member I worry about what impact these regulations could have on my home and our town.

James Leifheit
144 W Benton St
509-630-2116

RECEIVED
APR 06 2016
BY: .....

Date: April 6, 2016
To: The Leavenworth, WA Planning Commission
From: Skip Claeson, Leavenworth city resident
Subject: Overnight Rental Properties within the Residential Neighborhoods of Leavenworth

If the city decides to allow shorter terms of rentals than one month, then it will have to decide just how short a term to allow: 1 night, 1 week, 2 weeks, ... ?

I am firmly opposed to rentals of less than 1 full week in duration.

I am undecided about rentals that are 2 full weeks or longer in duration.

My concerns are: noise, parties, parking/too many vehicles, speeding vehicles, litter/trash, and damage to neighboring residences.

The full time residents of our lovely town have ownership in their houses, neighborhoods and the town. When they are rowdy, loud, trashy, speeding, etc. they have to answer to the response and peer pressure of their neighbors and the city officials. Usually the neighbors are involved long before the city officials. Short term renters, especially those renting for only a night or two, don't necessarily have the same values as our residents. Short term renters, who are intent on partying don't care about disturbing or trashing the neighborhood. They are impervious to the peer pressure of the neighbors. Therefore the only enforcement is left to city or county law enforcement. Well Leavenworth does not have its own police, so we residents are reliant on the thinly spread Chelan County Sheriff's Department for enforcement of all infractions, violations, etc. Because the Sheriff's Department is spread over a large area, they answer the calls for help as best they can. If they have more than one call, they must prioritize. Well a neighborhood disturbance has a lower priority than a lot of other incidents. Even if an officer responds, it may take 30 or more minutes to arrive if he is not already in town. Thus I conclude that effective enforcement of the peace is already minimal at the present and would be severely compromised with nightly rentals in our neighborhoods. At the present time the peace in Leavenworth is maintained by the good will of all its residents. I favor avoiding the problem of nightly rentals, rather than trying to control it.

If the city chooses to allow nightly rentals, it will have to hire additional personnel to conduct the licensing, frequent inspections, administering of penalties that may not be paid, and dealing with frustrated and upset residents. The licensing fees will have to be hefty to cover this cost because I, Joe Resident, will not.

County residents who live off East Leavenworth Road have told me of having to put up with loud parties by nightly renters because of no realistic, timely and effective enforcement. Let us learn from their experiences and avoid the problem.

Owners that live on site can be the only effective control. A property manager is totally ineffective unless required to be onsite during all rental periods. Then of course inspections of this would be needed, which adds to city staff.

The only residential areas that would be appropriate for nightly rentals are in another town.

I love our town of Leavenworth. Our residents are more friendly and thoughtful of their neighbors than anywhere else that I have lived. The tourism makes our town viable. Sure the traffic gets bad on weekends and during the summer. Yes it is often difficult to find a place to park downtown and sometimes even on our street. Quite a number of my neighbors have already expressed that they are fed up with the tourists. But without the tourists, Leavenworth might have only one restaurant. So we put up with the tourists. But adding nightly rentals in our residential neighborhoods changes the situation drastically. I do NOT want to go there!

Respectfully submitted for your deliberation,

Skip Claeson 553 Mountain View Dr, Leavenworth, WA April 6, 2016

RECEIVED
APR 05 2016
BY: .....

April 5, 2016

City Council of Leavenworth,

At this point , I am adamantly opposed to permitting short term rentals within the city limits. I was born in Leavenworth , grew up in the upper valley and have been a resident within the city limits for over 20 years. We still have a community in our neighborhoods that is viable and well connected. Allowing short term rentals within the city limits will be a disruptive factor to the social fabric ofthese neigborhoods. Allowing clusters of Airbnbs within the city limits will erode and disrupt the lifestyle of the people who live in the city neighborhoods.

Sincerely,

Zeke Reister

508 Ash St.

Leavenworth, Wa.

lee.walker1@frontier.com <lee.walker1@frontier.com> Mon, Apr 4, 2016 at 4:50 PM
Reply-To: "lee.walker1@frontier.com" <lee.walker1@frontier.com>
To: Momi Palmieri <momihula@gmail.com>

APR 0 6 2016

Hi Momi I agree weekend or private weekly rentals spell a disaster for this town.... and the whole area. If that's what we wanted we would not have voted for new and updated schools. Many renters do not seem to respect the rights and privacy of locals They are noisy disrespectful they bring more traffic more congestion and bad drinking habits. We have more and more onn Icicle and more traffic .Let's try to be a town for our children our families. And let's continue to support each

other..and perhaps we can address parking so we can do our shopping with ease and pleasure. We need homes for our own residents not for sometime visitors who. Leave messes and mostly a bad feelings and who are not obligated to the city. Anyway thanks for carrying our message. Lee and Ken Walker

Sent from Yahoo Mail on Android

Sue Cragun

From: Barb Kelly Ringel <barbkelly@live.com>
Sent: Tuesday, July 26, 2016 4:09 PM
To: Joel Walinski; Cheri Farivar; Sue Cragun
Subject: City of Leavenworth Mayor / City Administrator Comment Form

Categories: Comment - Overnight Rental

Name – Barb Kelly Ringel Email – barbkelly@live.com Message – I am STRONGLY opposed to allowing nightly rentals within the residential neighborhoods of Leavenworth. This would essentially change our neighborhoods into commercial areas where paying tourists could stay. We would no longer have neighborhoods. Affordable housing is a big issue in Leavenworth. Currently homeowners can have roommates or rent part of their own home out to others – this is a big help for providing more affordable housing and in making it more affordable for new homeowners. Allowing nightly rentals would likely give homeowners more $ and be a disincentive to having roommates. I am also strongly opposed to allowing homeowners to rent a home they do not reside in to 2 parties – this essentially changes single family zoning to multi family zoning. I bought my home in 1996 in a single family residential area. We had a house mate for two years to help us afford our home. I have had neighbors with roommates (good), renting out the upstairs of their garage (ok), and several homes where the owners do not live here (quiet but I wish I had neighbors). These absent homeowners could easily change my neighborhood into a tourist area with overnight rentals.

Sue Cragun

From: Shari Campbell <Campbellmarcom16@gmail.com>
Sent: Tuesday, September 06, 2016 4:05 PM
To: Joel Walinski; Cheri Farivar; Sue Cragun
Subject: City of Leavenworth Mayor / City Administrator Comment Form

Name – Shari Campbell Email – Campbellmarcom16@gmail.com Message – We own a home in Leavenworth, 227 Park Avenue, and do not like the idea of nightly rentals within the city limits. How do I testify or submit a note about this, as we are part time residents?

Shari

Sue Cragun

From: Stephen Hufman <stephen@nwi.net>
Sent: Friday, July 29, 2016 10:10 AM
To: Joel Walinski; Sue Cragun; Nathan Pate; Elmer Larsen; Richard Brinkman; Robert Francis; Carolyn Wilson; Margaret Neighbors; Mia Bretz; Gretchen Wearne; Cheri Farivar
Subject: nightly rentals

I recently read in the minutes for the July 12th Leavenworth city council meeting that Greg Morisoli stated that overnight rentals have a positive influence on the neighborhood (i.e. Spring Street). I have lived on Spring Street since well before there were any overnight rentals, but I do not feel the effect has been positive. This past weekend I had to escort overnight renters yet again off a hillside on my property. In the past people have left beer cans, trash, and tried to carve graffiti into the hillside as well as use my property as a sledding and playground for their children in the winter.

Late night noise is a continuing significant problem from the overnight rentals.

People want to come to Leavenworth to enjoy the beauty, but often their behavior infringes upon others. In a commercial setting there is someone on site to deal with the issues that arise. Unfortunately, running a nightly rental where you are not in the same building 24/7 clearly leads to difficulties in control. This has had a negative affect on relationships of neighbors along Spring Street - we are no longer a residential neighborhood.

Please restrict overnight rentals and keep them out of our residential neighborhoods.
Thank you.
Stephen Hufman

My short thought on the discussion re:overnite rentals in the city limits

Overnight Rental

JoAnn Zugel

Fri 6/10/2016 3:39 PM

To:rebecca@icicle.org <rebecca@icicle.org>;

To whom it may concern: I would envision that this Planning Commission show respect for those who choose to live here (residents)
And hold to the standing statute that states no guest rentals for less than one month for those owners of homes
who choose not to live here.

Perhaps our beautiful Village in the Mountains will receive another National Award .

Sincerely,
JoAnn Zugel
POB 571
Leavenworth, Wa. 98826

overnight rental concern

Denise Darling

Sat 7/23/2016 4:17 PM

To: elarsen@cityofleavenworth.com <elarsen@cityofleavenworth.com>; mbretz@cityofleavenworth.com <mbretz@cityofleavenworth.com>; rfrancis@cityofleavenworth.com <rfrancis@cityofleavenworth.com>; rbrinkman@cityofleavenworth.com <rbrinkman@cityofleavenworth.com>; mneighbors@cityofleavenworth.com <mneighbors@cityofleavenworth.com>;

Dear Council Members,
I am writing you to express my concern over the potential change to the overnight rental rules. I was in attendance at the original public meeting in April where the majority of those in attendance did not support allowing overnight rentals and those in attendance spoke about the need to enforce the rules that we have. It is my understand the planning commission recommended no change to the existing rules. This clearly tells me the message to the city council is we are not in favor of any change therefore I am disappointed to learn the issue is still being considered by the council.
I do not feel I need to repeat all the reasons that have already been discussed but I do want to express my biggest concern and that is that when my children are ready to move back to town that they will not be able to find housing. If our month to month rentals are converted to overnight rentals and real estate is purchased by people living away from town specifically to be used as overnight rentals we will not have housing available for those of us that want to live here, work here and raise our families.
I urge you to PLEASE vote to keep our current rules which do not allow overnight rentals.
Thank you,
Denise Darling
507 Cedar St
Leavenworth, WA 98826
548-4047

To Leavenworth Mayor and City Council Members,

My husband and I bought a home in the residential zone of Leavenworth 40 years ago. It has proven to be a nice place to live and raise our family in walking distance to schools and services in town.Taxes and utilities have risen, but it is still relatively affordable. I am oppose to changing the residential zone to allow overnight rentals. It will cause a bigger shortage in affordable long term rentals and escalate home mortgage costs. This has happened in all cities that have allowed overnight rentals in residential neighborhoods. Take at look at Seattle's problems caused by overnight rentals in what has been residential housing. Every town needs a neighborhood for its residents to live affordably .

Thank you for considering my observations,
Sylvia Nicholas

Sylvia Nicholas

RECEIVED
JUN 27 2018
BY: .....

June 27, 2016
336 Birch Street
Leavenworth, WA 98826

To the City of Leavenworth: Mayor, City Administrator and City Council
Re: Overnight Rentals within the Leavenworth City limits: "WHAT IS LEFT?"

The answer to that question will be up to the City Council. I believe this is a pivotal time in our cities history. How the council decides to vote on overnight rentals, will determine whether its residential neighborhoods remain full of the families who live here, support our businesses and schools, fill our churches, work and volunteer, laugh and play, BBQ with our neighbors and families, shovel our snow, and continue to care and support this community. There is no doubt in my mind that money opportunists will gobble up our residential neighborhoods without even taking a breath, if overnight rentals become legal. Are you as a council going to help the people you have sworn to protect and uphold by raising your hand and saying "no overnight rentals"...or are you going to allow those from the outside to steam roll us until we have no choice but to move away? I think this vote is "that" serious!

Going back to the question..."what is left?" Where can any of us go to get away from the visitors, who continue to flood into our mountains, our hunting and fishing spots, our river banks, the Wenatchee and Icicle rivers, our local parks, or just plain "park" our cars in our own downtown business district. All those things that made up this little city in the mountains, have long past to the recreation hungry west siders, who claim we are their back yard and the tourists who love the view. They have long ago "overrun" the land where they live due to poor planning...so now "they" (in general) come here, spoiling for us...the reason we all moved here in the first place. Our residential neighborhoods have been so encroached upon that we are whittled down to 380 acres (less than a mile)...how sad that no one, including myself, has taken the initiative before now, to hold up a STOP sign.

I implore each of you to save our residential neighborhoods so that we can keep "what's left" (380 acres) undisturbed. There is a reason that the current code was originally adopted...I'm guessing...that council had the foresight to realize that overnight rentals would diminish the integrity and beauty of our neighborhoods. If Michael Jordan lived in Leavenworth his "Just Do It!" slogan might have read "Just Enforce It!" It doesn't take a rocket scientist to get the job of enforcement done or find the money. Our city has hired security...to protect the needs of the Business District. Why shouldn't the Residential District receive an equal commitment from our city? The code is already in place, the city needs to either "shuffle" responsibilities of current employees or hire a Code Enforcer. No one can please everyone, not even a city, but the majority can be pleased. The vast majority of residential voters are saying..."NO OVERNIGHT RENTALS". I say it is time the city; which seems to have the ability to find money for several other "projects", needs to go to work and figure out a plan to enforce its own code. Please...our fate is literally in your hands...say "no" to overnight rentals.

Holding my breath...Sharon Waters

RECEIVED
MAR 11 2016
L.1: .....

Nightly rental concerns:

We need to maintain residential quality to our neighborhoods.
Major issues and concerns:

Losing family houses to nightly vacation rentals.
On our one block street 3 family homes have become nightly rentals - that is a loss of family homes.

Density per street. Do we let entire streets become 'hotel row'?

# of people allowed in one 'house' - the City must limit number of beds/occupants
(9 beds/4 baths = 9+ cars routinely at one non-permitted rental on our street)

Parking (no on street parking) - limit the number of vehicles per rental and there must be enough off street parking available

Noise/disturbance issues
Deposit for when sheriff has to be called? Could there be a disturbance deposit so that the City or County can be reimbursed or they can charge the owner when they have to visit a nightly rental due to late night disturbance or trespass issues

Outdoor music (example - outdoor hot tub with outdoor speakers)
How can it be limited or controlled?

Rules for trash and off-site owners.
Some built in responsibility if a nightly rental is allowed?

Example: on our street trash cans are put out be the housecleaners and stays there all week.
Example: off-site owners are not available to deal with issues

RECEIVED
AUG 12 2016
BY: .....

Date: 8/12/16

Re: Nightly Rentals

I have been following closely the arguments of Neighbors United against nightly rentals in residential areas in Leavenworth and the arguments of those who advocate for nightly rentals. Below is my take on the groups that are potentially impacted by any decision concerning nightly rentals and what the arguments seem to be, or would be if I were a member of the group. I am sure I am leaving some important considerations out but I am trying to be objective about this, although I will provide my view at the end.

The stakeholders

Stakeholder	Subgroups	What is at stake
Residents	These include life-long and long-term residents as well as residents that have moved here more recently	Don't want foreigners or strangers in their neighborhood. Don't want unknown traffic going in and out of their neighborhood Fear an increase of crime and other problems. Feel that it raises the price of home purchases. Reduces affordable housing by taking homes off the monthly rental market since it is more profitable to rent nightly. Increased noise and other nuisances. Perhaps the town has reached capacity and it is time to accept the fact that we need to discourage more people visiting the town by limiting accommodations.
Hotels/Motels	Small, medium and large	Don't care since this does not affect the number of customers they get Would prefer not to have the competition so customers must use their facilities
Downtown Business Owners		The more guests in housing regardless of the category, the more potential revenue.

Nightly rental owners	Bed and Breakfast Owner-occupied lodging Non owner-occupied lodging	Some have been conducting business for many years so they feel they should be able to continue. Provides a benefit to guests who want to have a more intimate relationship with the town. Allows owners to make a profit off of the marketing efforts of the town. Genuinely enjoy meeting guests that are visiting our town. Should have the right to use their house as they see fit as long as it is lawful. A level of security and control over guest activities Possible problems with not having an in-house supervisor to control potential problem guests.
Chamber of Commerce		Marketing has been extremely effective and part of the solution has been to house overflow business in available nightly rentals. Too many tourists?. Since we built it they have come and we deal with the numbers as they increase and find solutions.
Tourists		Want to have accommodations when they visit. Want to have a great experience.
City of Leavenworth		Collect as many tax dollars as they can to run the city more successfully. Find solutions as tourism continues to grow and maintain the brand that we have established.

		Keep the peace which means to have enough support to protect everyone whether tourist, business owner, resident, worker or passer by. Parking at nightly rentals takes some pressure off of downtown parking.
Renters	Monthly Seasonal workers	Cost of housing is too high and housing is scarce. Young adults coming to town during the summer to work in outdoor sports, restaurants and shops, etc. have no affordable place to stay.

Some comments:

It is not up to the residents to enforce affordable housing. The city has the prime obligation. Perhaps one solution, taken from Europe, is to build a youth hostel that provides affordable housing to those people coming to town seasonally to work.

The argument that nightly rentals reduce affordable housing may only be used with respect to non-owner occupied rentals. Those owners that live in their house full time and rent nightly are not inclined to rent to people full time since they usually do not have kitchen facilities and other such amenities. They also are there to handle any problems. It is in their best interest to rent to low risk guests (as best they can).

Whether people like it or not, this town now is first and foremost a tourist town. Go downtown any day of the week to verify this fact. Those tourists help pay our taxes. They hopefully are not going away. Are they obnoxious sometimes? Yes, as all people can be at one time or another. Ask any business owners at the end of a long stretch of seasonal activity and they will probably say "That was stressful. People can be so rude and demanding". But .... The other side is more prosperity or at least tax subsidization for all owners and residents.

Disclaimer: my wife Alana and I own a small lodge called Amanda's Lodge just up the yard from the parking lot next to City Hall. We have been in business for about 10 years. It was a Bed and Breakfast as early as the 1990's. We only rent when we are in town. My wife personally interviews each potential guest by phone and does a tremendous job based on the quality of guests we have had. The money is nice but our primary motivation is to provide a quality place for guests where they can meet real townspeople and get ideas on where to eat and what activities to do. We only use the Chamber for referrals and word of mouth and, based on experience, only get referrals when everyone else in town is booked. People love our house and its proximity to town. We are zoned multi-family and all guest activity, except for parking, is facing town so has little impact on neighbors.

Anyone that suggests that we should not be allowed to continue with this venture is naïve about what makes Leavenworth so great: not just the best environment on earth, but friendly faces to greet the tourists.

As is so rare today, the best course is to compromise so that each stakeholder gets at least some of what they want and a balance is maintained. If there are consistent guest problems affecting the neighborhood, 911 should be called to report violations and there should be serious consequences for repeat violations. Perhaps there should be an accurate count of the number of rentals that currently exist in the city and limit in some way the number of new rentals available (although we run into that capacity issue). Perhaps there should be a moratorium on new owners renting out non owner-occupied houses for nightly rentals to discourage that practice.

To just have an enforced ban on all nightly rentals in residential areas may be a win for residents but it is a losing proposition for the other stakeholders.

Dan McIalwain
321 Whitman St
Leavenworth, WA 98826
206 898-9218

Overnight Rental

426 Ash Street
Leavenworth, WA 98826

To Whom It May Concern,

I have lived in my little 1906 home here on Ash St since 2000. Together, we have built a neighborhood of owners and renters. On our two blocks we have 10 children under the age of ten years old. Since we are right by the school we have lots of local traffic; many people and little ones on bikes and skateboards and walking to the playground, soccer games and practice. We have no Stop sign and often have cars driving way too fast coming up from Evans St. We have care and concern for one another. We take care of one another's children and animals when families travel. Many of us have limited off-street parking.

During busy holiday and festival weekends I offer my parking to visitors at no charge.
"How much does it cost?" they typically inquire.
"Nothing," I smile. "It's called Aloha. Have a wonderful time and travel safely home."

I am a Managing Broker with Windermere Real Estate/NCW. I have been a Realtor since 1977. I work with local families and with others who have fallen in love with our beautiful valley. I tell each client that if they intend to do nightly rentals with their second homes they must purchase outside of City Limits, as we have a very small Residential area for full time living. I am not against investing and maximizing your real estate dollar, as long as this is done within the stated limitations of City Zoning. We need to protect our homes. We cannot allow our village to become only a commercial zone. We need the balance of home/families and visitors enjoying the hotels and nightly rentals available outside of town. We are also building huge new hotels. Plenty of space for visitors to stay as they come to shop dine and enjoy all of the recreational options of Leavenworth.

I have lived in two other beautiful little towns: Carlsbad, CA and Kailua, O'ahu, Hawai'i. Both eventually allowed nightly rentals (or didn't stop them). Both are now paying the price of residential neighborhoods now turned fully into commercial mania. The residential feeling is gone and will never be reclaimed.

Let us remain a welcoming village for all who would like to share the beauty and the opportunities present. Let us also hold fast to the separation of residential and commercial areas of town as both are an integral part of a thriving community.

With aloha,
Momi Palmieri
Managing Broker Windermere Real Estate/NCW
www.leavenworth-homes.com

Letter To the Editor
Leavenworth Echo

RECEIVED
AUG 09 2016
BY:.....

City Codes for Leavenworth currently **PROHIBIT** overnight vacation rentals within the residential areas. The City Council has, in recent years, looked the other way, as people are buying available homes and turning them into overnight vacation rentals. We have three on our street now. When asking the city about it, we have been told, that they don't have the man power to enforce the ordinance. Really? Then we're told enforcement is "complaint driven." In other words, someone has to complain to the city. Okay; we're complaining.

The City Council is considering changing the city code to **ALLOW** overnight vacation rentals within the residential areas.

If you allow vacation rentals to come into the neighborhoods, it will mark the end of the community of Leavenworth. In another ten years, most everyone will abandon **living** here. There will not be adequate single family dwellings available either to buy or rent. The quality of family living will have deteriorated and become less safe for our children, and residents will have no choice but to join the crowd and rent out their house nightly, or sell it to someone who will. Prices will inflate, and so will taxes. Then the rest of us who had planned – ***made an investment*** – to live out our retirement years here, will have no choice but to leave because we won't be able to afford the taxes.

But this community wants to survive. We just passed a $69 million bond issue to build new schools. That's an indication that these people want to continue to live here, raise their children here, and enjoy the great outdoor recreational opportunities that make this valley so appealing.

There already are adequate hotels and Bed'n'Breakfasts to house all the tourists this town can possibly handle. We have no town left for the residents, only our neighborhoods. Don't change the code – enforce it!

It may come as a surprise to those who are knee-deep in Bavarianism that not everyone who lives here is involved in the tourism. There is a community here! Enough is enough! Aren't you satisfied *YET*?

Kristina Seaman

Kristina Seaman
LEAVENWORTH NEIGHBORS UNITE
Leavenworth resident for 40 years
Retired from the Cascade School District

cc: Mayor and City Council Members

MIKE WEST

LEAVENWORTH REALTY

Cheri Farivar, Mayor
City of Leavenworth
P. O. Box 287
Leavenworth, WA 98826

RECEIVED
SEP 13 2016
BY:

April 20, 2016

In Re: Moratorium on Vacation Rentals within Residential Zones

Dear Mayor,

I am a lifelong citizen of the Leavenworth area, raised and domiciled in Merry Canyon. Like you I was here before Leavenworth went Bavarian, and have witnessed many changes. My family had what I believe was the first "Vacation Rental" in Chelan County in 1964. It was a one room cabin with a loft and an outhouse that hunters coming to our shooting preserve would rent for $7 per night. When they went home my brother and I would change the bedding, clean the cabin, and take out the garbage. But that was another era when America's governments were far less intrusive into the private affairs of the citizenry.

Leavenworth has grown into the very popular vacation and tourist town we see today. And with that comes the need for overnight accommodations. Vacation rentals help fill that need. And they help those who own them keep them by paying some of their way in taxes, utilities, maintenance, and in some cases offsetting the mortgage payments of a second (or vacation) home. Because of the popularity of our area to outsiders, and the lack of industry to keep young people in the work place here, a large percentage of home owners in our area are non-resident. These people will use these second homes only a few weekends (or weeks) out of the year, leaving the home vacant the rest of the time. Renting these homes out by the night keeps them occupied, and less vulnerable to break-ins, or damage from frozen water pipes that could run for months before being discovered. This while allowing the owners to reserve days for their personal use that a monthly rental does not.

When it comes to living beside a vacation rental home, as I have, you find it's much easier to deal with a transient occupant who has signed a contract to obey your neighbor's personal restrictions plus the County laws (including the county noise curfew) than it is to deal with a neighbor who is a non-resident owner, who cares not what he does in your backyard because he's a two-hour drive from his actual primary residence.

But reason and logic aside, the real issue is the law on the subject. I begin with definitions:

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1. LMC 18.08.130 Dwelling, single-family.
   "Single-family dwelling" means a detached residential dwelling unit, which is site-built, manufactured, modular, or other type of similar construction not including recreation vehicles, travel trailers, or similar structures, designed for and occupied by one family only.
2. LMC 18.08.150 Dwelling unit.
   "Dwelling unit" means one room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rent, or lease, to one individual family on a monthly or longer basis, and which is physically separated from any other rooms or dwelling units which may be in the same structure and which contains independent cooking and sleeping facilities.
3. LMC 18.08.210 Hotel.
   "Hotel" means a building or portion thereof designed or used for transient rental of more than five units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.
4. LMC 18.08.330 Motel.
   "Motel" means a building or group of buildings in which lodging is offered to transient guests for compensation and providing parking accommodations for automobiles adjacent to the lodging. This term includes tourist court, motor lodge, auto court, cabin court, motor inn and similar names.
5. LMC 18.08.405 Transient accommodation.
   "Transient accommodation" means a dwelling unit or motel room regularly rented to transient guests with a less than monthly rental period for each individual or group of guests.
6. LMC 18:20; 18.21; 1822; and 18:23 are the sections of the code for residential zoning. All provide for "single-family dwelling" as a permitted use.
7. "Ejusdem Generis": A canon of statute construction.
   "Under settled principles of statutory construction, general words accompanied by specific words are to be construed to embrace only similar objects. Simpson Inv. Co. v. Dep't of Revenue, 141 Wn.2d 139, 151, 3 P.3d 741 (2000). 3 This canon properly applies where there is a list of specific terms followed by a general term, i.e., "specific, specific, or general." See Sw. Wash. Chapter, Nat'l Elec. Contractors Ass'n v. Pierce County, 100 Wn.2d 109, 116, 667 P.2d 1092 (1983). State v. K.L.B., 180 Wn.2d 735 (2014)
8. "14. (The) rental of condominiums in the Elektra is a permitted residential use under the plain language of the (Seattle) City Code.
   15. This conclusion is consistent with the recent decision of the Court of Appeals, Division I, in Ross v. Bennett, 148 Wn. App. 40, ___P.3d ____(2008). In that case, the Court construed the plain meaning of the term "residential" in a property covenant." The Court held that short term vacation rental qualifies as a residential use. This Court, like the Court in *Ross*, is construing the plain meaning of the term "residential." ***Acquavella v City of Seattle**, King County Superior Court Cause #" 08-2-39188-4 SEA. Attached hereto as Exhibit "A".*

OBSERVATIONS:

There is no definition in the LMC for "Vacation Rental".

A computer search of the LMC for the term "Overnight Rental" provides one hit: Chapter 14.08 OLD WORLD BAVARIAN ARCHITECTURAL THEME. This term is not defined in the LMC, but it applies only in commercial zones. And it has to do with compliance to the architectural theme in commercial zones.

By the LCM definition, "Transient accommodation" is 1. A dwelling unit or motel room; 2. Regularly rented to transient guests. The term "Dwelling unit" is defined as being rented or leased for periods longer than one month. And the term "Transient accommodation" is rented to guests for less than one month. Using the canon of ejusdem generis, a "dwelling unit" must be "regularly rented to transient guests" for periods either longer than or less than one month, and is considered a motel, which is a commercial use. Motels are not a residential use. A residential lease for a month or an hour is a residential use. "A lease can be as short as one evening", *Acquaella v Seattle*, supra.

The term regularly is not defined in the LMC, and Webster's definition is not helpful: "at the same time every day, week, month, etc.: on a regular basis: very often: with the same amount of space between each thing." Because of the use of the term "regularly", the LMC 18.08.405 is vague. As a licensed real estate agent working in the Leavenworth real estate market for 26 years, my experience with Vacation Rental Homes is that they are rented some of the time, not on a regular basis, nor with the same amount of space between rentals. A very busy one is rented about 1/3 of the year, while the rest of the time they are either vacant or in use by the owner. So even the dictionary definition of "very often" is vague as applied to this LMC section.

All the residential zoning code sections (LMC 18.20; 18.21; 18.22; and 18.23) allow for a "single family dwelling" as an outright, permitted use.

"Transient" is not defined by the LMC.

While the term "Residential" is used throughout the LMC, I cannot find the definition of "Residential" in the LMC. The definition thus residing in the ruling case law of the court in *Acquaella v Seattle*: "...short term vacation rental qualifies as a residential use." Or, the LMC with respect to "Residential" is void for vagueness.

A single family dwelling is not, and may not be used as, a hotel or motel as those terms are defined by the LMC. Single family dwelling being a residential use, hotel/motel being commercial.

The LMC establishes the rules for the City's regulation of land; it does not determine relationships between private parties. *Acquaella.*

CONCLUSION:

The City of Seattle, with vastly more resources than Leavenworth, chose not to appeal the *Acquaella* decision. It should be noted that Seattle did not attempt to modify its code to attempt to outlaw vacation rentals in residential zones. Seattle attorneys must have thought it a bridge too far, and too expensive to cross.

What the city may not prohibit, it may not issue a permit for. Since the city may not prohibit the residential use of single family residences in a residential zone, it may not issue permits for the residential use of single family residences in a residential zone. A Vacation rental in residential zones in the City of Leavenworth is a permitted residential use under the plain language of the LMC, and in light of the unchallenged, ruling case law of *Acquaella*, that may be enjoyed without city license.

While attorneys may disagree, that's how they send their children to college…without a fight there is no one for them to bill. The question for the city will be how much time and money do they want to spend to chance the overturn of *Acquaella*?

Most Respectfully Yours,

Thomas F. Merry, Broker

Enclosure

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

MICHELLE AND JAMES ACQUAVELLA, Petitioners, vs. CITY OF SEATTLE, Respondent, and BARRY AND LINDA ANDREWS, ROBERT AND LESLIE FISCHER, JOHN GARDNER, S. DON GARRISON, ROBERT AND OLESIA GREENE, ALEX AND WANDA HORNBECK, ROBERT LANGDON AND PATRICIA NARASIMHAN, CASEY MACDONALD, LUIS SALAS, REBECCA SNELLENBERG, HENRY STOCKBRIDGE AND COLEEN WRIGHT, Additional Parties.	No. 08-2-39188-4 SEA FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This matter came on for trial before this Court on the Land Use Petition brought by Petitioners Michelle and James Acquavella ("Acquavella"). Trial was held April 24, 2009. Petitioner Acquavella was represented by Courtney Kaylor, McCullough Hill, P.S. Respondent City of Seattle ("City") was represented by Patrick Downs, Assistant City Attorney, Seattle City Attorney's Office.

The Court makes the following Findings of Fact, Conclusions of Law and Judgment:

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I. FINDINGS OF FACT

1. This action is a Land Use Petition filed under the Land Use Petition Act ("LUPA") (RCW 36.70C).

2. Acquavella owns and manages condominium units in the The Elektra Condominiums ("Elektra"), located at 1400 Hubbell Place in Seattle. Transcript of Proceedings Before the Hearing Examiner City of Seattle ("TR") 6:18-7:2. The Covenants, Conditions, Restrictions and Reservations ("CC&Rs") for the Elektra, recorded in 1997, expressly permit rental for periods of three days or more. Documentary Record ("DR"), Tab 12:74. Specifically, the CC&Rs state that "no Unit Owner shall be permitted to Lease his or her Unit for transient purposes which shall be deemed as Renting for any period less than three (3) days." *Id.*

3. The Elektra building was designed and constructed as a multi-family residential building. DR Tab 6:13. The building entrance is not open to the general public. TR 10:23-26. The building garage is not available for general public parking but each condominium is assigned an individual parking space in the garage. TR 10:23-11:2. Each condominium has the physical characteristics of an independent residence, including a full kitchen, living area and bedroom. TR 10:9-12. Each condominium has a separate mail box, telephone line and utilities for the exclusive use of its occupants. TR 10:12-14, 11:15-21; DR Tab 6:13.

4. The condominium units owned and managed by Acquavella have been used for owner occupancy and both long and short term rental. Acquavella testified before the Hearing Examiner that her tenants have an expectation of privacy and dominion over the rental unit. TR 11:8-9. Acquavella does not enter the condominiums except in emergencies (such as when a repair is needed) and then only after providing notice consistent with landlord tenant law. TR 11:9-14. Acquavella regards all of her

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rentals as residential. TR 11:7-8. A rental agreement is entered into prior to occupancy by Acquavella's tenants. TR 11:4-6.

5. Acquavella testified that she does not provide housekeeping service, room service or transportation service. TR 10:11-12, 11:22-26. Acquavella's tenants may contract for outside utility services, such as cable or internet service. TR 11:15-18. Acquavella's tenants receive a front door key and access the building as any other resident does. TR 10:23-26. Acquavella's tenants are given a garage door opener to access their parking space. TR 10:23-11:2. They are given a key to the mail box associated with the unit and, at their option, may receive mail at this mail box. TR 10:15-17. Acquavella's tenants have included persons working in Seattle, receiving medical treatment in Seattle, and visiting Seattle for other reasons. TR 12:24-13:19.

6. The undated Sea to Sky Rentals rental agreement included in the City's code enforcement file is consistent with Acquavella's testimony. DR Tab 101:514-517. The rental agreement gives the tenant exclusive possession and use of the condominium. The rental agreement provides, "[w]hen you rent the unit, you assume responsibility for it and its contents." DR Tab 101:516. The rental agreement does not permit Acquavella to enter the condominium except to make required repairs at the request of the tenant. *Id.* The rental agreement states the condominiums are rented furnished (including kitchen equipment and linens). *Id.* However, "[h]ousekeeping services are not provided with your rental." *Id.* Clean linens are provided only once at the request of the tenant. *Id.* Tenants are responsible for long distance telephone charges. *Id.* The rental agreement requires a nonrefundable cleaning fee and provides that tenants are liable for damages to the condominium. DR Tab 101:515. The rental agreement allows eviction (the common term for an unlawful detainer action) for violation of the rental agreement. DR Tab 101:514. The rental agreement refers to "guests," "check in," "reservation," and recommends travel insurance. DR Tab 101:514-515.

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7. The City issued a Notice of Violation ("NOV") to Acquavella stating that her rental activities constituted an impermissible lodging use. DR Tab 58:242-244.

8. The City issued NOVs to other property owners in the Elektra as well. DR Tab 58:254-256. One of these property owners, the Mummerys, submitted a six month lease agreement to the City in response to the NOV. DR Tab 40:178-183. The lease agreement used the Seattle Suites rental agreement form. *Id.* This rental agreement form contains many terms that are similar to ones in the Sea to Sky rental agreement that the City argues are characteristic of lodging. The Seattle Suites agreement states that violation of the agreement will result in immediate termination (DR Tab 40:179); smoking, repeated neighbor complaints, pets, parties or excessive noise will all result in immediate termination (DR Tab 40:179, 182); payment can be made by credit card (DR Tab 40:181); the tenant's credit card may be charged for damages (DR Tab 40:180); the landlord pays for basic utilities but the tenant is responsible for payment for long distance telephone calls and upgraded utilities (*id.*); the terms "guests," "reservation" and "check in/out" are used (DR Tab 40:181-182); and housekeeping is not typically provided but may be provided for an additional fee (DR Tab 40:183). However, contrary to the City's current position, City staff determined that a six month lease using this rental agreement form constituted a residential use, not a lodging use. DR Tab 39:177.

9. Acquavella sought reconsideration of the NOV issued to her. DR Tab 51:229-230. The City then issued a Land Use Order of the Director, which upheld the NOV. DR Tab 42:188-197. Subsequently, the City entered into an agreement with Acquavella that provided that Acquavella would submit a request for a Code Interpretation regarding whether her rental activities constitute a residential use. DR Tab 31:152-156.

10. Acquavella submitted the request for a Code Interpretation to the City. DR Tab 9:34-60. The City then issued the Code Interpretation, which concluded that rental of condominium units in the

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Elektra for less than 30 days is a lodging use. DR Tab 10:61-69. The Code Interpretation also concluded that short term rental is not permitted as an accessory use to a primary residential use of property. *Id.* Acquavella appealed the Code Interpretation to the City's Hearing Examiner. DR Tab 30:147-151.

11. The Hearing Examiner held a quasi-judicial hearing on the appeal. DR Tab 6:12. Andy McKim, a Land Use Planner with more than 20 years of experience with the City, testified that the City's prior practice was to use a 30 day "rule of thumb" for distinguishing between lodging and residential uses. TR 16:20-23; TR 29:15-17; DR Tab 6:13. Following the hearing, on October 23, 2008, the Hearing Examiner issued a decision ("Hearing Examiner Decision") reversing the Code Interpretation. DR Tab 6:17. The Hearing Examiner concluded that the 30 day rule announced in the Code Interpretation is not supported by the Seattle Municipal Code ("City Code" or "SMC") and cannot be used by the City. DR Tab 6:16. No party appealed this portion of the Hearing Examiner Decision.

12. In addition, the Hearing Examiner found that the Elektra was permitted as a multifamily residential building and that the building and its operations have not been modified. DR Tab 6:13. The Hearing Examiner also concluded that "[e]ach condominium unit fits the definition of 'dwelling unit' because the unit itself consists of a group of rooms within a structure designed, arranged, and intended to be occupied by not more than one household as independent living accommodations." DR Tab 6:16. No party appealed this finding or conclusion.

13. Nevertheless, the Hearing Examiner concluded that "to be considered a 'housekeeping unit,' the person or persons who rent a condominium unit on a short term basis would have to be authorized during their occupancy to manage the unit itself ('the house') and affairs associated with it ('home affairs')." DR Tab 6:16. The Hearing Examiner based this determination on the definition of "housekeeping" in Webster's Dictionary but did not consider the related definition of "housekeep" in the

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same dictionary. DR Tab 6:15. The Hearing Examiner concluded that there was not enough evidence in the record to determine whether Acquavella's rental activities are a residential use. DR Tab 6:16.

14. In addition, the Hearing Examiner determined that Acquavella's rentals are not accessory to a primary residential use of property. DR Tab 6:17.

15. Following the Hearing Examiner decision, the City refused to withdraw the NOV or Director's Order. Instead, the City indicated that it was forwarding the matter to the City's Law Department with a request that enforcement actions be filed. DR Tab 33:160.

16. Acquavella timely filed this action under LUPA appealing portions of the Hearing Examiner Decision.

17. In a LUPA action this Court sits in an appellate capacity and reviews the factual record created before the City. In this case, the Court supplemented the factual record created before the Hearing Examiner with the City's code enforcement file. In its briefing and argument, the City relied almost exclusively on documents in the code enforcement file. The City cited only one exhibit from the Hearing Examiner record. The Hearing Examiner did not consider the documents in the code enforcement file. Acquavella had no opportunity to cross examine witnesses whose statements are contained in these documents or otherwise dispute the accuracy or relevance of the information contained in them. Also, many of the documents relate to other property owners or to short term rental generally. DR Tab 40, 49, 63, 65, 75, 100, 102. In addition, many of the documents are outdated, with many created more than a year before the Hearing Examiner proceedings. DR Tab 56 (field notes dated 10/29/07), Tab 63 (anonymous correspondence dated 9/19/07), Tab 64 (correspondence dated 9/19/07), Tab 65 (correspondence dated 9/19/07), Tab 67 (correspondence dated 9/19/07), Tab 74 (correspondence dated 9/13/07), Tab 75 (correspondence dated 9/7/07), Tab 88 (correspondence dated 8/31/07), Tab 101 (Sea to Sky web pages, many outdated), Tab 103 (outdated vrbo.com web pages), Tab

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104 (outdated vacationhomrerentals.com web pages), Tab 105 (outdated roadsideamerica.com web pages), Tab 106 (outdated vacationrentals inamerica.com web pages), Tab 108 (outdated trails.com web pages). Notably, the Sea to Sky rental agreement in the code enforcement file is undated. DR Tab 101:514-517.

18. Acquavella makes three alternative requests for relief. First, Acquavella requests that the Court reverse the Hearing Examiner Decision and determine that her rental activities are residential. Primarily, Acquavella argues that her rental activities are residential under the plain language of the City Code. Acquavella also argues that the "control test" used by the City is not relevant to the question before the Court, which is whether Acquavella's rental activities are a residential use under the City Code, because the "control test" does not appear in the City Code. Even if the "control test" were relevant, Acquavella argues that her rental activities would constitute a residential use under this test. In addition, Acquavella argues that the City Code is unconstitutionally vague as interpreted and applied to Acquavella by the City.

19. Second, in the alternative, if the Court determines that the "control test" is relevant, then Acquavella requests that the Court remand this matter to the Hearing Examiner for an evidentiary hearing.

20. Third, in the alternative, Acquavella requests that the Court determine that her rental activities are a permitted accessory use.

II. CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Court enters the following Conclusions of Law:

Jurisdiction and Standard of Review

1. This Court has jurisdiction over this action under RCW 36.70C.040.

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2. The Court may grant relief if one of the standards set out in RCW 36.70C.130 is met. These standards are: (a) The body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless; (b) the land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise; (c) the land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court; (d) the land use decision is a clearly erroneous application of the law to the facts; (e) the land use decision is outside the authority or jurisdiction of the body or officer making the decision; or (f) the land use decision violates the constitutional rights of the party seeking relief.

RCW 36.70C.130(1).

3. Whether a decision is an erroneous interpretation of the law is a question of law reviewed *de novo*. *Schofield v. Spokane County*, 96 Wn. App. 581, 586, 980 P.2d 277 (1999). If an agency's interpretation of its code is not a matter of preexisting policy, as in this case, no deference is due to that interpretation. *Sleasman v. City of Lacey*, 159 Wn.2d 639, 647, 151 P.2d 990 (2007). Substantial evidence is "a sufficient quantity of evidence to persuade a fair-minded person of the truth or correctness" of the decision. *Schofield, supra,* 96 Wn. App. at 586. A decision is clearly erroneous if "although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *Id.* Acquavella bears the burden of proof in this matter.

4. In this case, the portions of the Hearing Examiner Decision under appeal are an erroneous interpretation of the law, not supported by substantial evidence and a clearly erroneous application of the law to the facts.

<u>Principles of Statutory Interpretation</u>

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5. In interpreting a statute, the Court's objective is to ascertain and carry out the legislative intent. *Delyria v. Wash. State School for the Blind*, 165 Wn.2d 559, 563, 199 P.3d 980 (2009). If the statute's meaning is plain on its face, then the Court must give effect to the plain meaning as an expression of legislative intent. *Id.* The dictionary may be used to define the plain meaning. *Sleasman, supra,* 159 Wn.2d at 643. The interpretation of local ordinances is governed by the same principles as the interpretation of statues. *Griffin v. Thurston County Board of Health*, 165 Wn.2d 50, 55, 196 P.3d 141 (2008).

6. Agencies do not have the authority to make rules which amend or change legislative enactments. *Washington Federation of State Employees v. State Personnel Board*, 54 Wn. App. 305, 308, 773 P.2d 421 (1989). Instead, the City must interpret and enforce the City Code as written, without adding new criteria on a case-by-case basis. *Schroeder v. Bellevue*, 83 Wn. App. 188, 193, 920 P.2d 1216 (1996).

First Claim: Acquavella's Rental Activities Are Residential

7. SMC 23.45.004 states that "multifamily structures" are a principal use permitted outright in all multifamily zones. The Elektra is located in a multifamily zone. DR Tab 6:12.

8. "Residential" means "a use within a structure intended to be occupied as a dwelling." SMC 23.84.032. Residential uses include multifamily structures, which are structures containing two or more dwelling units. *Id.* The Hearing Examiner found and the City acknowledged in it briefing that the Elektra is a multifamily structure. DR Tab 6:13.

9. A dwelling unit is "a room or rooms located within a structure, designed, arranged, occupied or intended to be occupied by not more than one (1) household as living accommodations." SMC 23.84.008. The Hearing Examiner concluded that the condominiums in the Elektra are dwelling units and no party appealed this conclusion. DR Tab 6:16.

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10. Based on this conclusion, the Court need not address the subsidiary term "household" or its subsidiary term "housekeeping unit." Nevertheless, based on the record before the Court, Acquavella's tenants qualify as households and housekeeping units.

11. A household is a "housekeeping unit" consisting of a limited number of people (any number of related persons; eight or fewer non-related, nontransient persons; or eight or fewer related and non-related nontransient persons). SMC 23.84.016. In its briefing, the City acknowledged that this definition focuses on the number of residents and Acquavella's tenants do not exceed the eight-person limit.

12. The SMC does not define "housekeeping unit." According to Webster's Dictionary, "housekeep" means "to perform the routine duties (as cooking and cleaning) of managing a house" and "housekeeping" means "the management of a house and home affairs." Merriam Webster's Collegiate Dictionary (10th ed. 1993). The American Heritage Dictionary provides a similar definition, stating that "housekeeping" means "[p]erformance or management of household tasks." The American Heritage Dictionary of the English Language (4th ed. 2000).

13. Under the definitions of "housekeep" and "housekeeping" in Webster's Dictionary and the American Heritage Dictionary, authority or control over the condominium is not required. Instead, under these dictionary definitions, the term "housekeeping unit" means only an individual or group of people who perform routine household tasks (such as cooking and cleaning).

14. Acquavella's rental of condominiums in the Elektra is a permitted residential use under the plain language of the City Code.

15. This conclusion is consistent with the recent decision of the Court of Appeals, Division I, in *Ross v. Bennett*, 148 Wn. App. 40, ___ P.3d ___ (2008). In that case, the Court construed the plain meaning of the term "residential" in a property covenant. The Court held that short term vacation rental

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qualifies as a residential use. This Court, like the Court in *Ross*, is construing the plain meaning of the term "residential."

16. The City Code defines "lodging" as "a retail sales and service use in which the primary activity is the provision of rooms to transients." SMC 23.84.024. The City Code does not define "transients." The dictionary definition of this term is "passing with time; transitory"; "remaining in a place only a brief time." American Heritage College Dictionary (4th ed. 2004).

17. In determining what constitutes a "brief time" with regard to rentals at the Elektra, the Court may reasonably look to the Elektra CC&Rs. The CC&Rs define "transient" rentals as those less than three days. DR Tab 12:74. Acquavella's rentals are all for three days or more. DR Tab 6:12. Therefore, they are not "transient."

18. In addition, rentals less than 30 days occur only an average of 41% of the time in the condominiums rented by Acquavella. TR 12:12-14. The Court cannot ignore the time that the condominiums are vacant for purposes of calculating this percentage because the record does not show what time period the Acquavella condominiums are vacant. Further, the City has acknowledged that the residential use of an owner or long term tenant does not terminate in his or her absence. TR 43:17-15. Therefore, even if rentals less than 30 days are considered "transient," these rentals are not the "primary activity" in the condominiums.

19. Lodging includes bed and breakfasts, hotels and motels. SMC 23.84.024. A hotel is a building in "which a majority of the rooms are provided to transients for a fee on a daily or short-term basis." *Id.* No party claims that the Elektra is a bed and breakfast or motel. The Elektra is also not a hotel. The Elektra has 200 condominiums but only approximately 25 condominiums are rented on a short term basis. DR Tab 6:12; TR 12:18-24.

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20. The "control test" used by the City is not relevant to the determination of whether Acquavella's rentals are a permitted use under the City Code. The "control test" does not appear in the City Code. While the City Council could adopt the "control test," it has not done so, and both the City and the Court are bound to apply the City Code as written. *Washington Federation of State Employees, supra,* 54 Wn. App. at 308; *Schroeder, supra,* 83 Wn. App. at 193.

21. In addition, the Court lacks jurisdiction to determine the nature of the relationship between Acquavella and her renters. The issue before the Court is whether Acquavella's rentals qualify as a permitted use under the City's Land Use Code (Title 23 of the City Code). The Land Use Code establishes the rules for the City's regulation of land; it does not determine relationships between private parties.

22. Even if the "control test" were relevant, Acquavella's rentals would qualify as residential. In *Mercer Island v. Steinman*, 9 Wn. App. 479, 513 P.2d 80 (1973), the Court determined that a residential tenant (distinguished from a lodger) "has exclusive legal possession of premises and is responsible for their care and condition." The record shows that Acquavella's tenants have exclusive legal possession during their tenancy. TR 11:8-14; DR Tab 101:514-517. In addition, they are responsible for the care and condition of the condominium during their tenancy. TR 10:9-12, 11:22-26; DR Tab 6:13; DR Tab 101:516. Therefore, they are residential tenants.

23. The Court in *Mercer Island* also identified six factors that are "indicative of tenancy":

> (1) the exclusive possession of the rooms by the occupiers without a right of control or entry in the owner during the occupancy, (2) the separateness of each living unit from the remaining areas of the structure, (3) the existence of private outside entryways for each living space with keys possessed privately by the occupiers, (4) the absence of commonly shared cooking, eating and bathing facilities or other areas, (5) the arrangement of rental on a landlord-tenant basis, and (6) the absence of the performance of cooking, cleaning, garbage removal and telephone services for the occupiers by the owner.

Mercer Island, supra, 9 Wn. App. 484-485.

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24. The evidence in the record shows that Acquavella's tenants have all these indicia of residential tenancy. First, they have exclusive possession of the condominiums during the tenancy without the right of entry by the landlord. TR 11:8-14; DR Tab 101:514-517. Second, each condominium unit is a separate and independent living unit. TR 10:12-18; DR Tab 6:13. Third, Acquavella's tenants have keys to not only the condominium units that they are renting, but also to the building, which has a controlled entrance not open to the public. TR 10:22-26. Fourth, there are no commonly shared cooking, eating, or bathing facilities. TR 10:9-12; DR Tab 6:13.

25. Fifth, Acquavella's rentals are arranged on a landlord tenant basis. Acquavella regards all of her rentals as residential rentals. TR 11:7-8. Acquavella's rental agreement includes the hallmark of residential tenancy, exclusive use and possession by the tenant. DR Tab 101:514-517; TR 11:8-14. The fact that it refers to tenants as "guests," allows payment by credit card, recommends travel insurance, and refers to "check in" and "check out" is not controlling. The rental agreement is generally consistent with landlord tenant law, including provisions requiring Acquavella to make repairs if needed, allowing eviction (a common term for unlawful detainer) and providing that the tenant is responsible for damages caused by the tenant. DR Tab 101:514-515; RCW 59.18.060(5) (duty to repair); RCW 59.18.150 (right of entry to repair); RCW 59.18.140 (tenant duty to conform with reasonable obligations in rental agreement), RCW 59.18.180 (substantial noncompliance grounds for unlawful detainer action); RCW 59.18.285 (nonrefundable fees permitted); SMC 22.206.160.A (duty to repair); SMC 22.206.170.F (right of entry for repair); SMC 22.206.160.C.1.c (noncompliance with material term of rental agreement grounds for eviction). If any of the terms of the rental agreement violate landlord tenant law, the result is not that the rental is not residential, but rather that these terms cannot be enforced against the tenant.

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26. Sixth, Acquavella does not provide cooking or cleaning services for the tenants as part of the lease agreement. TR 11:22-26; DR Tab 101:516. Fresh towels may be provided only once on request. DR Tab 101:516. Tenants are responsible for complying with City requirements for separation of recyclables for garbage removal. *Id.* The cost of local, but not long distance, telephone service is included in the rent. *Id.*

27. The City's claim that the Acquavella rentals are lodging under the "control test" is not consistent with the City's established practice and is not entitled to deference. *Sleasman, supra,* 159 Wn.2d at 647. The City's historic practice has been to distinguish residential from lodging uses based on a 30-day rule of thumb, not the "control test." TR 16:20-23; TR 29:15-17; DR Tab 6:13. In addition, the Seattle Suites rental agreement contains many of the terms that the City identifies as characteristics of lodging. DR Tab 40:179-183. However, the City determined that a six month lease using the Seattle Suites rental agreement constituted a residential use. DR Tab 39:177.

28. The decision in *Benham v. Morton & Furbish Agency*, 929 A.2d 471, 2007 ME 83 (2007) has no precedential value in this case because it is not a Washington case. In addition, it is not persuasive because it conflicts with Washington precedent. *Hughes v. Chehalis School District No. 302*, 61 Wn.2d 222, 377 P.2d 642 (1963) (a lease can be as short as one evening); *Ross, supra*, 148 Wn. App. 40 (vacation rental is a residential use).

29. Acquavella argues that the City Code is unconstitutionally vague as interpreted and applied to Acquavella by the City. In light of the Court's conclusion that Acquavella's rentals are residential under the plain language of the City Code, the Court does not reach this issue. The City Code is not susceptible to challenge on this basis on the record before the Court. This ruling does not preclude Acquavella from bringing such a challenge in the future based on additional facts.

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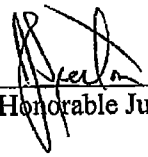
30. Also, in light of the conclusion that the Acquavella rentals are residential, the Court does not reach Acquavella's alternative claims that this matter should be remanded to the Hearing Examiner or that her rental activities are a permitted accessory use.

III. JUDGMENT

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. Acquavella's rental activities are a permitted residential use.

Dated this 5th day of May, 2009



The Honorable Judge Julie Spector

Judge Julie Spector
King County Superior Court
516 Third Avenue
Seattle WA 98104
(206) 296-9160

/

City of Leavenworth
Planning Commission Meeting
April 6, 2016 (Wednesday)
7:00 PM
City Hall – Council Chambers

MINUTES

The meeting was called to order at 7:00 PM

Commission Members Present: Andy Lane, Anne Hessburg, Chuck Reppas, Pete Olsen, Larry Hayes & Scott Bradshaw

Staff Present: Nathan Pate, Development Services

Introduction:

- Planning Commission seeking feedback on the topic of short term rentals in the residential areas.
- Short term rental means occupancy for less than 30days (nightly, daily, or weekly rental)
- Short term rentals are not currently allowed in the Residential Zoning Districts in the City or UGA.
- Short term rentals are allowed in the Commercial Zoning Districts.
- Excepting Manson, Chelan County allows short term rentals in the residential districts.

Questions to spark a dialogue:

The meeting included questions to spark conversation, and are being explored which included:

- Should short term rentals be allowed in residential neighborhoods?
- What does a neighborhood look like? Is there a concern for the loss of community character with the addition of this use?
- What implications are there with short term rentals; noise, parties, and parking/too many vehicles.
- If short term / overnight rentals are allowed with a Business License, what needs to be included in licensing? For example, regular inspection for rental properties, with penalties for landlords who crowd more occupants in than the City allows?
- Are there areas within the community that would be more appropriate for short-term / overnight rentals?

Public Comments:

- Enforce the existing Code. Why bother with new regulations if no strong enforcement occurs.
- Owner occupied. This adds a level of self-policing.
- No snow removal.
- Hire maintenance service.
- Need off-street parking. No street parking. There is a parking shortage.
- Cap the maximum number of occupancy.
- Notice control.
- Must meet fire standards and be safe.
- Residential short term rentals in single family residence updates to meet the IBC for commercial use.
- Possible loss of services.
- Enforcement – strong penalties and fines for violations
- Property management.
- The owner wants a showcase for the property to be inviting for rental. Seen as kept up and pleasant to visit – encouraging the rental of the property.
- Rentals pay their share, and funds / revenue to pay for enforcement, inspections, and public improvements (streets and more) … Tax the operations to pay their way to protect neighborhoods.
- Inspections – safety and meeting standards, and violators.
- The Building Codes must be met for this use with codes that control impacts. Require that the home is owner occupied (30% or more).
- If vesting is available, such will need to be addressed.
- Comment on case law. (follow-up: cases (Chiwawa Communities Assn. and Acquavela) confirmed that the two cases relate to CC&Rs (a private restriction on land use), not to city regulation of land use. In other words, the City can regulate vacation rentals - as stated - that the City Attorney has already determined).
- There should not be cars on the streets, and increased traffic will need to be the responsibility of the new rental uses.
- Neighborhood character is made up of: families, kids, maintained property, consideration for neighbors, little noise, available parking, sense of community and vested interest, long term renters or property owners, access to emergency services (safe community), controlled traffic, communications between neighbors, and diversity.
- With renters on "vacation," the attitude is that of being on "vacation," and is disruptive in a residential neighborhood. These are strangers to the area who do not have respect for the folks living there, need to wake early to go to work, have children playing (and seeing

"peeing in the bushes"), and have the attitudes of "what happens in Vegas stays in Vegas" rather than behaving as good neighbors at their home. It is a differing attitude and behavior (drunkenness, loud, discourteous, belligerent, profanity).

- It is unsafe (strangers, trespass, and altered behavior).
- This new market of short term rentals will be an economic driver to housing. This will create an incentive to convert residential housing (with very limited existing stock) to short term rentals pushing the community living in Leavenworth out.
- Today it is hard to purchase a home due to high housing prices. With short term rental option (which is a money maker for outside entities), the housing prices could skyrocket outside of the range of folks working and living here. The wages here (in Leavenworth and the valley) cannot compete with wages from Seattle…. So, outside buyers that are looking for commercial (money making property) property with a good tourist economy will look to our neighborhoods…. Rather than Commercially Zoned and appropriate lands.
- Short term rentals will erode our neighborhood, and (allowing new regulations) will exacerbate this impact.
- Short term rental units will create a "lack of community."
- High housing prices will just be higher.
- Enforcement is critical. Permit tracking and monitory needs to be responsive (current and useful) and available to public. License or permit is needed.
- Coordination with the Police and follow-up (consequences) for violations are necessary.
- Police can be called 24-7. Property owners can't be called, no one knows how to get hold of them, or they simply do not care.
- Property owners do want to be good neighbors.
- There is damage and litter from short term rentals that neither the renter or owner are accountable. (trash – broken bottles)
- Bad neighbors and bad behavior can occur regardless of the time living in a home. The remedies already exist with disturbances by calling the Sheriff's Office.
- This can be solved – don't allow short term rentals.
- Limiting the size of lots does not make sense. This is an equality topic.
- If smaller lot sizes to add to housing densities that encourage stronger residential neighborhoods are in place to encourage long term home owners is the question, than that makes sense. There needs to be more incentives to encourage long term housing and strengthen neighborhoods. (opposite of that of short term rental).
- On-site parking must be required, and this will limit short term rental density as lots will need to be large enough to have the parking. Parking related to occupancy must be enforced, and the owner responsible.
- Health aspects need to be strong and enforced.

- There needs to policy for homes full of long term residency that builds stability and a sense of "neighborhood"
- The market will change, and there is no way to hold back this trend for "air B&B" or other short term rental. It is change.
- Support the commercial enterprise where it works. If you open this commercial activity in neighborhoods, there will be folk buying up homes and converting them to short term rentals. Also, the infrastructure for commercial areas can support commercial uses. For example, streets, sidewalks and more.
- Seniors and folks with fixed income are in jeopardy of losing their home or being able to live here. Priced out of their home. Don't create new laws that will infringe upon folks who live here. I live in a residential neighborhood, bought (chose) a home in an area that is for residents, expect and enjoy typical residential activity, and not of commercial (ruckus??). I know and choose to live in a residential area. If you want commercial property, buy and choose commercial land.
- Property rights need to be maintained.
- Empty nesters need income, and renting a room or two allows for income to keep the house.
- Permit fees can be revenue for the City.
- Enforce what is existing, and keep the regulations as they are. There is a process for B&Bs. This is an option. Update the B&B codes.
- As levies are passed absentee owners vote where their primary residence is located, and have to pay taxes of the levy. 40% of housing in the Leavenworth area is absentee or second homes.
- If you want be to commercial, rezone your property rather than just allowing short term rentals in residentially zoned areas.
- Balance between residential and commercial uses.
- Leavenworth is unique. The residential codes that protect long term housing is an island in Chelan County. Protect this uniqueness.
- Does your bank loan change when you convert from a residential loan to a short term rental property (commercial loan)? City has no jurisdiction regarding finances or sales of lands.

Commissioner Hessburg motioned to adjourn. Commissioner Reppas seconded. All agreed, none opposed. Meeting was adjourned at 8:30 pm.

City of Leavenworth

Development Services Department

Staff Report –Amendments to LMC Chapters 18.20, 18.21, 18.22, and 18.23

To:	**Leavenworth Planning Commission**
From:	City of Leavenworth Development Services Department
Date of Report:	October 6, 2016
Subject:	Amendments to clarify Duplex and new ADU regulations and other miscellaneous updates within LMC Chapters 18.20, 18.21, 18.22, and 18.23.

OVERVIEW

As included within the Planning Commission 2016 Amendment Docket, the Planning Commission has been asked to review and study:

" 1. LMC - Residential uses review and update.

D. Clarify distinction of Duplex and new ADU regulations.

F. Update listed uses."

From time to time, updates and edits to the LMC may be necessary to reflect appropriate changes and where necessary. Attachment A - text amendment has been reviewed and deliberated upon by the Planning Commission on February 3, 2016, March 2, 2016, April 6, 2016, May 4, 2016, July 6, 2016, August 3, 2016, and October 5, 2016.

PROPOSAL:

Amendments to clarify Duplex and new ADU regulations and other miscellaneous updates within LMC Chapters 18.20, 18.21, 18.22, and 18.23.

STATE ENVIRONMENTAL POLICY ACT REVIEW (SEPA)

A Non-Project SEPA Checklist, DNS, and draft LMC amendments were submitted to reviewing agencies on October 7, 2016.

PUBLIC HEARING NOTICE COMPLIANCE

Agency review:	Transmittal: October 7, 2016 Comment period: October 7, 2016 – December 7, 2016

Notice of Planning Commission Public Hearing:	Transmittal - October 7, 2016 (Echo - October 12, 2016)
Planning Commission Public Hearing:	October 19, 2016
City Council Public Hearing:	Tentatively Scheduled December 27, 2016

PUBLIC/AGENCY COMMENTS

Agency Comments (attached)

None at the time of this report

Public Comments (attached)

None at the time of this report

RESPONSE TO COMMENTS

The Planning Commission considered comments and testimony. As determined necessary, the Planning Commission will incorporate comments and testimony into the proposed amendments.

RECOMMENDATIONS AND FINDINGS

Staff recommends approval of the attached document with changes noted in redline Exhibit A. Staff recommends adopting the following findings of fact and conclusions of law:

1. **The amendment is necessary to resolve inconsistencies in the provisions of the comprehensive plan and/or development regulations or to address state or federal mandates.** This amendment is necessary to resolve inconsistencies in the provisions of the development regulations and to address state or federal mandates. Due to the similarity created by recent adoptions of the LMC to help stimulate housing with more flexible and less stringent codes for accessory dwelling units, it became clear that a clarification of the 'duplex' and 'accessory dwelling unit' regulations was necessary. In addition, the residential development regulations required update per the RCW. Every county and city in the state is required to conduct a periodic update of its comprehensive plan and development regulations, though the obligation varies depending on whether the jurisdiction is fully or partially planning (RCW 36.70A.130(1)). Over the recent few years, the City has been "whittling down" differing development regulations in advance of the mandated deadline to reduce workloads. This amendment has been developed in accordance and compliance with RCW 36.70A.130 (WAC 365-196-610 and RCW 36.70A.130) which states "On or before June 30, 2017, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties" "shall update their respective Comprehensive Plans." Finally, minor clarifications are within the amendment to strengthen existing standards, criteria and requirements.
2. **The amendment is consistent with the overall intent of the existing comprehensive plan and the other documents incorporated therein.** The proposed amendment is consistent with the City of Leavenworth Comprehensive Plan. Specifically:

Housing Element Goal 1: Encourage the availability of affordable housing to all economic segments of the population, promote a variety of residential densities, and housing types, and encourage preservation of existing housing stock.

Policy 5: Identify areas within the City of Leavenworth and urban growth area where increased densities will be allowed.

Policy 9: Evaluate existing land use designations and regulations which may be presenting barriers to the development of an adequate supply of affordable housing for all economic segments of the population.

Policy 10: Reassess and amend as necessary the locations, densities and ratio of distribution of the residential land use designations to more proactively promote the development of affordable housing within the City and the UGA.

Land Use Element – Residential - Goal 2: Provide for a variety of residential opportunities that meet the needs of a full range of lifestyles and income levels. Designate allowed residential densities and housing types to provide for a housing stock that includes a range of choices to meet all economic segments and household types, including those with special needs related to age, health or disability.

Goal 4:Promote compatibility of Accessory Dwelling housing and, as appropriate, other types of innovative housing with the character of surrounding single-family residences**.**

3. **The amendment is consistent with the assumptions and/or other factors such as population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan.** Although, the amendment does not change the allowed uses regarding duplexes, the amendment changes the regulatory level for permitting which may stimulate housing variety and stock. The proposed amendment does not alter population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan.

4. **The amendments are consistent with the requirements of the Growth Management Act and the county-wide planning policies.**

   The amendment is consistent with Planning goals of RCW 36.70A.020:

   (4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

   (7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

   The proposed amendment has been developed in accordance with the Growth Management Act (see above) and do not conflict with the City's Comprehensive Plan. The amendment process followed for this adoption process is compliant with specific Leavenworth Municipal Code and State regulatory requirements for notification and circulation.

5. **The amendment is consistent with and does not adversely affect the supply of land for various purposes which are available to accommodate projected growth over a twenty year period.** The proposed amendment will not modify the supply of land. The proposed amendment does not modify the urban growth boundary in any way. As such, no adverse effect to land supply

is expected.

6. **Where applicable, conditions have changed such that assumptions and/or other factors such as population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan have been revised and/or enhanced to reflect said conditions;** See above
7. **Amendments to the comprehensive plan land use designation map(s) are either consistent and/or compatible with, or do not adversely affect, adjacent land uses and surrounding environment;** Not applicable
8. **The proposed amendment is consistent with and does not negatively impact public facilities, utilities and infrastructure, including transportation systems, and any adopted levels of service.** The proposed amendment does not negatively impact public facilities, utilities and infrastructure, including transportation systems, and any adopted levels of service.
9. **The proposed amendment does not adversely affect lands designated resource lands of long term commercial significance or critical areas.** This amendment does not adversely affect lands designated resource lands of long term commercial significance or critical areas.

Chelan County Development Regulation Text Amendments (CCC 14.13.040):

Any amendment of a revision to development regulation(s) shall be consistent with and implement the comprehensive plan (RCW36.70A.130(3)(d).

The approval, modification or denial of a development regulation amendment application shall be evaluated on, but not limited to, the following criteria:

(1) The amendment is necessary to resolve a public land use issue or problem.

Every county and city in the state is required to conduct a periodic update of its comprehensive plan and development regulations, though the obligation varies depending on whether the jurisdiction is fully or partially planning (RCW 36.70A.130(1)). Over the recent few years, the City has been "whittling down" differing development regulations in advance of the mandated deadline to reduce workloads. This amendment has been developed in accordance and compliance with RCW 36.70A.130 (WAC 365-196-610 and RCW 36.70A.130) which states "On or before June 30, 2017, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties" “shall update their respective Comprehensive Plans.”

(2) The amendment is consistent with goals of the Growth Management Act, Chapter 36.70A RCW.

The amendment is consistent with Planning goals of RCW 36.70A.020,

(4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

The proposed amendments have been developed in accordance with the Growth Management Act and do not conflict with the City's Comprehensive Plan. The amendment process followed for this adoption process is compliant with specific Leavenworth Municipal Code and State regulatory requirements for notification and circulation

(3) The amendment complies with or supports comprehensive plan goals and policies and/or county-wide planning policies.

The proposed amendment is consistent with the City of Leavenworth Comprehensive Plan and county-wide planning policies

(4) The proposed amendment does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.

This amendment does not adversely affect lands designated resource lands of long term commercial significance or critical areas.

(5) The amendment is based on sound land use planning practices and would further the general public health, safety and welfare.

The proposed amendment is based on sound land use planning practices and would further the general public health, safety and welfare

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Attachments:

Attachment A – LMC Amendment

Chapter 18.20

RESIDENTIAL LOW DENSITY 6,000 DISTRICT (RL6)

Sections:

18.20.010 Purpose.

18.20.020 Permitted uses.

18.20.030 Uses requiring a conditional use permit.

18.20.040 Yard requirements – Specifications.

18.20.060 Lot size.

18.20.070 Building height.

18.20.080 Lot coverage.

18.20.090 Off-street parking.

18.20.010 Purpose.

This is a restricted residential district of low density in which the principal use of land is for single-family dwellings, together with recreational, religious, and educational facilities required to serve the community. The regulations for this district are designed and intended to establish, maintain and protect the essential characteristics of the district, to develop and sustain a suitable environment for family life where children are members of most families, and to prohibit almost all activities of a commercial nature and those which would tend to be inharmonious with or injurious to the preservation of a residential environment.

18.20.020 Permitted uses.

Those uses not listed as permitted or allowed by a conditional use permit are prohibited; provided, that if a proposed use is not specifically listed, the city administrator and/or his/her designee shall determine if the proposed use is similar to one that is already enumerated in the listed permitted uses and may therefore be allowed, subject to the requirements associated with that use and all other applicable provisions of the Leavenworth Municipal Code. In the~~a~~ RL6 district, the following uses and their accessory uses are permitted outright:

A. Single-family dwelling ~~(non-transient)~~;

B. Accessory building and/or uses as follows:

1. Garage, carport or parking space;
2. Work and/or storage sheds for noncommercial use or equipment;
3. Swimming pools, cabana, children's play structures, or gazebo;
4. Accessory dwelling unit not used for transient accommodation ("accessory dwelling unit")~~(non-transient)~~, meaning a subordinate, habitable living unit added

to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation, provided the following minimum requirements are met:

a. There shall be no more than one accessory dwelling unit per building lot or home site in conjunction with a single-family structure, even if such structure is built on more than one platted lot;

b. An accessory dwelling unit may be attached to, created within, or detached from a new or existing primary single-family dwelling unit;

c. The accessory dwelling unit will require one off-street parking space, which is in addition to any off-street spaces required for the primary single-family dwelling unit which may be accessed from an alley with the recording of a notice to title of an indemnity agreement regarding alley access and maintenance as provided by the city;

d. The total habitable floor area of any accessory dwelling unit(s) shall in no case exceed 1,200 square feet;

e. An accessory dwelling unit, together with the primary single-family dwelling unit with which it is associated, shall conform to all other provisions of the of City code. ~~LMC.~~ Conversions of existing structures to accessory dwelling units shall be allowed in conformance with Chapter 18.68 LMC, Nonconforming Provisions, excepting setbacks whereby the legally established structure may receive an administrative deviation to encroach no more than 20 percent into the setback;

f. The accessory dwelling unit shall meet the minimum requirements of the International Building Code, International Fire Code, and all other life safety regulations of the City, Fire District, health district and all other local, state and federal agencies; and

g. The accessory dwelling unit must be connected to the water and sewer utilities of the City, and shall have separate services for any accessory dwelling unit greater than 900 square feet in area;

C. Family day care home, provided it is licensed by the state and has a current city business license;

D. Public parks;

E. Mini-day care center home facility, provided it is licensed by the state and has a current city business license;

F. Adult family home. See RCW 70.128.175 for definition;

G. Group A home occupation. Such use shall be secondary to the residential use of the property, and shall be reviewed and approved through the limited administrative review process, provided the following minimum conditions shall apply to the approval of any such application:

1. There shall be no nonresident worker(s). No persons other than the immediate resident(s) of the dwelling/property may be employed in the home occupation;

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2. No equipment or employees shall be dispatched from the residential premises, except the owner and owner's vehicle;
3. A maximum of two customers per month shall visit the home occupation;
4. No materials or commodities shall be delivered to or from the residence which are of such bulk or quantity as to require delivery by commercial vehicle or a trailer (vehicles that have a DOT number). Deliveries shall be limited to one per day, regardless of carrier;
5. Not over 20 percent of the total floor area of one floor of the residence shall be used for the home occupation;
6. No article shall be sold or offered for sale on the premises. No stock in trade or commodities kept for sale, which are not produced on the premises, shall be permitted;
7. No parking space shall be obstructed and no additional parking space will be required for the home occupation;
8. A home occupation may be conducted in a detached garage and/or accessory structure with not more than 500 square feet of floor area used for the home occupation; provided, that there shall be only one garage and/or accessory structure on the property and use does not eliminate any required parking;
9. No structural alterations shall be allowed to accommodate the home occupation except when consistent with residential construction and occupancy;
10. A certificate of occupancy will be required for buildings constructed after January 28, 2014~~the date of adoption of the ordinance codified in this section (January 28, 2014)~~ prior to issuance of a home occupation permit;
11. No sign(s) advertising the business shall be permitted;
12. No window display and no sample commodities, equipment, vehicles or other materials related to the business shall be displayed or stored outside, with the exception of the owner's vehicle;
13. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television, or other factors;
14. Any occupation which requires licensing, registration or permits, by state or federal statute or requirements or by city ordinance, must be provided at time of application, and at all times thereafter be appropriately licensed, registered, or have a permit and comply with requirements of all such licenses or permits;
15. For the purposes of this section, any use that is not consistent with the definition of "home occupation," including but not limited to those uses which are similar in nature, shall not be allowed as a home occupation. The following uses are ~~is~~ prohibited as Group A home occupations:
    a. Outdoor storage and/or display of items for sale or advertising purposes shall be prohibited unless for a garage sale and/or rummage sale of a

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frequency less than two per calendar year for a maximum of two days per event;

b. Delivery services, equipment/trailer rental services, industry, kennels, motorized/nonmotorized service and repair, welding and fabrication, antique sales, funeral services, groceries sales, secondhand merchandise sales, equipment rental, physicians, dentists, chiropractors, restaurants excepting home cooking or preserving if conducted solely within the residence, veterinarians, any wholesale or retail sales, and any like or similar uses or activities;

c. Transient accommodations and/or lodging;

H. Group B home occupation. Such use shall be secondary to the residential use of the property, and shall be reviewed and approved through the full administrative review process, provided the following minimum conditions shall apply to the approval of any such application:

1. Not over 50 percent of the total floor area of one floor is to be used for the home occupation;
2. A home occupation may be conducted in a detached garage and/or accessory structure with not more than 500 square feet of floor area used for the home occupation; provided, that there shall be only one garage and/or accessory structure on the property and does not eliminate any required parking;
3. Structural alterations consistent with residential development and occupancy shall be allowed which result in compliance with the building, fire safety, and handicap accessibility codes and standards. The structure shall be fully compliant with all applicable laws, including but not limited to building, fire and accessibility codes, prior to occupancy;
4. Prior to issuance of a Group B home occupation permit, a certificate of occupancy will be required for buildings constructed after the date of adoption of the ordinance codified in this section (January 28, 2014);
5. No persons other than the immediate resident(s) of the home and, at any given time, one outside employee may be employed in the home occupation;
6. No equipment or employees shall be dispatched from the residential premises, except the owner and owner's vehicle;
7. No article shall be sold or offered for sale on the premises unless by individual appointment which does not exceed occupancy limits within this section and/or the International Building, Residential and/or Fire Codes;
8. No sign(s) advertising the business shall be permitted;
9. No window display and no sample commodities or related materials shall be displayed or stored outside the building;
10. No outdoor storage of stock and trade shall be permitted;

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11. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television, or other factors;
12. No materials or commodities shall be delivered to or from the residence which are of such bulk or quantity as to require delivery by commercial vehicle or a trailer (vehicles that have a DOT number), and there shall be no parking of customer's vehicles in a manner or frequency as to cause disturbance or inconvenience to nearby residents or so as to necessitate on-street parking;
13. Off-street parking stall shall be provided to accommodate all vehicles associated with the operations of the home occupation;
14. Occupancy shall be limited to the maximum allowed by the adopted International Building, Residential and/or Fire Codes. In addition, the development services department may limit maximum occupancy loads based on impacts and/or infrastructure available to support the home occupation. In general, 10 students, customers, and/or clients within each 12-hour period shall be the maximum without the completion of a traffic, access and/or noise study which demonstrates no impact to neighbors, the community, and/or infrastructure. Class times and/or visitor appointments shall be spaced a sufficient time (minimum of 15 minutes) so that there is not an overlap in pick-up and/or drop-off;
15. Hours of operation shall be limited from 8:00 a.m. to 8:00 p.m.;
16. All classes and activities shall occur indoors in a closed window environment that prevents the passage of noise into the outside atmosphere unless such activity does not generate noise or disturbance;
17. Vehicles shall not be allowed to idle outside of the building;
18. Water and sewer service shall be determined by the city engineer based on the home occupation equivalent residential unit. Water and sewer service shall be connected to the primary residence and shall not be separate. Upgrade of sanitary sewer and water, as necessary, shall be compliant with Chapter 13.04 LMC and other applicable requirements prior to occupancy;
19. Any occupation which requires licensing, registration or permits, by state or federal statute or requirements or by city ordinance, must be provided at time of application, and at all times thereafter be appropriately licensed, registered, or have a permit and comply with requirements of all such licenses or permits;
20. For the purposes of this section, any use that is not consistent with the definition of "home occupation," including but not limited to those uses which are similar in nature, shall not be allowed as a home occupation. The following uses are ~~is~~ prohibited as Group B home occupations:
    a. Outdoor storage and/or display of items for sale or advertising purposes shall be prohibited unless for a garage sale and/or rummage sale of a frequency less than two per calendar year for a maximum of two days per event;

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b. Events, recitals, performances, promotions, and similar attractions outside of daily operations shall not be allowed unless the applicant completes and obtains approval by the city for a traffic, access and/or noise study which demonstrates no impact to neighbors or the community.

c. Delivery services, equipment/trailer rental services, industry, kennels, motorized service and repair, welding and fabrication, antique sales, funeral services, groceries sales, secondhand merchandise sales, equipment rental, physicians, dentists, chiropractors, restaurants excepting home cooking or preserving if conducted solely within the residence, veterinarians, any wholesale or retail sales, and any like or similar uses or activities;

d. Transient accommodations and/or lodging;.

I. Two-family dwelling/ duplex (non-transient); provided, that the lot size is in conformance with LMC 18.20.060(A), and provided the following minimum requirements are met:

1. The minimum lot area shall be 12,000 square feet for a two-family dwelling / duplex;
2. There shall be no more than one two-family dwelling unit / duplex per building lot or home site;
3. Parking shall be pursuant to Chapter 14.12 LMC;
4. Two-family dwelling unit / duplex shall conform to all other provisions of city codethe LMC. Conversions of existing structures to a duplex shall be allowed in conformance with Chapter 18.68 LMC, Nonconforming Provisions, excepting setbacks whereby the legally established structure may receive an administrative deviation to encroach no more than 20 percent into the setback;
5. The structure shall meet the minimum requirements of the International Building Code, International Fire Code, and all other life safety regulations of the City, Fire District, health district and all other local, state and federal agencies; The structure shall meet the minimum requirements of the International Building Code, International Fire Code, health district and all other local, state and federal agencies; and
6. Separate water and sewer utilities shall be required for each unit.

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18.20.030 Uses requiring a conditional use permit.

Those uses not listed as permitted or allowed by a conditional use permit are prohibited; provided, that if a proposed use is not specifically listed, the city administrator and/or his/her designee shall determine if the proposed use is similar to one that is already enumerated in the listed permitted or conditional uses and may therefore be allowed, subject to the requirements associated with that use and all other applicable provisions of the Leavenworth Municipal Code. In thea RL6 district, the following uses and their accessory uses are permitted as conditional uses when authorized in accordance with Chapter 18.52 LMC:

A. Churches, convents and monasteries;

B. Day care center;

C. Educational institutions;

D. Mini-day care center, not in family day care provider's home;

E. Community center buildings, nonprofit;

F. Public libraries and governmental buildings;

G. Public recreation areas;

H. Public museums or art galleries;

I. Golf courses (not including miniature golf courses, professional putting courses, and/or driving ranges);

~~J. Farming, truck gardening and flower gardening;~~

~~K.~~J. Educational centers for advanced study and research in an academic field of learning;

~~L.~~K. Temporary subdivision tract offices ~~subject to approval of the Leavenworth design review board~~;

~~M.~~L. Day nurseries and nursery schools;

~~N. Two-family dwelling; provided, that the lot size is in conformance with LMC 18.20.060(A), and the project is in compliance with LMC 18.52.130;~~

~~O.~~M. Hospital;

~~P.~~N. Manufactured home park;

~~Q.~~O. Public utility structures;

~~R. (Reserved);~~

~~S.~~P. Bed and breakfast facilities located in~~, meaning~~ a single~~-~~ family dwelling ~~(single family residential) unit~~ and/or accessory dwelling unit on the same lot which provides transient accommodation or lodging, and may include the supply of breakfast for guests only, for compensation, by renting up to three rooms within the ~~primary residence~~property, provided the following minimum conditions shall apply to the approval of any such conditional use permit:

1. Compliance with and approvals under LMC 18.52.050. 060, and 120~~(A) through (F) shall be complied with~~;

2. The minimum lot size for a~~n in~~ single family dwelling with a bed and breakfast facility shall be 6,000 square feet; and

3. Existing and permitted bed and breakfast facilities annexed into the city after January 1, 2017~~the effective date of the ordinance codified in this chapter~~ which do not fully meet the definition and/or requirements of this section for a~~n~~ bed and breakfast -shall be allowed to continue as a nonconforming use; and

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~~T.~~Q. Wireless telecommunications facilities (WTF), in accordance with the requirements of Chapter 18.74 LMC;

~~U. (Reserved).~~

18.20.040 Yard requirements – Specifications. Unless City Code provides for a deviation:

A. Front Yard. There shall be a front yard of not less than 25 feet.

B. Side Yard. There shall be side yards of not less than five feet.

C. Rear Yard. There shall be a rear yard of not less than 15 feet for lots without an alley adjacent to the rear yard, and a rear yard of not less than eight feet for lots with an alley adjacent to the rear yard.

D. For corner lots, 6,000 square feet or greater in size, the street side yard shall be a minimum of 10 feet, and at least one rear yard setback shall be provided. For corner lots less than 6,000 square feet in size, the street side yard shall be a minimum of five feet and at least one rear yard setback shall be provided. For the purposes of this title, street side yard shall be that yard area which is adjacent to a public street right-of-way, but which does not provide the primary access to the residential structure, and/or which does not serve as the street address for the residence.

18.20.060 Lot size.

In a RL6 district, the lot size shall be as follows:

A. The minimum lot area shall be 6,000 square feet for a single-family dwelling and 12,000 square feet for a duplex.

B. The minimum lot width at the front building line for new land divisions shall be 60 feet for an interior lot and 70 feet for a corner lot.

18.20.070 Building height.

In a RL6 district, no structure shall exceed a height of 35 feet.

18.20.080 Lot coverage.

In a RL6 district, buildings and structures shall not occupy more than 35 percent of the lot area.

18.20.090 Off-street parking.

Off-street parking shall be provided as required in Chapter 14.12 LMC.

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Chapter 18.21

RESIDENTIAL LOW DENSITY 12,000 DISTRICT (RL12)

Sections:

18.21.010 Purpose.

18.21.020 Permitted uses.

18.21.030 Uses requiring a conditional use permit.

18.21.040 Yard requirements – Specifications.

18.21.060 Lot size.

18.21.070 Building height.

18.21.080 Lot coverage.

18.21.090 Off-street parking.

18.21.010 Purpose.

This is a restricted residential district of low density in which the principal use of land is for single-family dwellings, together with recreational, religious, and educational facilities required to serve the community. The regulations for this district are designed and intended to establish, maintain and protect the essential characteristics of the district, to develop and sustain a suitable environment for family life where children are members of most families, and to prohibit almost all activities of a commercial nature and those which would tend to be inharmonious with or injurious to the preservation of a residential environment.

18.21.020 Permitted uses.

Those uses not listed as permitted or allowed by a conditional use permit are prohibited; provided, that if a proposed use is not specifically listed as a permitted or conditional use, the city administrator and/or his/her designee shall determine if the proposed use is similar to one that is already enumerated in the listed permitted or conditional uses and may therefore be allowed, subject to the requirements associated with that use and all other applicable provisions of the Leavenworth Municipal Code. In the~~a~~ RL12 district, the following uses and their accessory uses are permitted outright:

A. Single-family dwelling~~ (non-transient)~~;

B. Accessory building and/or uses as follows:

1. Garage, carport or parking space,

~~1.~~2.Swimming pools, cabana, children's play structures, or gazebo

~~2.~~3.Work and/or storage sheds for noncommercial use or equipment,

~~3.~~4. Accessory dwelling unit not used for transient accommodation ("accessory dwelling unit"), meaning a subordinate, habitable living unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation, provided the ~~Accessory dwelling unit (non-transient), meaning a subordinate, habitable living unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation, provided the~~ minimum requirements of LMC 18.20.020(B)(4~~3~~) are met;

C. Family day care home, provided it is licensed by the state and has a current city business license;

D. Public parks;

E. Mini-day care home facility, provided it is licensed by the state and has a current city business license;

F. Adult family home. See RCW 70.128.175 for definition;

G. Group A home occupations, provided the prohibitions and minimum conditions found in Chapter 18.20 LMC shall apply to the prohibition or approval of any such Group A home occupations~~limited administrative review of applications~~;

H. Group B home occupations, provided the prohibitions and minimum conditions found in Chapter 18.20 LMC shall apply to the prohibition or approval of any such Group B home occupations~~full administrative review of applications~~.

I. Two-family dwelling/ duplex ~~(non-transient)~~; provided, that the lot size is in conformance with LMC 18.21.060(A), and provided the following minimum requirements are met:

1. The minimum lot area shall be 12,000 square feet for a two-family dwelling / duplex;
2. There shall be no more than one two-family dwelling unit / duplex per building lot or home site;
3. Parking shall be pursuant to Chapter 14.12 LMC;
4. Two-family dwelling ~~unit~~ / duplex shall conform to all other provisions of city code~~the LMC~~. Conversions of existing structures to a two family dwelling/duplex shall be allowed in conformance with Chapter 18.68 LMC, Nonconforming Provisions, excepting setbacks whereby the legally established structure may receive an administrative deviation to encroach no more than 20 percent into the setback;
5. The structure shall meet the minimum requirements of the International Building Code, International Fire Code, and all other life safety regulations of the City, Fire District, health district and all other local, state and federal agencies~~The structure shall meet the minimum requirements of the International Building Code, International Fire Code, health district and all other local, state and federal agencies~~; and
6. Separate water and sewer utilities shall be required for each unit.

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18.21.030 Uses requiring a conditional use permit.

Those uses not listed as permitted or allowed by a conditional use permit are prohibited; provided, that if a proposed use is not specifically listed, the city administrator and/or his/her designee shall determine if the proposed use is similar to one that is already enumerated in the listed permitted or conditional uses and may therefore be allowed, subject to the requirements associated with that use and all other applicable provisions of the Leavenworth Municipal ~~Those uses not listed as permitted or allowed by a conditional use permit are prohibited; provided, that if a proposed use is not specifically listed, the city administrator and/or his/her designee shall determine if the proposed use is similar to one that is already enumerated in the listed conditional uses and may therefore be allowed, subject to the requirements associated with that use and all other applicable provisions of the Leavenworth Municipal Code.~~ Code. In a RL12 district, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 18.52 LMC:

A. Churches, convents and monasteries;

B. Day care center;

C. Educational institutions;

D. Mini-day care center, not in family day care provider's home;

E. Community center buildings, nonprofit;

F. Public libraries and governmental buildings;

G. Public recreation areas;

H. Public museums or art galleries;

I. Golf courses (not including miniature golf courses, professional putting courses, and/or driving ranges);

~~J. Farming, truck gardening and flower gardening;~~

~~K.~~J. Educational centers for advanced study and research in an academic field of learning;

~~L.~~K. Temporary subdivision tract offices ~~subject to approval of the Leavenworth design review board~~;

~~M.~~L. Day nurseries and nursery schools;

~~N. (Reserved)Two-family dwelling; provided, that the lot size is in conformance with LMC 18.21.060(A), and the project is in compliance with LMC 18.52.130;~~

~~O.~~M. Hospital;

~~P.~~N. Manufactured home park;

~~Q.~~ Public utility structures;

~~R. (Reserved);~~

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~~Bed and breakfast facilities, meaning a single-family dwelling (single family residential) unit and/or accessory dwelling unit which provides transient lodging, and may include breakfast for guests only, for compensation, by renting up to three rooms within the property, provided the following minimum conditions shall apply to the approval of any such conditional use permit: LMC 18.52.120;~~

~~The minimum lot size for a bed and breakfast facility shall be 6,000 square feet; and~~

~~S.~~O. ~~Existing and permitted bed and breakfast facilities annexed into the city after the effective date of the ordinance codified in this chapter which do not fully meet the definition and/or requirements of this section for a bed and breakfast shall be allowed to continue as a nonconforming use~~~~rental facilities, meaning a single-family residential unit which provides transient lodging, and may include breakfast for guests only, for compensation, by renting up to three rooms within the primary residence, provided the minimum conditions found in LMC 18.20.030(S) shall apply to the approval of any such conditional use permit~~;

P. Bed and breakfast facilities located in a single family dwelling and/or accessory dwelling unit on the same lot which provides transient accommodation or lodging, and may include the supply of breakfast for guests only, for compensation, by renting up to three rooms within the property, provided the following minimum conditions shall apply to the approval of any such conditional use permit:

1. Compliance with and approvals under LMC 18.52.050. 060, and 120;
2. The minimum lot size for a single family dwelling with a bed and breakfast facility shall be 6,000 square feet; and
3. Existing and permitted bed and breakfast facilities annexed into the city after January 1, 2017 which do not fully meet the definition and/or requirements of this section for a bed and breakfast shall be allowed to continue as a nonconforming use; and

~~T.~~Q. Wireless telecommunications facilities (WTF), in accordance with the requirements of Chapter 18.74 LMC;

~~U. (Reserved).~~

18.21.040 Yard requirements – Specifications. Unless City code provides for a deviation:

A. Front Yard. There shall be a front yard of not less than 25 feet.

B. Side Yard. There shall be side yards of not less than 10 feet.

C. Rear Yard. There shall be a rear yard of not less than 15 feet for lots without an alley adjacent to the rear yard, and a rear yard of not less than eight feet for lots with an alley adjacent to the rear yard.

D. For corner lots, the street side yard shall be a minimum of 15 feet, and at least one rear yard setback shall be provided. For the purposes of this title, street side yard shall be that yard area which is adjacent to a public street right-of-way, but which does not provide the primary access to the residential structure, and/or which does not serve as the street address for the residence.

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18.21.060 Lot size.

In a RL12 district, the lot size shall be as follows:

A. The minimum lot area shall be 12,000 square feet for a single-family dwelling and duplex.

B. The minimum lot width at the front building line for new land divisions shall be 80 feet for an interior lot and 90 feet for a corner lot.

18.21.070 Building height.

In a RL12 district, no structure shall exceed a height of 35 feet.

18.21.080 Lot coverage.

In a RL12 district, buildings and structures shall not occupy more than 35 percent of the lot area.

18.21.090 Off-street parking.

Off-street parking shall be provided as required in Chapter 14.12 LMC

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Chapter 18.22
MULTIFAMILY RESIDENTIAL DISTRICT

Sections:

18.22.010 Purpose.
18.22.020 Permitted uses.
18.22.030 Site plan review.
18.22.040 Uses requiring a conditional use permit.
18.22.050 Lot size.
18.22.060 Yard requirements.
18.22.070 Building height.
18.22.080 Lot coverage.
18.22.090 Off-street parking.

18.22.010 Purpose.

This is a medium density residential district designed to accommodate multifamily uses, together with recreational, religious, and educational uses required to serve the community. This district is intended to provide for increased variety and range of cost for housing in Leavenworth. The multifamily district is also intended to serve as a buffer between commercial and single-family districts, and to provide incentive for renewal and redevelopment of older residential areas.

18.22.020 Permitted uses.

In a multifamily residential district, the following uses and their accessory uses are permitted outright:

A. A use permitted outright in the low density residential districts;

B. Two-family dwelling/duplex and multifamily dwellings ~~(non-transient)~~, including both rental apartments and condominiums, subject to the provisions of LMC 18.22.030;

C. Boardinghouse, lodginghouse, roominghouse, subject to the provisions of LMC 18.22.030;

~~D. RCW 35.63.220, Treatment of Rresidential structures occupied by persons with handicaps as allowed by RCW 35.63.220~~

~~E.~~D. Accessory building and/or uses as follows:

1. Garage, carport or parking space;

~~1.~~2. Swimming pools, cabana, children's play structures, or gazebo;

~~2.~~3. Work and/or storage sheds for noncommercial use or equipment.

~~F.~~E. ~~Accessory dwelling unit, meaning a subordinate, habitable living unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation, provided the minimum requirements of LMC 18.20.020(B)(3) are met~~Adult family home. See RCW 70.128.175 for definition.

18.22.030 Site plan review.

Multifamily dwellings ~~and roominghouse~~ ~~developments~~ involving three or more units, as provided in LMC 18.22.020, shall be subject to site plan review for the following minimum landscaping standards:

A. Planting Area. A minimum five-foot-wide planting strip shall be provided adjacent to all street frontages, as directed by the public works director, and along all property lines which front upon a low density residential district. The total landscaped planting area, exclusive of lawns, shall not be less than eight percent of the gross project area.

B. Trees. One tree shall be required for each 250 square feet of required planting area. Trees of two-inch caliper (measured three feet above ground level) are required. At least one out of every four of the required trees shall be planted within the interior (20 feet from any lot line, unless prevented by the structures). Nuisance trees, which are susceptible to breakage, disease, or insect infestation, or which have undesirable growth habits (roots which invade sewer lines, trees which produce messy blooms and/or fruit) should be avoided.

C. Shrubs. The planting area must be 50 percent covered with shrubs which are two feet or higher at maturity.

D. Ground Cover. Ground cover is required to complete the landscaping of the planting areas.

E. Other Areas. All areas not covered by structures, paving or landscaped planting areas shall be maintained in grass.

F. Irrigation and Maintenance. A permanent, underground irrigation system shall be provided for all planting areas and lawns. All plantings shall be the owner's responsibility to maintain and replace as needed.

18.22.040 Uses requiring a conditional use permit.

In a multifamily residential district, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 18.52 LMC:

A. A use permitted as a conditional use in a low density residential district;

~~A.~~B. Bed and breakfast when located within an existing single family dwelling constructed prior to January 1, 2017.

~~B.~~C. Club, lodge or fraternal organization;

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~~C.~~D. Clinic, hospital or sanitarium;

~~D.~~E. Nursing home, retirement home, rest home or convalescent home;

~~E.~~F. Youth home, juvenile home or orphanage;

~~F.~~G. Public facilities and utilities;

~~G.~~H. Day care center (within existing and new church, public or semipublic buildings only);

~~H.~~I. Underground parking facility in the multifamily zone district to provide parking for a commercial zone district.

18.22.050 Lot size.

In a multifamily residential district, the lot size shall be as follows:

A. The minimum lot area for new land divisions shall be 6,000 square feet for up to three units. Two thousand square feet of additional area on the lot is required for each additional dwelling unit. No lot shall be created which is less than 6,000 square feet in size, but multiple lots of 6,000 square feet and larger may be platted.

B. For existing legal lots of record, at a minimum, 2,000 square feet of lot area are required for each dwelling unit.

C. The minimum lot width at the front building line for new land divisions shall be 60 feet for an interior lot and 70 feet for a corner lot.

18.22.060 Yard requirements.

A. The front yard shall be a minimum of 25 feet. On through lots, front yards shall be required on both streets.

B. The side yard shall be a minimum of five feet.

C. The rear yard shall be a minimum of 15 feet for lots without an alley adjacent to the rear yard, and the rear yard shall be not less than eight feet for lots with an alley adjacent to the rear yard.

D. For corner lots, the street side yard shall be a minimum of 10 feet, and at least one rear yard setback shall be provided. For the purposes of this title, street side yard shall be that yard area which is adjacent to a public street right-of-way, but which does not provide the primary access to the residential structure, and/or which does not serve as the street address for the residence.

18.22.070 Building height.

In a multifamily residential district, no structure shall exceed a height of 35 feet.

18.22.080 Lot coverage.

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In a multifamily residential district, buildings and structures shall not occupy more than 40 percent of the lot area.

18.22.090 Off-street parking.

Off-street parking shall be provided as required in Chapter 14.12 LMC.

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Chapter 18.23

RESIDENTIAL LOW DENSITY 10,000 DISTRICT (RL10)

Sections:

18.23.010 Purpose.

18.23.020 Permitted uses.

18.23.030 Uses requiring a conditional use permit.

18.23.040 Yard requirements – Specifications.

18.23.060 Lot size.

18.23.070 Building height.

18.23.080 Lot coverage.

18.23.090 Off-street parking.

18.23.010 Purpose.

This is a restricted residential district of low density in which the principal use of land is for single-family dwellings, together with recreational, religious, and educational facilities required to serve the community. The regulations for this district are designed and intended to establish, maintain and protect the essential characteristics of the district, to develop and sustain a suitable environment for family life where children are members of most families, and to prohibit almost all activities of a commercial nature and those which would tend to be inharmonious with or injurious to the preservation of a residential environment.

18.23.020 Permitted uses.

Those uses not listed as permitted or allowed by a conditional use permit are prohibited; provided, that if a proposed use is not specifically listed as a permitted or conditional use, the city administrator and/or his/her designee shall determine if the proposed use is similar to one that is already enumerated in the listed permitted or conditional uses and may therefore be allowed, subject to the requirements associated with that use and all other applicable provisions of the Leavenworth Municipal Code~~Those uses not listed as permitted or allowed by a conditional use permit are prohibited; provided, that if a proposed use is not specifically listed, the city administrator and/or his/her designee shall determine if the proposed use is similar to one that is already enumerated in the listed permitted uses and may therefore be allowed, subject to the requirements associated with that use and all other applicable provisions of the Leavenworth Municipal Code~~. In the~~a~~ RL10 district, the following uses and their accessory uses are permitted outright:

A. Single-family dwelling;

B. Accessory building and/or uses as follows:

1. Garage, carport or parking space,

~~1.~~2.Swimming pools, cabana, children's play structures, or gazebo,

~~2.~~3.Work and/or storage sheds for noncommercial use or equipment,

~~3.~~4.Accessory dwelling unit not used for transient accommodation ("accessory dwelling unit"), meaning a subordinate, habitable living unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation, provided the minimum requirements of LMC 18.20.020(B)(4) are met; ~~Accessory dwelling unit, meaning a subordinate, habitable living unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation provided the minimum requirements of LMC 18.20.020(B)(3) are met;~~

C. Family day care home, provided it is licensed by the state and has a current city business license;

D. Public parks;

E. Mini-day care center home facility, provided it is licensed by the state and has a current city business license;

F. Adult family home. See RCW 70.128.175 for definition;

G. Group A home occupations, provided the prohibitions and minimum conditions found in Chapter 18.20 LMC shall apply to the prohibition or approval of any such Group A home occupations;

~~G.~~ Group B home occupations, provided the prohibitions and minimum conditions found in Chapter 18.20 LMC shall apply to the prohibition or approval of any such Group B home~~Group A home occupations, provided the minimum conditions found in Chapter 18.20 LMC shall apply to the approval of any such limited administrative review of applications;~~

H. ~~Group B home occupations, provided the minimum conditions found in Chapter 18.20 LMC shall apply to the approval of any such full administrative review of applications~~ occupations;

I. Two-family dwelling/ duplex ~~(non-transient~~; provided, that the lot size is in conformance with LMC 18.23.060(A), and provided the following minimum requirements are met:

1. The minimum lot area shall be 12,000 square feet for a two-family dwelling / duplex;
2. There shall be no more than one two-family dwelling unit / duplex per building lot or home site;
3. Parking shall be pursuant to Chapter14.12 LMC;
4. The Two-family dwelling unit / duplex shall conform to all other provisions of City code. the LMC. Conversions of existing structures to a two family dwelling/duplex shall be allowed in conformance with Chapter 18.68 LMC, Nonconforming Provisions, excepting setbacks whereby the legally established

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structure may receive an administrative deviation to encroach no more than 20 percent into the setback;

5. The structure shall meet the minimum requirements of the International Building Code, International Fire Code, and all other life safety regulations of the City, Fire District, health district and all other local, state and federal agencies; andThe structure shall meet the minimum requirements of the International Building Code, International Fire Code, health district and all other local, state and federal agencies; and

6. Separate water and sewer utilities shall be required for each unit.~~.~~

18.23.030 Uses requiring a conditional use permit.

Those uses not listed as permitted or allowed by a conditional use permit are prohibited; provided, that if a proposed use is not specifically listed, the city administrator and/or his/her designee shall determine if the proposed use is similar to one that is already enumerated in the listed permitted or conditional uses and may therefore be allowed, subject to the requirements associated with that use and all other applicable provisions of the Leavenworth Municipal Code. In a RL10 district, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 18.52 LMC:

A. Churches, convents and monasteries;

B. Day care center;

C. Educational institutions;

D. Mini-day care center, not in family day care provider's home;

E. Community center buildings, nonprofit;

F. Public libraries and governmental buildings;

G. Public recreation areas;

H. Public museums or art galleries;

I. Golf courses (not including miniature golf courses, professional putting courses, and/or driving ranges);

~~J. Farming, truck gardening and flower gardening;~~

~~K.~~J. Educational centers for advanced study and research in an academic field of learning;

~~L.~~K. Temporary subdivision tract offices~~ subject to approval of the Leavenworth design review board~~;

~~M.~~ Day nurseries and nursery schools;

~~N.~~L. ~~(Reserved)Two-family dwelling; provided, that the lot size is in conformance with LMC 18.23.060(A), and the project is in compliance with LMC 18.52.130;~~

~~O.~~M. Hospital;

~~P.~~N. Manufactured home park;

~~Q.~~O. Public utility structures;

P. Bed and breakfast facilities located in a single family dwelling and/or accessory dwelling unit on the same lot which provides transient accommodation or lodging, and may include the supply of breakfast for guests only, for compensation, by renting up to three rooms within the property, provided the following minimum conditions shall apply to the approval of any such conditional use permit:

1. Compliance with and approvals under LMC 18.52.050. 060, and 120;
2. The minimum lot size for a single family dwelling with a bed and breakfast facility shall be 6,000 square feet; and
3. Existing and permitted bed and breakfast facilities annexed into the city after January 1, 2017 which do not fully meet the definition and/or requirements of this section for a bed and breakfast shall be allowed to continue as a nonconforming use

~~R. (Reserved);~~

~~Bed and breakfast facilities, meaning a single-family dwelling (single family residential) unit and/or accessory dwelling unit which provides transient lodging, and may include breakfast for guests only, for compensation, by renting up to three rooms within the property, provided the following minimum conditions shall apply to the approval of any such conditional use permit:~~

~~LMC 18.52.120;~~

~~The minimum lot size for a bed and breakfast facility shall be 6,000 square feet; and~~

~~1. Existing and permitted bed and breakfast facilities annexed into the city after the effective date of the ordinance codified in this chapter which do not fully meet the definition and/or requirements of this section for a bed and breakfast shall be allowed to continue as a nonconforming use~~rental facilities, meaning a single-family residential unit which provides transient lodging, and may include breakfast for guests only, for compensation, by renting up to three rooms within the primary residence, provided the minimum conditions found in LMC 18.20.030(S) shall apply to the approval of any such conditional use permit;

~~S.~~Q. Wireless telecommunications facilities (WTF), in accordance with the requirements of Chapter 18.74 LMC;

~~(Reserved).~~

18.23.040 Yard requirements – Specifications. Unless City code provides for a deviation:

A. Front Yard. There shall be a front yard of not less than 25 feet.

B. Side Yard. There shall be side yards of not less than eight feet.

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C. Rear Yard. There shall be a rear yard of not less than 15 feet for lots without an alley adjacent to the rear yard, and a rear yard of not less than eight feet for lots with an alley adjacent to the rear yard.

D. For corner lots, the street side yard shall be a minimum of 15 feet, and at least one rear yard setback shall be provided. For the purposes of this title, street side yard shall be that yard area which is adjacent to a public street right-of-way, but which does not provide the primary access to the residential structure, and/or which does not serve as the street address for the residence.

18.23.060 Lot size.

In a RL10 district, the lot size shall be as follows:

A. The minimum lot area shall be 10,000 square feet for a single-family dwelling and 12,000 square feet for a duplex.

B. The minimum lot width at the front building line for new land divisions shall be 70 feet for an interior lot and 80 feet for a corner lot.

18.23.070 Building height.

In a RL10 district, no structure shall exceed a height of 35 feet.

18.23.080 Lot coverage.

In a RL10 district, buildings and structures shall not occupy more than 35 percent of the lot area.

18.23.090 Off-street parking.

Off-street parking shall be provided as required in Chapter 14.12 LMC.

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Excerpts of applicable definitions (from the definitions amendment underway)

"Accessory or secondary use or structure" means a use or structure on the same lot with and incidental or subordinate to the primary use or structure, and which may exist only when a primary use is existing on the same lot. The floor area of a secondary use must be less than that devoted to the primary use.

"Bed and breakfast" means an activity whereby the resident(s) host visitors in their homes, up to three rooms for compensation, for periods of 30 consecutive days or less, while at least one of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the visitors' stay.

"Boardinghouse," "lodginghouse" or "roominghouse" means a building where lodging, with or without meals, is provided by members occupying such building. This term shall not be construed to include buildings which fit the definition of the term "motel."

"Conditional use" means a use allowed in one or more zones as defined by the zoning code, but which because of characteristics peculiar to such use, the size, technological processes or equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a special permit in order to provide a particular degree of control to make such uses consistent and compatible with other existing or permissible uses in the same zone and mitigate adverse impacts of the use.

"Dwelling, multifamily" or "multifamily dwelling" means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided for owner occupancy, rent, or lease on a monthly or longer basis.

"Dwelling, single-family" or "single family dwelling" means a detached residential dwelling unit, which is site-built, manufactured, modular, or other type of similar construction not including recreation vehicles, travel trailers, or similar structures, designed for and occupied on a monthly or longer basis by one family.

"Dwelling/Duplex, two-family" or "two family dwelling/duplex" means a detached residential building containing two dwelling units, designed for occupancy on a monthly or longer basis by not more than two families. Each unit shall be designed for and occupied on a monthly or longer basis.

"Dwelling unit" means one or more rooms designed, occupied or intended for occupancy as separate living quarters. A dwelling unit includes a single-family dwelling, a unit in a two family dwelling/duplex, an apartment or other leased premises leased on a monthly or longer basis, or residential condominium unit. A dwelling unit shall include a detached Accessory Dwelling Unit that is intended for human habitation (i.e. living quarters). Dwelling unit does not include individual hotel/motel guest rooms, condominium timeshare units, cabins, transient accommodations or similar guest accommodations rented to transient guests in a motel, hotel, inn, or similar transient lodging establishment

"Family" means an individual, or two or more persons related by blood or marriage, or a group of not more than five persons who are not all related by blood or marriage, living together in a dwelling unit.

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“Guest or visitor” means a person who rents a unit within a bed and breakfast, motel, hotel, or lodging room.

“Home occupation, Group B” means a home occupation that meets all of the home occupation minimum standards of Chapter 18.20 LMC, as amended, and has a maximum of one nonresident worker. In addition, customers visit the business. Group B home occupation allows more flexibility, including the potential of impacting the neighbors; therefore, a full administrative review of applications is required. Examples of Group B home occupation include, but are not limited to: hairdressers, music teachers, and a consultant’s office with customer and/or client visits (more frequent than two per month). Transient accommodations and/or lodging are not considered a home occupation and are prohibited within residential zones.

“Host” means a person engaged in providing a bed and breakfast rental.

“Hotel” means a building or portion thereof designed or used for transient rental of more than five units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.

“Lives on-site” means being present in the dwelling unit where the bed and breakfast rental is being offered, which includes but is not limited to sleeping overnight, preparing and eating meals, entertaining, and engaging in other activities in the dwelling unit that are typically enjoyed by a person in their home.

"Lodging unit" means an individual room or group of interconnected rooms, intended for sleeping, that are for rent or use by a guest, and is individually designated by number, letter, or other means of identification. A lodging unit may or may not include areas for cooking and eating.

“Month” means a calendar month.

“Owner” means any person who, alone or jointly or severally with others, has title or interest in any building and/or structure with or without accompanying actual possession thereof, and includes any person who as agent, executor, administrator, trustee, or guardian of an estate has charge, care, or control of any building and/or structure.

“Person” means any individual, firm, corporation, association, partnership, or public entity and their agents or assigns.

“Transient accommodation and/or lodging” means the rental of any building or portion thereof used for the purpose of providing lodging for periods of less than 30 days.

“Nontransient lodging” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

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City of Leavenworth

Development Services Department

Staff Report – Amendment to LMC Chapter 21.90 Common Definitions, Chapter 18.08 Definitions (Zoning), 14.10.210 Definitions (Signs), 14.04.020 Definitions (Developer Reimbursement And Collection Agreements), 14.16.040 Definitions (Residential Structure Design Standards), 14.17.020 Definitions (Flags, Flagpoles, Towers, And Tower Structures), 14.28.040 Definitions (Lighting Standards), 18.50.020 Definitions (Manufactured Home Parks), 21.01.040 Definitions (Introduction), 16.04.040 Additional Definitions (State Environmental Policy Act – WAC)

To:	**Leavenworth Planning Commission**
From:	City of Leavenworth Development Services Department
Date of Report:	October 6, 2016
Subject:	Amendments to varied sections and chapters of the LMC to consolidate land use and development definitions into a single Chapter.

OVERVIEW

As included within the Planning Commission 2016 Amendment Docket, the Planning Commission has been asked to review and study:

> "6. LMC - Definitions - consolidation (Compile definitions of LMC Title 21 and Title 18). For ease of use definitions can be consolidated into one section of the LMC. In addition, the existing LMC uses same terms with differing definitions."

From time to time, updates and edits to the LMC may be necessary to reflect appropriate changes and where necessary. Attachment A - text amendment has been reviewed and deliberated upon by the Planning Commission on April 6, 2016, May 4, 2016, July 6, 2016, and August 3, 2016.

PROPOSAL:

Amendments to varied sections and chapters of the LMC to consolidate land use and development definitions into a single Chapter. Specially, Chapter 21.90 Common Definitions, Chapter 18.08 Definitions (Zoning), 14.10.210 Definitions (Signs), 14.04.020 Definitions (Developer Reimbursement And Collection Agreements), 14.16.040 Definitions (Residential Structure Design Standards), 14.17.020 Definitions (Flags, Flagpoles, Towers, And Tower Structures), 14.28.040 Definitions (Lighting Standards), 18.50.020 Definitions (Manufactured Home Parks), 21.01.040 Definitions (Introduction), 16.04.040 Additional Definitions (State Environmental Policy Act – WAC)

STATE ENVIRONMENTAL POLICY ACT REVIEW (SEPA)

A Non-Project SEPA Checklist, DNS, and draft LMC amendments were submitted to reviewing agencies on October 7, 2016.

PUBLIC HEARING NOTICE COMPLIANCE

Agency review:	Transmittal: October 7, 2016 Comment period: October 7, 2016 – December 7, 2016
Notice of Planning Commission Public Hearing:	Transmittal - October 7, 2016 (Echo - October 12, 2016)
Planning Commission Public Hearing:	October 19, 2016
City Council Public Hearing:	Tentatively Scheduled December 27, 2016

PUBLIC/AGENCY COMMENTS

Agency Comments (attached)

None at the time of this report

Public Comments (attached)

None at the time of this report

RESPONSE TO COMMENTS

The Planning Commission considered comments and testimony. As determined necessary, the Planning Commission will incorporate comments and testimony into the proposed amendments.

RECOMMENDATIONS AND FINDINGS

Staff recommends approval of the attached document with changes noted in redline Exhibit A. Staff recommends adopting the following findings of fact and conclusions of law:

1. **The amendment is necessary to resolve inconsistencies in the provisions of the comprehensive plan and/or development regulations or to address state or federal mandates.** This amendment is necessary to resolve inconsistencies in the provisions of the development regulations and to address state or federal mandates. Throughout the Leavenworth Municipal Code, definitions severed varied sections and chapters. Some of these sections and chapters used the same terms with differing (minor in nature) definitions which needed consolidation and clarification to eliminate redundancy and conflicts. Every county and city in the state is required to conduct a periodic update of its comprehensive plan and development regulations, though the obligation varies depending on whether the jurisdiction is fully or partially planning (RCW 36.70A.130(1)). Over the recent few years, the City has been "whittling down" differing development regulations in advance of the mandated deadline to reduce workloads. This amendment has been developed in accordance and compliance with RCW 36.70A.130 (WAC 365-196-610 and RCW 36.70A.130) which states "On or before June 30, 2017, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and

Yakima counties and the cities within those counties" “shall update their respective Comprehensive Plans.”

2. **The amendment is consistent with the overall intent of the existing comprehensive plan and the other documents incorporated therein.** The proposed amendment is consistent with the City of Leavenworth Comprehensive Plan.
3. **The amendment is consistent with the assumptions and/or other factors such as population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan.** The proposed amendment does not alter population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan.
4. **The amendments are consistent with the requirements of the Growth Management Act and the county-wide planning policies.** The proposed amendment has been developed in accordance with the Growth Management Act (see above) and do not conflict with the City’s Comprehensive Plan. The amendment process followed for this adoption process is compliant with specific Leavenworth Municipal Code and State regulatory requirements for notification and circulation.
5. **The amendment is consistent with and does not adversely affect the supply of land for various purposes which are available to accommodate projected growth over a twenty year period.** The proposed amendment will not modify the supply of land. The proposed amendment does not modify the urban growth boundary in any way. As such, no adverse effect to land supply is expected.
6. **Where applicable, conditions have changed such that assumptions and/or other factors such as population, employment, land use, housing, transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan have been revised and/or enhanced to reflect said conditions;** Not applicable
7. **Amendments to the comprehensive plan land use designation map(s) are either consistent and/or compatible with, or do not adversely affect, adjacent land uses and surrounding environment;** Not applicable
8. **The proposed amendment is consistent with and does not negatively impact public facilities, utilities and infrastructure, including transportation systems, and any adopted levels of service.** The proposed amendment does not negatively impact public facilities, utilities and infrastructure, including transportation systems, and any adopted levels of service.
9. **The proposed amendment does not adversely affect lands designated resource lands of long term commercial significance or critical areas.** This amendment does not adversely affect lands designated resource lands of long term commercial significance or critical areas.

<u>Chelan County Development Regulation Text Amendments (CCC 14.13.040):</u>

Any amendment of a revision to development regulation(s) shall be consistent with and implement the comprehensive plan (RCW36.70A.130(3)(d).

The approval, modification or denial of a development regulation amendment application shall be evaluated on, but not limited to, the following criteria:

(1) The amendment is necessary to resolve a public land use issue or problem.

Every county and city in the state is required to conduct a periodic update of its comprehensive plan and development regulations, though the obligation varies depending on whether the jurisdiction is fully or partially planning (RCW 36.70A.130(1)). Over the recent few years, the City has been "whittling down" differing development regulations in advance of the mandated deadline to reduce workloads. This amendment has been developed in accordance and compliance with RCW 36.70A.130 (WAC 365-196-610 and RCW 36.70A.130) which states "On or before June 30, 2017, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties" "shall update their respective Comprehensive Plans."

(2) The amendment is consistent with goals of the Growth Management Act, Chapter 36.70A RCW.

Although not specific to the Planning goals of 36.70A.020, the amendment helps provide consistency and timely approach to administering the LMC with clear definitions.

The proposed amendments have been developed in accordance with the Growth Management Act and do not conflict with the City's Comprehensive Plan. The amendment process followed for this adoption process is compliant with specific Leavenworth Municipal Code and State regulatory requirements for notification and circulation

(3) The amendment complies with or supports comprehensive plan goals and policies and/or county-wide planning policies.

The proposed amendment is consistent with the City of Leavenworth Comprehensive Plan and county-wide planning policies

(4) The proposed amendment does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.

This amendment does not adversely affect lands designated resource lands of long term commercial significance or critical areas.

(5) The amendment is based on sound land use planning practices and would further the general public health, safety and welfare.

The proposed amendment is based on sound land use planning practices and would further the general public health, safety and welfare

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Attachments:

Attachment A – LMC Amendment

Chapter 21.90
COMMON DEFINITIONS

Sections:

21.90.0021 Purpose.

21.90.0042 Generally.

21.90.030 Definitions.

~~21.90.006 Abandoned sign.~~

~~21.90.0083 Accessory or secondary use or structure.~~

~~21.90.010 Accessory use or structure.~~

~~21.90.01204 Administrator, city administrator.~~

~~21.90.01408 Adult business.~~

~~21.90.016 Adult arcade.~~

~~21.90.018 Adult entertainment.~~

~~21.90.020 Adult entertainment facility.~~

~~21.90.022 Adult motel.~~

~~21.90.024 Adult motion picture theater.~~

~~21.90.02612 Adult family home.~~

~~21.90.02814 Alley.~~

~~21.90.03016 Alteration.~~

~~21.90.0320 Antenna.~~

~~21.90.0324 Applicant.~~

~~Application~~

~~21.90.036 Balloon.~~

~~21.90.038 Banks, savings and loan and other financial institutions.~~

~~21.90.040 Bakery.~~

~~21.90.042 Barber/beauty shop.~~

~~21.90.044 Baroque.~~

~~Basement~~

~~21.90.04625 Base flood.~~

~~18.08.21.90.04814 Battery charging station.~~

~~18.08.21.90.05015 Battery electric vehicle (BEV).~~

~~18.08.21.90.05216 Battery exchange station.~~

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21.90.054 Bavarian Alpine.
21.90.056 Bavarian folk art also "bauernmalerei."
21.90.05826 Binding site plan.
21.90.060 Bed and breakfast.
"Benefit or reimbursement area"
21.90.06228 Block.
21.90.062 Board.
21.90.064 Boardinghouse, lodginghouse or roominghouse.
21.90.06632 Boundary line adjustment.
21.90.06834 Building.
21.90.07035 Building envelope.
21.90.072 Buildable area.
21.90.074 Building face.
21.90.076 Building height.
21.90.078 Bus and/or taxi stop.
21.90.080 Business, technical or trade school.
21.90.08236 Business visit.
21.90.084 Car wash.
21.90.08638 Character.
21.90.088 Charging levels.
21.90.040 City.
21.90.044 City administrator.
21.90.048 City council.
21.90.050 City council.
City engineer.
Closed record appeal
Cost of construction
21.90.052 Classical
21.90.080 Clinic.
21.90.0852 Closed record appeal.
21.90.0854 Cluster subdivision.
21.90.086 Commercial

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21.90.088 Commercial Amusement Enterprise

21.90.090 Community service event or "civic event"

21.90.09256 Comprehensive plan.

21.90.09460 Comprehensive plan amendment.

21.90.09664 Conditional use.

21.90.09866 Condominium.

21.90.100068 Congregate care facility, retirement center.

21.90.102 Copy and/or printing establishment.

21.90.104076 Critical areas.

Critical Facility:

21.90.106080 Cul-de-sac.

21.90.108084 Date of decision.

21.90.110 Day care center.

21.90.112088 Dedication.

21.90.114 Department

21.90.116 Design review board

21.90.118092 Density.

21.90.120094 Deterioration.

21.90.122096 Developer.

21.90.124100 Development.

21.90.126104 Development code.

Development, special flood hazard:

Direct connection

21.90.128108 Director.

21.90.13012 Driving surface.

21.90.132 Drive-in restaurant or refreshment stand.

21.90.134 Dwelling, multifamily.

21.90.136 Dwelling, single-family.

21.90.138 Dwelling, two-family.

21.90.140 Dwelling unit.

21.90.14216 Duplex.

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21.90.14418 Easement.

21.90.14620 Easement, access.

21.90.148 Eating and drinking establishment.

21.90.150 Educational institutions and facilities

21.90.15224 Effective date.

21.90.154 Electric scooters and motorcycles.

21.90.156 Electric vehicle (EV).

21.90.158 Electric vehicle charging station.

21.90.160 Electric vehicle charging station – Restricted.

21.90.162 Electric vehicle charging station – Public.

21.90.164 Electric vehicle infrastructure.

21.90.166 Electric vehicle parking space.

21.90.168 Early notice

21.90.170 Eave line

21.90.172 Erect

21.90.174 Family.

21.90.176 Family day care home.

21.90.178 Family entertainment enterprise.

21.90.180 Festival sponsoring group

21.90.1282 Final decision.

21.90.18429 Flag lot.

Flood Or Flooding:

Flood Insurance Rate Map (FIRM):

Flood Insurance Study (FIS):

21.90.18630 Floodplain.

21.90.18831 Floodway.

21.90.19032 Floor area.

21.90.192 Food booth

21.90.19436 Foster home.

21.90.196 Funeral home.

21.90.198 Gasoline service station.

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21.90.200140 Garage, parking or commercial.

21.90.202144 Garage, private.

21.90.204148 Greenbelt.

21.90.206150 Gross area.

21.90.208152 Hazardous waste.

21.90.210 Hazardous waste.

21.90.212156 Hazardous waste storage.

21.90.214160 Hazardous waste treatment.

21.90.216164 Hazardous waste treatment and storage facility, on-site.

21.90.218 Handling or processing of hazardous substances.

21.90.220168 Hedge.

21.90.222172 Home occupation, group A.

21.90.224 Home occupation.

21.90.226176 Home occupation, group B.

21.90.228 Hospital.

21.90.230 Hotel.

21.90.232 Indoor sports arenas, auditoriums, and exhibition halls.

21.90.234177 Industry, light.

21.90.236178 Infill development.

21.90.238180 Irregular lot.

21.90.240184 Kennel.

21.90.242 Laundry/dry cleaning.

21.90.244 Law

21.90.246 Loading space, off-street.

21.90.248 Local commercial food establishment

21.90.250 Local nonprofit group

21.90.252 Local commercial food establishment

21.90.254 Local nonprofit group

21.90.256186 Lot.

21.90.258 Lot.

21.90.260 Lot, corner.

21.90.262187 Lot coverage.

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21.90.264 Lot depth.

21.90.266 Lot, interior.

21.90.268188 Lot line, front.

21.90.270192 Lot line, rear.

21.90.272196 Lot line, side.

21.90.274 Lot of record.

21.90.27600 Lot of record.

21.90.278 Lot, through.

21.90.280 Lot width.

Lowest Floor:

21.90.28201 Maintenance.

21.90.284 Maintained

21.90.28202 Manufactured/mobile homes.

21.90.288 Major recreational vehicles.

21.90.290 Manufactured home park.

21.90.300 Medium charging.

21.90.302 Medium-speed electric vehicle.

21.90.304 Mini-day care center.

21.90.306204 Mitigation contribution.

21.90.308 Month

21.90.310 Motel.

21.90.312 Neighborhood electric vehicle.

New Construction:

21.90.314 Non-electric vehicle.

21.90.316 Nonprofit organization

21.90.318208 Nonresident worker.

21.90.320212 Nursing or convalescent home.

21.90.322 Off-site hazardous waste facilities.

21.90.324214 Off-street parking space.

21.90.326 Old World Bavarian Alpine theme

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21.90.328 On-site hazardous waste facilities.

Open record hearing

21.90.330 Ordinance

21.90.332 Ordinary high water mark.

21.90.334215 Owner.

21.90.336216 Office and professional office.

21.90.338217 Parking facility, parking lot.

21.90.340218 Parking structure.

21.90.342220 Party of record.

21.90.344222 Performance bond, surety bond.

21.90.346223 Person.

21.90.348 Person.

21.90.350224 Personal service.

21.90.352 Pet care center.

21.90.354 Pharmacy/drug store.

21.90.356228 Planned action.

21.90.358 Planning commission.

21.90.360232 Planned unit development, planned development district.

21.90.362236 Plat.

21.90.364237 Plat alteration.

21.90.366238 Plat certificate.

21.90.368240 Plat, final.

21.90.370244 Plat, final short.

21.90.372248 Plat, preliminary.

21.90.374252 Plat, preliminary short.

21.90.376258 Plat vacation.

21.90.378 Plug-in hybrid electric vehicle (PHEV).

21.90.380260 Primary or principal use.

21.90.382262 Private driveway easement.

21.90.384264 Private parking.

21.90.386268 Project.

21.90.388 Property.

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21.90.390 Property, personal.

21.90.392 Property, real

21.90.394276 Public facilities and utilities.

21.90.396 Public utility structure.

21.90.398280 Public hearing.

Public meeting

21.90.39284 Public improvement.

21.90.396 Rapid charging station.

21.90.398 Reader board sign

21.90.400285 Recreational facilities.

21.90.402 Recreational vehicle.

Recreational Vehicle, special flood hazard:

21.90.404 Recreational vehicle park.

21.90.406 Recreational vehicle site.

21.90.286 408 Rehabilitation.

21.90.410287 Repair.

21.90.412288 Resource lands.

21.90.414289 Restoration.

21.90.416 Retail food/grocery store.

21.90.418 Retail stores and service establishments.

21.90.420290 Right-of-way.

21.90.422291 Roadway.

21.90.424 Rococo also referred to as Late Baroque

21.90.426292 Screen, screening.

Segregation

21.90.428 SEPA rules.

21.90.430 Sexually oriented materials

21.90.300 Setback.

21.90.434 Yard / Setback.

21.90.446 Yard, front.

21.90.448 Yard, rear.

21.90.450 Yard, side.

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21.90.452 Yard, special.

21.90.304 Setback area.

21.90.456308 Yard / Setback line.

21.90.458 Sidewalk

21.90.460 Sign

21.90.462 Sign area

21.90.464312 Single-family dwelling.

Site development permit.

21.90.466316 Site plan.

21.90.468 Shall and may.

21.90.470 Slow charging.

21.90.472 Specified anatomical areas

21.90.474 Specified sexual activities

Start Of Construction:

21.90.476320 Stock in trade (merchandise).

21.90.478324 Street.

21.90.480328 Street, developed.

21.90.482 Street line.

21.90.484332 Street, undeveloped or substandard.

21.90.486 Structure.

Structure, special flood hazard:

21.90.488336 Subdivision code.

21.90.490340 Subdivision, major.

21.90.492344 Subdivision, short.

Substantial Damage:

Substantial Improvement:

21.90.494 Temporary food service establishment.

21.90.496 Tenant and occupant

21.90.498346 Terrain classification.

21.90.500 Theater.

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21.90.502348 Townhouse.

21.90.504 Transient accommodation.

21.90.506 Travel trailer.

21.90.508 Upholstery shop.

21.90.510 Used or occupied.

21.90.512352 Vehicle.

21.90.514356 Walkway.

Water or sewer improvements

Water and sewer latecomer reimbursement agreements

21.90.516360 Watercourse.

21.90.518364 Wetland.

21.90.520368 Zone, zoning district.

21.90.522372 Zoning code.

21.90.0101 Purpose.

The following definitions are in addition to definitions found elsewhere in this code. Where conflicts or inconsistencies arise between definitions in this title and those in others, the definitions in this title shall supersede those in other titles. [Ord. 1223 § 2, 2004.]

21.90.0202 Generally.

Except where specifically defined in this chapter, all words used in this code shall carry their customary meanings. Words used in the present tense include the future; the plural includes the singular; the word “shall” is always mandatory; the word “may” denotes a use of discretion in making a decision; the words “used” or “occupied” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied”; “written” includes printed, typewritten, mimeographed or multigraphed, “oath” shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed,” title of Office - use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the city of Leavenworth , "preceding” and “following” mean next before and next after, respectively. and the words “he” and “she” shall each be considered to mean “he” or “she.” The definition of any word or phrase not listed in these definitions, which is in question when administering this code, shall be defined from one of the following sources. Said sources shall be utilized by seeking the desired definition from source number one, and if it is not available there, then source number two may be used and so on. The sources are as follows:

A. Any city of Leavenworth resolution, ordinance, code, regulation, or formally adopted comprehensive plan, shoreline master plan or program, or other formally adopted land use plan;

B. Any statute or regulation of the state of Washington;

C. Legal definitions from Washington common law or a law dictionary; and

D. The common dictionary. [Ord. 1223 § 2, 2004.]

D. 21.90.030 Definitions.

All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

When an act is required by an ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent

The following words and phrases whenever used in the ordinances of the city of Leavenworth, Washington, shall be construed as defined in this section unless from the context a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

"Abandoned sign" means any sign and/or sign structure which represents or displays any reference to a business or use which has been discontinued for one year or for which no valid business license is in effect in the city. "Abandoned sign" shall also mean any sign remaining in place after a sign has not been maintained for a period of 60 or more consecutive days after notification of such by the city.

"Abandonment" means the discontinuation of use for a period of one year.

18.08.010 Accessory use or structure.

"Accessory use or structure" means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.003 Accessory or secondary use or structure.

"Accessory or secondary use or structure" means a use or structure on the same lot with and incidental or subordinate to the primary use or structure, and which may exist only when a primary use is existing on the same lot. The floor area of a secondary use must be less than that devoted to the primary use. [Ord. 1223 § 2, 2004.]

21.90.004 Administrator, city administrator.

"Administrator" or "city administrator" means the city administrator of the city of Leavenworth or his or her designee. [Ord. 1223 § 2, 2004.]

21.90.044 City administrator.

~~"City administrator" means the city administrator of the city of Leavenworth or his or her designee. [Ord. 1223 § 2, 2004.]~~

~~21.90.008 Adult business.~~

"Adult business" means any business which sells, rents, displays, or provides adult stock in trade depicting, describing or relating to specified sexual activities or specified anatomical areas, or engages in or permits specified sexual activities on the premises, and which excludes any person by virtue of age from all or part of the premises. ~~[Ord. 1223 § 2, 2004.]~~

"Adult arcade" means a commercial establishment containing individual viewing areas or booths where, for any form of ~~consideration~~tr including a membership fee, one or more still or motion picture projectors, slide projectors, or other similar image producing machines are used to show films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

"Adult cabaret" means a nightclub, bar, restaurant, tavern, or other similar commercial establishment, whether or not alcoholic beverages are served, that regularly features adult entertainment.

"Adult entertainment" means:

1. Any exhibition, performance, or dance conducted in an adult entertainment facility where such exhibition, performance, or dance is distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or

~~1.~~2. Any exhibition, performance, or dance intended to sexually stimulate any member of the public and conducted in an adult entertainment facility where such exhibition, performance, or dance is performed for, arranged with, or engaged in with fewer than all patrons in the adult entertainment facility at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition, or dance. For purposes of example and not limitation, such exhibitions, performances, or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing, or straddle dancing.

"Adult entertainment facility" means a commercial establishment defined herein as an adult arcade, adult cabaret, adult motel, adult motion picture theater or adult retail store.

"Adult motel" means a hotel, motel, or similar commercial establishment which:

1. Offers sleeping accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas and that has a sign visible from the public right-of-way that advertises the availability of this type of sexually oriented materials; or

2. Offers a sleeping room for rent for a rental fee period of time that is less than 10 hours; or

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1.3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

"Adult motion picture theater" means an enclosed commercial establishment where, for any form of consideration, motion pictures, films, video cassettes, slides, or other similar visual representations are regularly shown that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

"Adult retail store" means a commercial establishment such as a bookstore, video store, or novelty shop which as its principal business purpose offers for sale or rent, for any form of consideration, any one or more of the following:

1. Books, magazines, periodicals, or other printed materials or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or
2. Instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

1.3. For the purpose of this definition, the term "principal business purpose" shall mean the business purpose that constitutes 25 percent or more of the stock in trade of a particular business establishment. The stock in trade of a particular business establishment shall be determined by examining either: (a) the retail dollar value of all sexually oriented materials compared to the retail dollar value of all nonsexually oriented materials readily available for purchase, rental, view, or use by patrons of the establishment, excluding inventory located in any portion of the premises not regularly open to patrons; or (b) the total volume of shelf space and display area reserved for sexually oriented materials compared to the total volume of shelf space and display area reserved for nonsexually oriented materials.

~~21.90.012 Adult family home.~~

"Adult family home" means a residence licensed by the state of Washington where personal care, special care, room, and board are provided for more than one but not more than six adults who are not related by blood or a marriage to the person or persons providing the services, per Chapter 70.128 RCW. ~~[Ord. 1223 § 2, 2004.]~~

~~21.90.014 Alley.~~

"Alley" means a public thoroughfare or right-of-way used primarily for utility installation, service or delivery access, or for a secondary means of vehicular access for abutting properties that are adjacent to a street. ~~[Ord. 1223 § 2, 2004.]~~

~~21.90.016 Alteration.~~

"Alteration" means a change, addition, or modification in construction or occupancy, except as otherwise provided for elsewhere in this code. ~~[Ord. 1223 § 2, 2004.]~~

~~21.90.020 Antenna.~~

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"Antenna" means a wire or system of wires, rods, poles, or similar devices; or satellite dishes used for the transmission or reception of electromagnetic waves, external to or attached to the exterior of any building. [Ord. 1223 § 2, 2004.]

21.90.024 Applicant.

"Applicant" means the owner or owners of record of the property subject to an application for development approval from the city, or authorized representative of such owner or owners, except in the case of a legislative matter. [Ord. 1223 § 2, 2004.]

"Application" means a request for any land use permit required from the city for proposed development or action, including without limitation building permits, conditional uses, binding site plans, planned developments, subdivisions, variances, site plan reviews, permits or approvals required by critical area ordinances, and site-specific rezones.

"Balloon" means a flexible bag designed to be inflated with hot air or with a gas, and a bag shaped like a figure or object when inflated.

18.08.011 Banks, savings and loan and other financial institutions.

"Banks, savings and loan and other financial institutions" means offices and service facilities for banks, savings and loans, credit unions or other financial institutions, including drive-through windows. [Ord. 1421 § 1 (Att. A), 2012.]

18.08.012 Bakery.

"Bakery" means a facility preparing baked goods for retail sales and offering baked goods including pies, doughnuts, cakes and breads for sale to the public. [Ord. 1421 § 1 (Att. A), 2012.]

18.08.013 Barber/beauty shop.

"Barber/beauty shop" means a facility offering haircuts, manicures and similar personal services. [Ord. 1421 § 1 (Att. A), 2012.]

"Baroque" means a period as well as a style of art or design that used exaggerated motion and clear, easily interpreted detail to produce drama, tension, exuberance, and grandeur in sculpture, painting, literature, dance, and music. The style started around 1600 in Rome, Italy, and spread to most of Europe. For purposes of this title the term "Baroque" describes art, graphics, or design that represents this style which was characterized between 1575 to 1770 in Bavaria.

21.90.025 Base flood.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year; also known as the "100-year flood." [Ord. 1223 § 2, 2004.]

"Basement": means any area of the building having its floor sub-grade (below ground level) on all sides.

18.08.014 Battery charging station.

"Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent

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with rules adopted under RCW 19.27.540. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011. Formerly 18.08.21.90.012.]

18.08.015 Battery electric vehicle (BEV).

"Battery electric vehicle (BEV)" means any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011. Formerly 18.08.013.]

18.08.016 Battery exchange station.

"Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.27 RCW and consistent with rules adopted under RCW 19.27.540. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011. Formerly 18.08.21.90.014.]

"Bavarian Alpine" means that area of land in present day Germany which extends from the Bavarian forest along the Czech Republic border to Garmisch-Partenkirchen on the Austrian border, including the cities of Regensberg and Munich, then extending east along the Austrian border to Berchtesgaden and Passau, but not including the towns on the Tauber River, such as Nuremberg or Rothenberg.

"Bavarian folk art," also "bauernmalerei" which translates as "peasant painting" (literally "farmer painting") in German. Bauernmalerei was known throughout central Europe starting in the early 1500s where it took various forms from simple, naive-like decoration to more elaborate painting incorporating Renaissance, Baroque, and Rococo design. Bavarian folk art is a style of art or design which evolved following the end of the feudal system of land ownership and incorporates traditional design elements and colors characterized by stroke work using a round brush to paint natural elements (such as lilies, tulips, roses, daisies, cornflowers, fruit, leaves, and snail shells), mimic hard surfaces (such as wood, stone, and marble), and decorative elements (ornamentation such as scrolling). For purposes of this title, the term "Bavarian folk art" describes a style of art, graphics, or design that represents this style which was characterized during the 1500s to 1700s in Bavaria.

18.08.020 Bed and breakfast.

"Bed and breakfast" means an activity whereby the resident(s) host visitors in their homes, up to three rooms for compensation, for periods of 30 consecutive days or less, while at least one of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the visitors' stay. means a pre-existing single-family residential unit, church, or other similar structure, which provides transient lodging and breakfast for compensation, by renting of up to three rooms within the primary residence. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 1268 (Exh. D), 2005; Ord. 852 § 2, 1989; Ord. 754 § 1, 1984.]

"Benefit or reimbursement area" means that area which includes parcels of real estate adjacent to or likely to require a connection to improvements made by a developer who has applied to the city for a latecomer reimbursement agreement pursuant to this chapter.

21.90.026 Binding site plan.

"Binding site plan" means an alternate method of land division under the following circumstances: (A) the division of land into two or more lots, parcels, or tracts located in a commercial or industrial zoning district; (B) the division of land for lease when no other structure other than mobile homes or recreational vehicles are to be placed on the land; and (C) the division of land into lots or tracts when performed in accordance with Chapters 64.32 and 64.34 RCW, and RCW 58.17.040(7), and complying with the provisions contained in Chapter 17.10 LMC. [Ord. 1223 § 2, 2004.]

21.90.028 Block.

"Block" means a group of lots, tracts or parcels within well defined and fixed boundaries, conforming to the standards outlined in LMC 17.14.030. [Ord. 1223 § 2, 2004.]

18.08.030 Board.

"Board" means the former Leavenworth city Bboard of Aadjustment. The functions of the Board of Adjustment have been transferred to the Leavenworth Hearing Examiner. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

18.08.040 Boardinghouse, lodginghouse or roominghouse.

"Boardinghouse," "lodginghouse" or "roominghouse" means a building where lodging, with or without meals, is provided by members occupying such building. This term shall not be construed to include buildings which fit the definition of the term "motel." [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.032 Boundary line adjustment.

"Boundary line adjustment" means a division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site, and complies with the provisions contained in Chapter 17.04 LMC. [Ord. 1223 § 2, 2004.]

21.90.034 Building.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy. [Ord. 1223 § 2, 2004.]

18.08.050 Buildable area.

"Buildable area" means the portion of a lot remaining after required yards have been provided. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.035 Building envelope.

"Building envelope" means the buildable area of a lot after applicable yards / setbacks, easements, and other restrictions on the lot are taken into account. [Ord. 1223 § 2, 2004.]

"Building face" means the outer surface of any building which is visible from any private or public street, highway or alley. For the purposes of building wall calculations, where multiple walls differ in outer edge plane, the secondary planes, corners, and/or angles shall be

incorporated into the primary building elevation, and shall not be calculated independently, or as a secondary building elevation.

18.08.060 Building height.

"Building height" means the vertical distance measured from the average elevation of the actual or proposed finish grade around the building to the highest point of a flat roof and the mean height between eaves and ridge of a pitched roof. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

18.08.063 Bus and/or taxi stop.

"Bus and/or taxi stop" means a bus and/or taxi transfer area or facility providing passenger access to routes and adjacent activities. [Ord. 1421 § 1 (Att. A), 2012.]

18.08.064 Business, technical or trade school.

"Business, technical or trade school" means a facility which offers post-secondary professional and training education. [Ord. 1421 § 1 (Att. A), 2012.]

21.90.036 Business visit.

"Business visit" means an individual trip made for the purpose of conducting business or receiving instruction, or for performing services, or for delivering goods or stock in trade.

[Ord. 1223 § 2, 2004.]

18.08.065 Car wash.

"Car wash" means facilities for the washing of passenger cars and light trucks as either a principal use or accessory to fueling stations, convenience stores or similar permitted uses.

"Carport" means an accessory building or portion of a main building used as a covered shelter for an automobile and open on two or more sides [Ord. 1421 § 1 (Att. A), 2012.]

21.90.038 Character.

"Character" means the aggregate of visible Old World Bavarian Alpine theme architectural features and traits that together form the individual nature of the Old World Bavarian Alpine theme. [Ord. 1487 § 1 (Att. A), 2014.]

18.08.066 Charging levels.

"Charging levels" means the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms 1, 2, and 3 are the most common EV charging levels, and include the following specifications:

A. Level 1 is considered slow charging.

B. Level 2 is considered medium charging.

C. Level 3 is considered fast or rapid charging. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011. Formerly 18.08.21.90.065.]

21.90.040 City.

"City" means the city of Leavenworth. [Ord. 1223 § 2, 2004.]

"City" means the city of Leavenworth, Washington, or the area within the territorial limits of the city of Leavenworth, Washington, and such territory outside of the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

-"Closed record appeal" means an appeal on the record with no new evidence or information allowed to be submitted and only appeal argument allowed.

"Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is a Sunday or a legal holiday, that day shall be excluded

~~18.08.070 City council.~~

"City council or Council" means the city council of the city of Leavenworth, Washington. "All its members" or "all councilmen" mean the total number of councilmen provided by the general laws of the state of Washington~~the Leavenworth city council~~. ~~[Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]~~

~~21.90.048 City council.~~

~~"City council" means the city council of the city of Leavenworth. [Ord. 1223 § 2, 2004.]~~

"City engineer" means the city of Leavenworth engineer or his/her designated representative.

"Cost of construction" means those costs (excluding interest charges or other financing costs) incurred for design, acquisition for right-of-way and/or easements, construction, labor, materials and installation required in order to create an improvement which complies with city standards, as determined by the city's engineer or authorized agent.

~~"Council" means the city council of the city of Leavenworth, Washington. "All its members" or "all councilmen" mean the total number of councilmen provided by the general laws of the state of Washington.~~

"Classical" means a stylistic period of the art of ancient Greece. The onset of the Persian Wars (480 BC to 448 BC) is taken as the beginning of the Classical period, and the reign of Alexander the Great (336 BC to 323 BC) is taken as the end of the period. For purposes of this title, the term "Classical" describes a style of art, graphics, or design that represents the style used during this time period.

~~18.08.080 Clinic.~~

"Clinic" means a building designed and used for the medical, dental and surgical diagnosis and treatment of outpatients under the care of doctors and nurses, having a central reception room for one or more doctors with one or more associated licensed personnel, and operating under a general management. ~~[Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 1039 § 1, 1996; Ord. 754 § 1, 1984.]~~

"Commercial" means any activity carried on for a financial gain or a business endeavor.

~~Commercial amusement enterprise~~

"Commercial Amusement Enterprise" means a location where recreation activities take place. These activities can include but are not limited to stadium, arena, outdoor theater (amphitheaters or outdoor music events, theme parks, equestrian facilities, rodeos, circuses, skateboard parks,

race tracks, go karts, ATV or motorcycle tracks, and sports stadiums or arenas), bowling alley, dance hall, skating rink, archery club, gun club, private tennis club, private swimming club, or similar athletic club, batting cages, BMX courses, paintball and golf driving ranges. If these activities are an appurtenant use to another commercial use and will occupy less than 25 percent of the floor area of a business, they will not be considered a commercial amusement enterprise and will not require a conditional use permit.

21.90.052 Closed record appeal.

"Closed record appeal" means an appeal based on the existing record with no or limited new evidence or information allowed to be submitted and with only appeal argument allowed. [Ord. 1223 § 2, 2004.]

21.90.054 Cluster subdivision.

"Cluster subdivision" means a subdivision technique that allows lot sizes to be reduced and buildings sited closer together; provided, that the total densities at the project level do not violate the density limits identified in the comprehensive plan and the applicable zoning district, for the protection of critical areas, to allow for the retention of open space, and to avoid areas with development limitations. [Ord. 1223 § 2, 2004.]

-"Community service event" or "civic event" means an event (e.g., festival, parking, fun run and/or meeting) sponsored by or for the benefit of a nonprofit organization.

21.90.056 Comprehensive plan.

"Comprehensive plan" means the City of Leavenworth Comprehensive Plan, adopted in 1996, and any subsequent amendments thereto. [Ord. 1223 § 2, 2004.]

21.90.060 Comprehensive plan amendment.

"Comprehensive plan amendment" means an amendment or change to the text or maps of the comprehensive plan.

"Communality Development Director or Director" means the director of community development or his or her designee, unless the title or chapter contained in this code refers to the director of another department.

[Ord. 1223 § 2, 2004.]

21.90.064 Conditional use.

"Conditional use" means a use allowed in one or more zones as defined by the zoning code, but which because of characteristics peculiar to such use, the size, technological processes or equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a special permit in order to provide a particular degree of control to make such uses consistent and compatible with other existing or permissible uses in the same zone and mitigate adverse impacts of the use. [Ord. 1223 § 2, 2004.]

21.90.066 Condominium.

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"Condominium" means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in unit owners, and unless a declaration and a survey map and plans have been recorded in accordance with Chapters 64.32 or 64.34 RCW. Condominiums are not confined to residential units, such as apartments, but also include offices and other types of space in commercial buildings. [Ord. 1223 § 2, 2004.]

21.90.068 Congregate care facility, retirement center.

"Congregate care facility" or "retirement center" means a residential facility designed for and occupied by at least one person per unit who is able to live independently and without 24-hour supervision; and providing centralized services for the residents including meals, recreation, housekeeping, laundry and transportation. [Ord. 1223 § 2, 2004.]

18.08.085 Copy and/or printing establishment.

"Copy and/or printing establishment" means a retail print service, including blueprinting, photostat copies, copier and other business support services. [Ord. 1421 § 1 (Att. A), 2012.]

"County" means the county of Chelan, Washington.

21.90.076 Critical areas.

"Critical areas" means areas of environmentally sensitive areas, including the following areas and ecosystems: (1) wetlands; (2) areas with a critical recharging effect on aquifers used for potable water; (3) fish and wildlife habitat conservation areas; (4) frequently flooded areas; and (5) geologically hazardous areas. [Ord. 1223 § 2, 2004.]

"Critical Facility, special flood hazard":

means a facility for which even a slight chance of flooding might be too great.– Critical facilities include– (but– are– not– limited– to)– schools,– nursing homes,– hospitals,– police,– fire– and emergency– response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

21.90.080 Cul-de-sac.

"Cul-de-sac" means a short dead-end street having one end intersecting another street and the other end terminating in a vehicular turnaround space. [Ord. 1223 § 2, 2004.]

21.90.084 Date of decision.

"Date of decision" means the date on which final action occurs and from which the appeal period is calculated. [Ord. 1223 § 2, 2004.]

18.08.090 Day care center.

A "Dday care center" means a center for the care of 13 or more children during part of the 24-hour day. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.088 Dedication.

"Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the owner no other rights than those which are compatible with the full exercise and enjoyment of the public use to which the property has been devoted. [Ord. 1223 § 2, 2004.]

21.90.092 Density.

"Density" means the number of permitted dwelling units allowed on each acre of land or fraction thereof. [Ord. 1223 § 2, 2004.]

"Department" means any division, subdivision or organizational unit of the city established by ordinance, rule or order.

"Design review board" means the board created by Ordinance 983 (Chapter 2.38 LMC), as amended.

21.90.094 Deterioration.

"Deterioration" means the falling from a higher to a lower level in quality and/or character. Building deterioration is typically caused by failure to clean and carry out routine maintenance; inadequate inspecting; and natural aging of the structural elements. [Ord. 1487 § 1 (Att. A), 2014.]

21.90.096 Developer.

"Developer" means any person who proposes an action or seeks a permit regulated by LMC Titles 14, 15, 16, 17 or 18, inclusive. [Ord. 1223 § 2, 2004.]

"Developer" means an individual, firm, corporation, limited liability company or partnership who proposes to improve real property within the city, or its urban growth area ("UGA"), proposes an action. or seeks a permit regulated by LMC Titles 14, 15, 16, 17 or 18, inclusive.

21.90.100 Development.

"Development" means any land use permit or action regulated by this code, including but not limited to subdivisions, planned developments, rezones, building permits, design review permits, shoreline permits, conditional use permits, or variances. [Ord. 1223 § 2, 2004.]

21.90.104 Development code.

"Development code" means the applicable titles of this code, including, but not limited to, zoning ordinances, critical areas ordinances, subdivision ordinances, shoreline master programs, and official controls, together with any amendments thereto. [Ord. 1223 § 2, 2004.]

"Development, special flood hazard":

means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

"Direct connection" means a service connection, to be owned and maintained by the property owner and not the city, from existing or new utility improvements based on the following criteria:

1. Water system direct connections are single and dual water service taps;

2. Sewer system direct connections include side sewer (service) connections.

"Direct illumination" means illumination resulting from light emitted directly from a lamp or luminaire, not light diffused through translucent signs or reflected from other surfaces such as the ground or building faces.

21.90.108 Director.

"Director" means the director of community development or his or her designee, unless the title or chapter contained in this code refers to the director of another department. [Ord. 1223 § 2, 2004.]

18.08.100 Drive-in restaurant or refreshment stand.

"Drive-in restaurant" or "refreshment stand" means any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.112 Driving surface.

"Driving surface" means that portion of a street intended for vehicular travel or parking. [Ord. 1223 § 2, 2004.]

21.90.116 Duplex.

"Duplex" means a single building containing two dwelling units, totally separated from each other by an unpierced wall. [Ord. 1223 § 2, 2004.]

18.08.21.90.120 Dwelling, multifamily.

"Dwelling, multifamily" or "multifamily dwelling" means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided for owner occupancy, rent, or lease on a monthly or longer basis.Dwelling, multifamilyMultifamily dwelling" means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided for owner occupancy, rent, or lease on a monthly or longer basis. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1985.]

18.08.21.90.130 Dwelling / Residence, single-family.

"Dwelling, single-family" or "single family dwelling" means a detached residential dwelling unit, which is site-built, manufactured, modular, or other type of similar construction not including recreation vehicles, travel trailers, or similar structures, designed for and occupied on a monthly or longer basis by one family."Dwelling, single-family Single-family dwelling / residence" means a detached residential dwelling unit, which is site-built, manufactured, modular, or other type of similar construction not including recreation vehicles, travel trailers, or similar structures, designed for and occupied on a monthly or longer basis by one family only. Dwelling, single-family also means single family residence.[Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 1268 (Exh. B), 2005; Ord. 1128 § 1, 2000; Ord. 754 § 1, 1984.]

21.90.312 Single-family dwelling.

"Single-family dwelling" means a detached residential dwelling unit, which is site-built, manufactured, modular, or other type of similar construction not including recreation vehicles, travel trailers, or similar structures, designed for and occupied by one family only. [Ord. 1268 (Exhs. B and D), 2005; Ord. 1223 § 2, 2004.]

18.08.140 Dwelling, two-family.

"Dwelling/Duplex, two-family" or "two family dwelling/duplex" means a detached residential building containing two dwelling units, designed for occupancy on a monthly or longer basis by not more than two families. Each unit shall be designed for and occupied on a monthly or longer basis."Dwelling, two-family Two-family dwelling" means a detached residential building containing two dwelling units, designed for occupancy on a monthly or longer basis by not more than two families. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

18.08.150 Dwelling unit.

"Dwelling unit" means one or more rooms designed, occupied or intended for occupancy as separate living quarters. A dwelling unit includes a single-family dwelling, a unit in a two family dwelling/duplex, an apartment or other leased premises leased on a monthly or longer basis, or residential condominium unit. A dwelling unit shall include a detached Accessory Dwelling Unit that is intended for human habitation (i.e. living quarters). Dwelling unit does not include individual hotel/motel guest rooms, condominium timeshare units, cabins, transient accommodations or similar guest accommodations rented to transient guests in a motel, hotel, inn, or similar transient lodging establishment"Dwelling unit" means one or more rooms designed, occupied or intended for occupancy as separate living quarters. A dwelling unit includes a single-family residence, an apartment or other leased premises, or residential condominium unit. A dwelling unit shall include a detached Accessory Dwelling Unit that is intended for human habitation (i.e. living quarters). Dwelling unit does not include individual hotel/motel guest rooms, condominium timeshare units, cabins, or similar guest accommodations rented to transient guests in a motel, hotel, inn, or similar transient lodging establishment. means one or more habitable rooms for one family with facilities for living, sleeping, cooking, and/or eating. means one room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rent, or lease, to one individual family on a monthly or longer basis, and which is physically separated from any other rooms or dwelling units which may be in the same structure and which contains independent cooking and sleeping facilities. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 852 § 3, 1989; Ord. 754 § 1, 1984.]

21.90.118 Easement.

"Easement" means a recorded grant or permission given by a property owner to another person, public utility, company, or municipality for a specific use of a portion of his/her property. [Ord. 1223 § 2, 2004.]

21.90.120 Easement, access.

"Easement, accessAccess easement" means a private right-of-way which provides vehicular access to a street from no more than three existing or potential lots. [Ord. 1223 § 2, 2004.]

18.08.151 Eating and drinking establishment.

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"Eating and drinking establishment" means an establishment designed and constructed to serve food and beverages for consumption on the premises, in an automobile or for carry-out for off-premises consumption and which establishment may or may not have on-premises dining room or counter. Such establishment may include, but is not limited to: restaurant, coffee shop, cafeteria, short- order cafe, tavern, bar, lounge, sandwich stand, soda fountain, catering and all other eating or drinking establishments, as well as kitchens or other places in which food or drink is prepared for sale. Mobile lunch cart or other temporary mobile food vendors are excluded from this definition. [Ord. 1421 § 1 (Att. A), 2012.]

"Educational institutions and facilities" means uses that provide state mandated basic education, public and private institutions of learning offering instruction from kindergarten to grade 12 required by the Education Code of the state of Washington; certified by the Washington State Board of Education; and/or under the authority and/or oversight of the Washington State Office of Superintendent of Public Instruction (OSPI). Preschools and pre-kindergarten facilities (day cares) are not educational institutions and facilities for the purposes of this definition.

21.90.124 Effective date.

"Effective date" means the date a final decision or action becomes effective. [Ord. 1223 § 2, 2004.]

18.08.152 Electric scooters and motorcycles.

"Electric scooters and motorcycles" means any two-wheel vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries and produces zero emissions or pollution when stationary or operating. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

18.08.153 Electric vehicle (EV).

"Electric vehicle (EV)" means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes: (A) a battery electric vehicle; (B) a plug-in hybrid electric vehicle; (C) a neighborhood electric vehicle; and (D) a medium-speed electric vehicle. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

18.08.154 Electric vehicle charging station.

"Electric vehicle charging station" means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle. An electric vehicle charging station equipped with level 1 or level 2 charging equipment is permitted outright as an accessory use to any principal use. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

18.08.155 Electric vehicle charging station – Restricted.

"Electric vehicle charging station – restricted" means an electric vehicle charging station that is (A) privately owned and restricted access (e.g., single-family home, executive parking, designated employee parking) or (B) publicly owned and restricted (e.g., fleet parking with no access to the general public). [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

18.08.156 Electric vehicle charging station – Public.

"Electric vehicle charging station – public" means an electric vehicle charging station that is (A) publicly owned and publicly available (e.g., park and ride parking, public library parking lot, on-street parking) or (B) privately owned and publicly available (e.g., shopping center parking, nonreserved parking in multifamily parking lots). [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

18.08.157 Electric vehicle infrastructure.

"Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

18.08.158 Electric vehicle parking space.

"Electric vehicle parking space" means any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

"Early notice" means the city's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance procedures).

"Eave line" means the juncture of the roof and the perimeter wall of the structure.

"Erect" means to build, construct, attach, place, affix, raise, assemble, create, paint, draw or in any other way bring into being or establish.

18.08.160 Family.

"Family" means an individual, or two or more persons related by blood or marriage, or a group of not more than five persons who are not all related by blood or marriage, living together in a dwelling unit. means one or more persons occupying a single dwelling unit; provided, that unless all members are related by blood or marriage, no such family shall contain over five persons; but further provided, that domestic servants employed on the premises may be housed on the premises without being counted as a family or families. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

18.08.170 Family day care home.

A "Ffamily day care home" means a home which regularly provides care during part of the 24-hour day to six or fewer children. Such number shall be reduced by the number of permittee's own children and foster children under 12 years of age who are on the premises. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

18.08.175 Family entertainment centerenterprise.

"Family entertainment centerenterprise" means an indoor location, on a smaller scale than a commercial amusement enterprise, where family-oriented recreation activities take place. These activities can include but are not limited to video games, indoor miniature golf, billiard tables,

foosball tables, air hockey tables, table tennis, and darts. If these activities are an appurtenant use to another commercial use (i.e., video games in a pizza parlor) and will occupy less than 25 percent of the floor area of a business, they will not be considered a family entertainment center enterprise and will not require a conditional use permit. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 993 § 1, 1995.]

"Festival sponsoring group" shall mean a nonprofit group with its home office located within the Cascade School District, and which seeks to sponsor a festival for the purposes of tourism promotion.

21.90.128 Final decision.

"Final decision" means the final action by the director, hearing examiner or city council. [Ord. 1223 § 2, 2004.]

"Flag" means a fabric or other flexible material attached to or designed to be flown from a flagpole or similar device.

"Flag, business" means a flag or representation of a flag displaying the letters, figures, design, symbol, trademark or device, including artificial representation of stock-in-trade, name, insignia, emblem, logo, product, service, or other graphic representation of a business.

"Flag, government" means an official flag displaying the name, insignia, emblem, or logo of any nation, state, municipality, or similar type of organization.

"Flagpole" means a free-standing structure or a structure attached to a building/structure or to the roof of a building/structure and used for the purpose of displaying flags.

21.90.129 Flag lot.

"Flag lot" means a lot not meeting minimum frontage requirements and where access to the developed street is by a narrow private right-of-way or driveway. [Ord. 1223 § 2, 2004.]

"Flood" or "Flooding:

" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1) – The overflow of inland or tidal waters and/or

2)– – The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM):

" means- the– official– map– on– which– the– Federal– Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study (FIS):

" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Maps, and the water surface elevation of the base flood.

21.90.130 Floodplain.

"Floodplain" means any land area susceptible to being inundated by water during a flood. In connection with the National Flood Insurance Program, the term usually refers to the 100-year

floodplain. The term is identical to "flood hazard area." The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map, for the city of Leavenworth, as amended, shall determine the extent of the floodplain. "Area– Of Special Flood Hazard" is further defined as– the– land– in– the– flood– plain– within– a community– subject– to– a– one– percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V. [Ord. 1223 § 2, 2004.]

21.90.131 Floodway.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map, for the city of Leavenworth, as amended, shall determine the extent of the floodway. [Ord. 1223 § 2, 2004.]

21.90.132 Floor area.

"Floor area" means the sum of the gross horizontal area of the floor or floors of all the buildings on a building site, measured from the exterior faces of the exterior walls, including elevator shafts and stairwells on each floor and all areas having a ceiling height of seven feet or more; but excluding all parking and loading spaces inside the building, unroofed areas, roofed areas open on two or more sides, areas having a ceiling height of less than seven feet, and basements used exclusively for storage or housing of fixed mechanical equipment or central heating or cooling equipment. [Ord. 1223 § 2, 2004.]

"Food booth" shall mean a temporary structure set up in the public right-of-way, which is used to house a group, either nonprofit or commercial, for the purpose of serving food to the public during a festival.

21.90.136 Foster home.

"Foster home" means a home licensed and regulated by the state and classified by the state as a foster home, providing care and guidance for not more than three unrelated juveniles.

"Fully shielded fixture" means a light fixture or luminous tube constructed and mounted such that all light emitted by the fixture or tube, either directly from the lamp, tube, or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal. A practical working way to determine if a fixture or tube is fully shielded: if the lamp or tube, any reflective surface, or lens cover (clear or prismatic) is visible when viewed from above or directly from the side, or from any angle around the fixture or tube, the fixture or tube is not fully shielded. [Ord. 1223 § 2, 2004.]

18.08.177 Funeral home.

"Funeral home" means a facility licensed by the state engaged in preparing human remains for burial. Services may include, but are not limited to, embalming, transport, memorial services, and the sale of caskets. [Ord. 1421 § 1 (Att. A), 2012.]

21.90.140 Garage, parking or commercial.

"Garage, parking or commercial Parking or commercial garage" means a building used for storage, repair or servicing of motor vehicles as a commercial use. [Ord. 1223 § 2, 2004.]

21.90.144 Garage, private.

"Garage, private Private garage" means an accessory building or a space within the principal building used for the storage or parking of vehicles. [Ord. 1223 § 2, 2004.]

18.08.21.90.180 Gasoline service station.

"Gasoline service station" means buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail and not to include a repair garage or body shop.

"Glare" occurs when a bright light source causes the eye to continually be drawn toward the bright image or brightness of the source prevents the viewer from adequately viewing the intended target. Glare may create a loss of contrast or an afterimage on the retina of the eye reducing overall visibility. Two classifications of glare are discomfort glare and disability glare.

1. "Discomfort glare" does not necessarily keep the viewer from seeing an object, but does cause a constant adaptation of the eye to the contrast of light levels that in turn may cause a sensation of discomfort.

1.2. "Disability glare" occurs when the bright light source causes stray light to scatter in the eye which causes the primary image on the retina to be obscured. It may prevent the viewer from seeing things of importance. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.148 Greenbelt.

"Greenbelt" means an area of vegetation, either native stock or replanted, in public or private ownership. [Ord. 1223 § 2, 2004.]

21.90.150 Gross area.

"Gross area" means, for the purpose of calculating density for Chapter 17.16 LMC, Cluster Subdivision, the total area of the project site; provided, that sloped areas in excess of 40 percent slope and designated critical areas, as identified in Chapter 16.08 LMC, are credited at 50 percent of their area.

"Guest or visitor" means a person who rents a home-share rentalunit within a bed and breakfast, motel, hotel, or lodging room.

[Ord. 1223 § 2, 2004.]

18.08.183 Handling or processing of hazardous substances.

"Handling or processing of hazardous substances" means the use, dispensing, wholesaling, retailing, compounding, manufacture, storage, treatment or synthesis of hazardous substances in quantities greater than five gallons in volume per individual container. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 839 § 1, 1989.]

18.08.185 Hazardous waste.

"Hazardous waste" means all dangerous and extremely dangerous wastes as defined by WAC 173-303-070 through 173-303-100. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 839 § 1, 1989.]

21.90.152 Hazardous waste.

"Hazardous waste" means all dangerous and extremely hazardous waste as defined in RCW 70.105.010(15), or its successor, except for moderate risk waste as set forth in RCW 70.105.010(17), or its successor. [Ord. 1223 § 2, 2004.]

21.90.156 Hazardous waste storage.

"Hazardous waste storage" means the holding of hazardous waste for a temporary period, as regulated by the State Dangerous Waste Regulations, Chapter 173-303 WAC, or its successor. [Ord. 1223 § 2, 2004.]

21.90.160 Hazardous waste treatment.

"Hazardous waste treatment" means the physical, chemical, or biological processing of hazardous waste for the purpose of rendering these wastes nondangerous or less dangerous, safer for transport, amenable for storage, or reduced in volume, as regulated by the State Dangerous Waste Regulations, Chapter 173-303 WAC, or its successor. [Ord. 1223 § 2, 2004.]

21.90.164 Hazardous waste treatment and storage facility, on-site.

"Hazardous waste treatment and storage facility, on-siteOn-site hazardous waste treatment and storage" means storage and treatment facilities which treat and store hazardous wastes generated on the same property.

"Hazardous waste facilities, off-site" means hazardous waste treatment and storage facilities that treat and store waste from generators on properties other than those on which the off-site facilities are located.

"Hazardous waste facilities, on-site" means hazardous waste treatment and storage facilities that treat and store waste from generators located on the same property or from geographically contiguous property.

[Ord. 1223 § 2, 2004.]

21.90.168 Hedge.

"Hedge" means a fence or boundary formed by a dense row of shrubs or low trees. [Ord. 1223 § 2, 2004.]

"Height" (of a freestanding sign) means the vertical distance measured from the highest point of the sign structure to the grade of the adjacent street or the surface grade at any point beneath the sign, whichever provides the lowest elevation.

18.08.190 Home occupation.

"Home occupation" means a lawful economic enterprise that is conducted or operated within a residential dwelling unit or building accessory to a residential dwelling unit, by the resident occupant or owner, and which use shall be clearly incidental and secondary to the residential use of the dwelling unit. The intent of a home occupation is to establish criteria for operating home

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occupations in dwelling units within residential districts while maintaining the peace, quiet, and residential character of all residential neighborhoods within the city, and alleviating or limiting excessive noise, excessive traffic, nuisance, fire hazard, and other adverse effects of commercial uses being conducted in residential areas. Furthermore, the intent is to direct uses not maintaining the peace, quiet, and residential character of all residential neighborhoods into the commercial or industrial zoning districts where such activities and operations are accepted. [Ord. 1467 § 1 (Att. A), 2014; Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.172 Home occupation, group A.

"Group AH home occupation, Group A" means a home occupation that meets all of the home occupation minimum standards of Chapter 18.20 LMC, as amended, and has no nonresident worker. In addition, limited customers visit the business. Group A home occupation is not visible from outside the home. The business must be conducted in the home by a resident and have no impact on the surrounding neighbors. Examples of Group A home occupation include, but are not limited to: "desk and telephone" occupations, cottage crafts where mail services are used, and a consultant's office with infrequent customer and/or client visits (maximum of two per month). [Ord. 1467 § 1 (Att. A), 2014; Ord. 1223 § 2, 2004.]

21.90.176 Home occupation, group B.

"Group BH home occupation, Group B" means a home occupation that meets all of the home occupation minimum standards of Chapter 18.20 LMC, as amended, and has a maximum of one nonresident worker. In addition, customers visit the business. Group B home occupation allows more flexibility, including the potential of impacting the neighbors; therefore, a full administrative review of applications is required. Examples of Group B home occupation include, but are not limited to: hairdressers, music teachers, and a consultant's office with customer and/or client visits (more frequent than two per month). Transient accommodations and/or lodging are not considered a home occupation and are prohibited within residential zones. [Ord. 1467 § 1 (Att. A), 2014; Ord. 1223 § 2, 2004.]

18.08.200 Hospital.

"Hospital" means an establishment whose primary function is to provide sleeping and eating facilities to persons receiving medical or surgical care with nursing service on a continuous basis.

"Host" means a person engaged in providing a home-sharingbed and breakfast rental.

[Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

18.08.210 Hotel.

"Hotel" means a building or portion thereof designed or used for transient rental of more than five units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the general public or for the operation of the hotel, such as laundry, can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.

[Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § l, 1984.]

18.08.215 Indoor sports arenas, auditoriums, and exhibition halls.

"Indoor sports arenas, auditoriums, and exhibition halls" means a building for indoor (open wall) sports, theater, concert hall, or other public building, in which the audience sits, and/or building for gatherings or entertainment. [Ord. 1421 § 1 (Att. A), 2012.]

21.90.177 Industry, light.

"Light industry" means industrial uses which are consumer-oriented industry. Such products are produced for end users (and storage) rather than as intermediates for use by other industries. Light industry facilities have less environmental impact than those associated with heavy industry, and may be near residential areas. It is the production of small consumer goods. Examples of light industries include the manufacturing of clothes, shoes, furniture, consumer electronics and home appliances. Conversely, ship building would fall under heavy industry. [Ord. 1498 § 1 (Att. A), 2015.]

21.90.178 Infill development.

"Infill development" means development designed to occupy scattered vacant parcels of land which remain after the majority of development has occurred in an area. [Ord. 1223 § 2, 2004.]

21.90.180 Irregular lot.

"Irregular lot" means a lot which is shaped in such a way that application of yard / setback requirements is difficult. Examples include a lot with a shape which is not close to rectangular, or a lot with no readily identifiable rear lot line.

"Installed" means attached, or fixed in place, whether or not connected to a power source [Ord. 1223 § 2, 2004.]

21.90.184 Kennel.

"Kennel" means a structure or lot on which four or more domestic animals at least four months of age are kept and deemed to be a public nuisance. [Ord. 1223 § 2, 2004.]

18.08.216 Laundry/dry cleaning.

"Laundry/dry cleaning" means a facility providing machines for the washing and drying of clothes and personal items. This definition does not include an industrial facility providing laundry, dry cleaning, linen supply, and uniforms on a regional basis. [Ord. 1421 § 1 (Att. A), 2012.]

"Law" denotes applicable federal law, the constitution and statutes of the state of Washington, the ordinances of the city of Leavenworth, and when appropriate, any and all rules and regulations which may be promulgated thereunder.

"Light display" means an outdoor visual exhibition designed to dominate surrounding uses by incorporating items such as intense lighting which focuses attention on location.

"Light industry" means industrial uses which are consumer-oriented industry. Such products are produced for end users (and storage) rather than as intermediates for use by other industries. Light industry facilities have less environmental impact than those associated with heavy industry, and may be near residential areas. It is the production of small consumer goods.

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Examples of light industries include the manufacturing of clothes, shoes, furniture, consumer electronics and home appliances. Conversely, ship building would fall under heavy industry.

"Light trespass" occurs when neighbors of an illuminated space are affected by the lighting system's inability to contain light within the area intended. The most common form of light trespass is spill light which illuminates objects beyond the property boundaries.

"Lives on-site" means being present in the dwelling unit where the in home short-term, vacation or overnightbed and breakfast rental is being offered, which includes but is not limited to sleeping overnight, preparing and eating meals, entertaining, and engaging in other activities in the dwelling unit that are typically enjoyed by a person in their home.

18.08.220 Loading space, off-street.

"Loading space, off-streetOff-street loading space" means space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

"Local commercial food establishment" shall mean a private, for-profit business located within a permanent structure in the city of Leavenworth for a period of at least one year, which is typically operated for the preparation and delivery of food to the general public.

-"Local nonprofit group" shall mean an organization which is recognized by the federal Internal Revenue Service as a not-for-profit organization, and is operated from, or provides services to, residents of, the city of Leavenworth.

"Lodging unit" means an individual room or group of interconnected rooms, intended for sleeping, that are for rent or use by a guest, and is individually designated by number, letter, or other means of identification. A lodging unit may or may not include areas for cooking and eating.

18.08.230 Lot.

"Lot" includes the words "plot" or "parcel." "Lot" means a fractional part of divided lands having fixed boundaries or single parcel or tract of land located within a single block, which at the time of application for a building permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. being of sufficient area and dimension to meet minimum zoning requirements for width and area. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.186 Lot.

"Lot" means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels. [Ord. 1223 § 2, 2004.]

18.08.240 Lot, corner.

"Lot, cornerCorner lot" means a lot abutting on two or more streets, other than an alley, at their intersection. (See Figure 1.) [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.187 Lot coverage.

"Lot coverage" means the total ground coverage of all buildings or structures on a site measured from the outside of external walls or supporting members. Decks, balconies, and at-grade patios do not count toward lot coverage; however, roofed areas including, but not limited to, porches, breezeways, and covered walkways shall count toward lot coverage. [Ord. 1223 § 2, 2004.]

18.08.250 Lot depth.

"Lot depth" means the average horizontal distance between the front lot line and the rear lot line. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

18.08.260 Lot, interior.

"Lot, interiorInterior lot" means a lot other than a corner lot with only one frontage on a street.

"Lot line, Front" means the line separating any lot or parcel of land from a street right-of-way. On a through lot, the line abutting the street providing primary access to the lot or the street address of the lot. On a flag lot, it is the interior lot line most parallel to and nearest the street from which access is obtained.

"Lot line, rear" means a lot line or lines which are opposite and most distant from the front lot line.

"Lot line, side" means any lot line that is not a front or rear lot line.

(See Figure 1.) [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

18.08.270 Lot of record.

"Lot of record" means a lot which is part of a subdivision recorded in the office of the city clerk-treasurer or a lot or parcel prescribed by metes and bounds, the description of which has been recorded. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.200 Lot of record.

"Lot of record" means a lot, parcel, or area of land as shown on an officially recorded plat, subdivision, or short subdivision which has been recorded with the Chelan County auditor and was divided in accordance with all applicable development regulations and laws in force at the time of subdivision; or a lot, parcel, or area of land for which a deed or contract was recorded with the Chelan County auditor prior to July 1, 1974, when the parent parcel was divided into four lots or less, or prior to May 23, 1969, when the parent parcel was divided into five lots or more. [Ord. 1223 § 2, 2004.]

18.08.280 Lot, through.

"Lot, throughThrough lot" means an interior lot having frontage on two parallel or approximately parallel streets other than alleys. (See Figure 1.) [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

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18.08.290 Lot width.

"Lot width" means the horizontal distance between the side lot lines measured at the front building line.

"Low wattage" is lighting which is "muted," diffused and for purposes of this chapter is used primarily for architectural embellishment. This light shall not shine, glare, emit direct illumination, or cast a shadow on the adjacent property. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

"Lowest Floor, special flood hazard:

" means the lowest floor of the lowest enclosed area (including basement).– An unfinished or flood -resistant– enclosure,– usable– solely– for– parking– of– vehicles,– building– access, or storage– in– an– area– other– than– abasement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the LMC (i.e. provided there are adequate flood ventilation openings).

"Lumen" means the unit used to measure the actual amount of visible light that is produced by a lamp.

"Luminaire" means the complete lighting assembly, including the lamp, housing, shields, lenses and associated electronics, less the support assembly. A light fixture.

"Luminous tube (neon tube)" means a glass tube filled with a gas or gas mixture (including neon, argon, mercury or other gasses), usually of small diameter (10 to 15 millimeter), caused to emit light by the passage of an electric current, and commonly bent into various forms for use as decoration or signs. Does not include common fluorescent tubes.

21.90.201 Maintenance.

"Maintenance" means the ordinary maintenance and repair of any architectural feature and/or sign that does not involve removal or a change in design, dimensions, materials or outer appearance of such feature. [Ord. 1487 § 1 (Att. A), 2014.]

"Maintenance" means the cleaning, painting and minor repair of a sign or any support for or attachment of a sign in a manner that does not alter the basic design, size, color or structure of the sign.

"Maintained" means not broken, torn or ripped, securely attached or affixed to the supporting structure, clean in appearance, without chipped, faded or peeling paint, or otherwise in a condition a reasonable person would deem in "good condition."

18.08.300 Major recreational vehicles.

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"Major recreational vehicles" includes boats, boat trailers, travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, snowmobiles, motorbikes, and the like. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.202 Manufactured/mobile homes.

Manufactured Home, Designated (Source: RCW 35.63.160 and 1988 c 239 s 1, Planning Commissions). A "Manufactured Home, Designateddesignated manufactured home" meansis a manufactured home constructed after June 15, 1976, in accordance with the state and federal requirements for manufactured homes, which:

1. Is comprised of at least two fully enclosed parallel sections each not less than 12 feet wide by 36 feet long;
2. Was originally constructed with and now has a composition or wood shake or shingle, coated metal or similar roof of nominal 3:13 pitch; and
3. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built International Building Code (International Construction Code) compliant single-family residences.

"Manufactured Home or, Mobile Home" (Source RCW 46.04.302, Motor Vehicles). "Mobile home" or "manufactured home" means a structure, designed and constructed to be transportable in one or more sections, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating, and electrical systems contained therein. The structure must comply with the National Mobile Home Construction and Safety Standards Act of 1974 as adopted by Chapter 43.22 RCW, State Government – Executive, Department of Labor and Industries, if applicable. Manufactured home does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.

"Manufactured Home, New" (Source: RCW 35.63.160 and 1988 c 239 s 1, Planning Commissions). A "new manufactured home" ismeans any manufactured home required to be titled under RCW Title 46, Motor Vehicles, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2), Excise Tax on Real Estate Sales.

"Manufactured home lot" means that area within the manufactured home park that is designated for the private use of the occupants of the lot.

Mobile Home, Used (Source: RCW 82.45.030(2), Excise Tax on Real Estate Sales). "Used mobile home" means a mobile home which has been previously sold at retail and has been subjected to tax under Chapter 82.08 RCW, Retail Sales Tax, or which has been previously used and has been subjected to tax under Chapter 82.12 RCW, Use Tax, and which has substantially lost its identity as a mobile unit at the time of sale by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities. [Ord. 1487 § 1 (Att. A), 2014; Ord. 1268 (Exh. B), 2005. Formerly 21.90.201.]

18.08.315 Manufactured home park.

"Manufactured home park" means any tract of land that is divided into rental spaces under common ownership for the purpose of locating two or more manufactured homes for dwelling purposes. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 1057 § 3, 1997; Ord. 754 § 1, 1984.]

18.08.316 Medium charging.

"Medium charging" means an electrical outlet which is standard for home and public charging and typically operates on a 40-amp to 100-amp breaker on a 208- or 240-volt AC circuit. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

18.08.317 Medium-speed electric vehicle.

"Medium-speed electric vehicle" means a self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one mile is more than 25 miles per hour but not more than 35 miles per hour and otherwise meets or exceeds the federal regulations set forth in 49 CFR 571.500. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

18.08.320 Mini-day care center.

A "Mmini-day care center" means a center for the care of 12 or fewer children during part of the 24-hour day in a facility other than the family abode of the permittee, or a home for the care of from seven through 12 children in the family abode of the permittee. Such number shall be reduced by the number of permittee's own children or foster children under 12 years of age who are on the premises. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.204 Mitigation contribution.

"Mitigation contribution" means a cash donation or other valuable consideration offered by the applicant in lieu of: (1) a required dedication of land for public park, recreation, open space, public facilities, or schools; or (2) road improvements needed to maintain adopted levels of service or to ameliorate identified impacts and accepted on the public's behalf as a condition of approval of a subdivision, plat or binding site plan. The city may accept voluntary contributions. [Ord. 1223 § 2, 2004.]

"Mobile Home, Used" means a mobile home which has been previously sold at retail and has been subjected to tax under Chapter 82.08 RCW, Retail Sales Tax, or which has been previously used and has been subjected to tax under Chapter 82.12 RCW, Use Tax, and which has substantially lost its identity as a mobile unit at the time of sale by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities.

"Month" means a calendar month.

18.08.330 Motel.

"Motel" means a building or group of buildings in which lodging is offered to transient guests for compensation and providing parking accommodations for automobiles adjacent to the lodging. This term includes tourist court, motor lodge, auto court, cabin court, motor inn and similar names.

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"Mounting height" shall be measured as the vertical distance between the parking surface and the bottom of the lighting fixture. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

18.08.331 Neighborhood electric vehicle.

"Neighborhood electric vehicle" means a self-propelled, electrically powered four-wheeled motor vehicle whose speed attainable in one mile is more than 20 miles per hour and not more than 25 miles per hour and conforms to federal regulations under 49 CFR 571.500. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

"New Construction, special flood hazard":

" means- structures -for -which -the -"start- of construction"– commenced -on -or -after the effective date of Ordinance No. 1222.

18.08.332 Non-electric vehicle.

"Non-electric vehicle" means any motor vehicle that does not meet the definition of "electric vehicle." [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

"Nonprofit organization" means an organization licensed by the state of Washington pursuant to RCW Title 24.

21.90.208 Nonresident worker.

"Nonresident worker" means an employee or other person who does not reside in the dwelling but who regularly performs services at the dwelling as part of, in pursuit of, or in furtherance of a home occupation. [Ord. 1223 § 2, 2004.]

21.90.212 Nursing or convalescent home.

"Nursing or convalescent home" means an establishment which provides full-time care for three or more chronically ill or infirm persons. Such care shall not include surgical, obstetrical or acute illness services. [Ord. 1223 § 2, 2004.]

18.08.375 Professional office.

"Professional office" or "office" means a building or separately defined space within a building an office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers and surveyors, licensed real estate brokers and persons engaged in similar occupations. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 807 § 1, 1987.]

21.90.216 Office.

"Office" means a building or separately defined space within a building used for business. The use of an office does not include on-premises sales or manufacture of goods. [Ord. 1223 § 2, 2004.]

18.08.333 Off-site hazardous waste facilities.

"Off-site hazardous waste facilities" means hazardous waste treatment and storage facilities that treat and store waste from generators on properties other than those on which the off-site

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facilities are located. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 839 § 1, 1989.]

21.90.214 Off-street parking space.

"Off-street parking space" means an off-street enclosed or unenclosed impermeable surface area permanently reserved for the temporary storage of one automobile and connected with a street by an impermeable surface driveway which affords ingress and egress for automobiles. [Ord. 1223 § 2, 2004.]

"Old World Bavarian Alpine theme" means a unifying or dominant design style typified by the Bavarian Alpine region of Europe during the 15th to 17th centuries. For the purposes of this chapter, "Old World Bavarian Alpine" shall mean design which includes Baroque, Rococo, Classical, or Bavarian folk art elements or graphics, or graphics painted or produced in a manner which mimics these styles, and which uses only colors which would have been found during the 15th to 17th centuries in Europe. Such colors shall conform with the examples shown within the Resolution of the Design Review Board No. 1-2011 or as approved by the design review board. This resolution is available for review at no cost at City Hall during normal business hours.

"Open record hearing" means a hearing that creates the record through testimony and submission of evidence and information. An open record hearing may be held on an appeal if no open record hearing has previously been held on the application.

18.08.336 On-site hazardous waste facilities.

"On-site hazardous waste facilities" means hazardous waste treatment and storage facilities that treat and store waste from generators located on the same property or from geographically contiguous property. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 839 § 1, 1989.]

"Ordinance" means a law of the city of Leavenworth; provided, that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

"Ordinance" means the ordinance, resolution, or other procedure used by the city to adopt regulatory requirements.

18.08.340 Ordinary high water mark.

"Ordinary high water mark" means that mark on all rivers and streams where the presence of waters is so long continuous as to mark upon the soil and rock a character distinct from the abutting uplands; for lakes and reservoirs, the water mark is where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

"Outdoor light fixture" means an outdoor electrically powered illuminating device, outdoor lighting or reflective surface, lamp, luminous tube and/or similar devices, either permanently installed or portable, which is used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot and floodlights for:

1. Buildings and structures;
2. Recreational areas;

3. Parking lot lighting;
4. Landscape and architectural lighting;
5. Billboards and other signs (advertising or other);
6. Street lighting;
7. Product display area lighting;
8. Building overhangs and open canopies;
9. Pedestrian walkways or areas;
10. Building or landscape decoration.

"Outdoor recreation facility" means an area designed for active recreation, whether publicly or privately owned, including, but not limited to, baseball diamonds, soccer and football fields, golf courses, tennis courts and swimming pools. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.215 Owner.

"Owner" means any person who, alone or jointly or severally with others, has title or interest in any building and/or structure with or without accompanying actual possession thereof, and includes any person who as agent, executor, administrator, trustee, or guardian of an estate has charge, care, or control of any building and/or structure. [Ord. 1487 § 1 (Att. A), 2014.]

"Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

21.90.217 Parking facility, parking lot.

"Parking facility" or "parking lot" means an area permanently reserved for the temporary storage of one or more automobiles and connected with a street by a surfaced driveway that affords ingress and egress for automobiles. [Ord. 1223 § 2, 2004.]

"Parking space, off-street" means an off-street enclosed or unenclosed impermeable surface area permanently reserved for the temporary storage of one automobile and connected with a street by an impermeable surface driveway which affords ingress and egress for automobiles. 21.90.218 Parking structure.

"Parking structure" means a partially or fully enclosed surfaced area, either underground or aboveground, permanently reserved for the temporary storage of one or more automobiles and connected with a street by a surfaced driveway that affords ingress and egress for automobiles. [Ord. 1223 § 2, 2004.]

21.90.264 Private Pparking, Private.

"Parking, Private Private parking" means parking facilities for the noncommercial use of the occupant and guests of the occupant. [Ord. 1223 § 2, 2004.]

21.90.220 Party of record.

"Party of record" means any person who has testified at a hearing or has submitted a written statement related to a development action and who provides the city with a complete address. [Ord. 1223 § 2, 2004.]

21.90.222 Performance bond, surety bond.

"Performance bond" or "surety bond" means a binding agreement between the city and a developer or applicant guaranteeing that certain stated work will be accomplished by a specific date. [Ord. 1223 § 2, 2004.]

18.08.360 Person.

"Person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.223 Person.

"Person" means any individual, firm, corporation, association, partnership, or public entity and their agents or assigns. [Ord. 1487 § 1 (Att. A), 2014.]

"Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

21.90.224 Personal service.

"Personal service" means businesses engaged in providing care of the corporeal person or his apparel, not including health care. [Ord. 1223 § 2, 2004.]

18.08.363 Pet care center.

"Pet care center" means an indoor kennel which provides boarding and grooming services. [Ord. 1421 § 1 (Att. A), 2012.]

18.08.365 Pharmacy/drug store.

"Pharmacy/drug store" means an establishment where medicinal drugs are dispensed and sold. [Ord. 1421 § 1 (Att. A), 2012.]

21.90.228 Planned action.

"Planned action" means a significant development proposal as defined in RCW 43.21C.031, as amended. [Ord. 1223 § 2, 2004.]

21.90.232 Planned unit development, planned development district.

"Planned unit development" or "planned development district" means a flexible method of land development which accomplishes the purposes of Chapter 18.40 LMC, as amended. [Ord. 1223 § 2, 2004.]

18.08.370 Planning commission.

"Planning commission" means the Leavenworth city Pplanning Cccommission. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.236 Plat.

"Plat" means a scale drawing of a subdivision showing lots, blocks, streets or tracts or other divisions or dedications of land to be subdivided. [Ord. 1223 § 2, 2004.]

21.90.237 Plat alteration.

"Plat alteration" means the alteration, re-orientation, and/or reconfiguration of lots, or any portions thereof, within a major subdivision or short subdivision that involves a public dedication, provided there is no increase in the overall number of lots, tracts, or parcels, and provided the provisions of Chapter 17.06 LMC, as amended, are complied with. [Ord. 1223 § 2, 2004.]

21.90.238 Plat certificate.

"Plat certificate" means a document prepared by a title company that contains information on the subject property to be platted such as ownership, legal description, easements, liens, etc. [Ord. 1223 § 2, 2004.]

21.90.240 Plat, final.

"Plat, finalFinal plat" means the final drawing of the subdivision (five or more lots) and dedication prepared for filing for record with the Chelan County auditor and containing all elements and requirements set forth in Chapter 58.17 RCW and LMC Title 17, as amended. [Ord. 1223 § 2, 2004.]

21.90.244 Plat, final short.

"Plat, final shortFinal short plat" means the final drawing of the short subdivision (four lots or less) and dedication prepared for filing for record with the Chelan County auditor and containing all elements and requirements set forth in Chapter 58.17 RCW and LMC Title 17, as amended. [Ord. 1223 § 2, 2004.]

21.90.248 Plat, preliminary.

"Plat, preliminaryPreliminary plat" means a neat and approximate scale drawing of a proposed subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks and other information needed to properly review the proposal, as required by Chapter 17.12 LMC, as amended. [Ord. 1223 § 2, 2004.]

21.90.252 Plat, preliminary short.

"Plat, preliminary short Preliminary short plat" means a neat and approximate scale drawing of a proposed short subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks and other information needed to properly review the proposal, as required by Chapter 17.08 LMC, as amended. [Ord. 1223 § 2, 2004.]

21.90.258 Plat vacation.

"Plat vacation" means to render a plat, short plat, or binding site plan inoperative. [Ord. 1223 § 2, 2004.]

18.08.373 Plug-in hybrid electric vehicle (PHEV).

"Plug-in hybrid electric vehicle (PHEV)" means an electric vehicle that (A) contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor;

(B) charges its battery primarily by connecting to the grid or other off-board electrical source; (C) may additionally be able to sustain battery charge using an on-board internal-combustion-driven generator; and (D) has the ability to travel powered by electricity. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

21.90.260 Primary or principal use.

"Primary or principal use" means the predominant use of the land or building to which all other uses are secondary or accessory. [Ord. 1223 § 2, 2004.]

21.90.262 Private driveway easement.

"Private driveway easement" means a driveway that is on private property and is used for access to no more than three lots. [Ord. 1223 § 2, 2004.]

21.90.268 Project.

"Project" means a proposal for development. [Ord. 1223 § 2, 2004.]

"Property" includes real and personal property.

"Property, personal" includes, but is not limited to, money, goods, chattels, things in action and evidences of debt.

"Property, real" includes lands, tenements and hereditaments.

18.08.377 Public utility structure.

"Public utility structure" means a structure or use, such as a telephone exchange, utility station, pumping station or water reservoir, whose location in a residential zone is necessary to its function. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 807 § 2, 1987.]

21.90.276 Public facilities and utilities.

"Public facilities and utilities" means land or structures owned by or operated for the benefit of the public use and necessity, including but not limited to public facilities defined in RCW 36.70A.030, as amended. [Ord. 1223 § 2, 2004.]

21.90.280 Public hearing.

"Public hearing" means an open record hearing at which evidence is presented and testimony is taken. [Ord. 1223 § 2, 2004.]

"Public meeting" means an informal meeting, hearing, workshop, or other public gathering to obtain comments from the public or other agencies on an application. A public meeting does not constitute an open record hearing.

21.90.284 Public improvement.

"Public improvement" means any structure, utility, roadway, or sidewalk for use by the public, required as a condition of development approval. [Ord. 1223 § 2, 2004.]

18.08.378 Rapid charging station.

"Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels and that meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules

adopted under RCW 19.27.540. A rapid charging station typically operates on a 60-amp or higher dedicated breaker on a 480-volt or higher three-phase circuit with special grounding equipment. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011.]

"Reader board sign" means a sign face consisting of readily changeable letters allowing frequent changes of copy.

21.90.285 Recreational facilities.

"Recreational facilities" means facilities for recreational uses, including but not limited to swimming pools, athletic clubs, tennis courts, ball fields, play fields, and skate parks. [Ord. 1487 § 1 (Att. A), 2014; Ord. 1223 § 2, 2004. Formerly 21.90.288.]

18.08.379 Recreational vehicle.

"Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use with or without motive power of such size and weight as not to require a special highway movement permit and certified as approved as such by the Department of Labor and Industries by the attachment of their official "Green" seal. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 840 § 1, 1989. Formerly 18.08.21.90.378.]

"Recreational Vehicle, special flood hazard":

"Recreational vehicle" means a vehicle,

1) Built on a single chassis;

2) 400 square feet or less when measured at the largest horizontal projection;

3) Designed to be self-propelled or permanently towable by a light duty truck; and

4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

18.08.380 Recreational vehicle park.

"Recreational vehicle park" means a tract of land under single ownership or control upon which two or more recreational vehicle sites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation or vacation purposes. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 840 § 1, 1989. Formerly 18.08.21.90.378a.]

18.08.381 Recreational vehicle site.

"Recreational vehicle site" means a plot of ground within a recreational vehicle park intended for accommodation of a recreational vehicle on a temporary basis. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 840 § 1, 1989. Formerly 18.08.21.90.378b.]

21.90.286 Rehabilitation.

"Rehabilitation" means the process of returning property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are Old World Bavarian Alpine theme compliant. [Ord. 1487 § 1 (Att. A), 2014.]

~~21.90.287 Repair.~~

"Repair" means any change that is not construction, addition, demolition, moving, or alteration. ~~[Ord. 1487 § 1 (Att. A), 2014.]~~

~~21.90.288 Resource lands.~~

"Resource lands" means lands primarily devoted to commercial forests, commercial agriculture, or containing minerals, as defined in RCW 36.70A.030, as amended. ~~[Ord. 1487 § 1 (Att. A), 2014; Ord. 1223 § 2, 2004. Formerly 21.90.289.]~~

~~21.90.289 Restoration.~~

"Restoration" means the act or process of accurately recovering the form, features, and character of a property and its setting as it appeared at the time of design review board approval, removal of features outside of the Old World Bavarian Alpine theme; and reconstruction of missing features from the design review board approval. ~~[Ord. 1487 § 1 (Att. A), 2014.]~~

~~18.08.382 Retail food/grocery store.~~

"Retail food/grocery store" means a retail establishment offering a wide variety of comestibles (edible/eatable), beverages and household supplies for sale. ~~[Ord. 1421 § 1 (Att. A), 2012.]~~

~~18.08.383 Retail stores and service establishments.~~

"Retail stores and service establishments" means an establishment where the majority of sales of goods or services (or of both) is for resale and is recognized as retail sales or services in the particular industry. ~~[Ord. 1421 § 1 (Att. A), 2012.]~~

~~21.90.290 Right-of-way.~~

"Right-of-way" means land designated for public use for utility, vehicular and/or pedestrian travel or access to adjoining properties. ~~[Ord. 1223 § 2, 2004.]~~

~~21.90.291 Roadway.~~

"Roadway" means that portion of an approved street intended for the accommodation of vehicular traffic, generally between curb lines on an improved surface. ~~[Ord. 1223 § 2, 2004.]~~

"Rococo," also referred to as "Late Baroque," means an 18th-century style of art or design which developed as Baroque artists gave up their symmetry and became increasingly ornate, florid, and playful. Rococo style may be described as more lighthearted than Baroque design and may be abstract and asymmetrical in decoration. For purposes of this title the term "Rococo" describes a style of art, graphics, or design that represents this style which was characterized between 1720 to 1775 in Bavaria.

"Rope lights" means lights which simulate neon lighting and are in an enclosed tube

~~21.90.292 Screen, screening.~~

"Screen" or "screening" means a continuous fence, hedge, landscaping, or combination which obscures vision through 80 percent or more of the screen area, not including drives or walkways. ~~[Ord. 1223 § 2, 2004.]~~

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"Segregation" means a large parcel, upon which is levied a reimbursement charge, is divided into smaller parcels. The associated charge is divided among the smaller parcels in accordance with the provisions of the original means of allocating the reimbursement charge.

"SEPA rules" means Chapter 197-11 WAC adopted by the Department of Ecology.

"Sexually oriented materials" means any books, magazines, periodicals, or other printed materials or any photographs, films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas. The term "sexually oriented materials" includes any instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

~~18.08.384 Shall and may.~~

"Shall" is mandatory; the word "may" is permissive. ~~[Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984. Formerly 18.08.21.90.382.]~~

"Sidewalk" means that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

"Sign" means a communication device, structure, or fixture located on the exterior of a structure and visible from public rights-of-way or located in the interior of a structure and visible from public rights-of-way which incorporates graphics, symbols, or written copy that is intended to promote the sale of a product, commodity or service, or provide direction or identification for a premises, business, or facility. "Sign" does not include actual unpriced stock in trade on display and available for sale. "Sign" does not include murals, but may be incorporated into a mural. "Sign" includes all structural members and, without limitation, the following types of signs:

1. "Bench sign" means a sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way. A bench sign does not include those components of a bench which are commemorative or information plaques, not used for commercial purposes.
2. "Billboard sign" means a freestanding sign without the on-site business name and information and/or off-site advertisement.
3. "Business listing sign" means a sign in which the names of the occupants of a building are given and displayed in columns and/or rows.
4. "Commemorative plaque" means a memorial plaque or plate, with engraved or case lettering, which is permanently affixed to or near the structure or object it is intended to commemorate.
5. "Community bulletin board" or "kiosk" means a freestanding structure or wall structure which includes a surface intended for the posting of messages; for example, announce events, sales, or provide information. Such structure shall only be established by the city of Leavenworth.

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6. "Construction sign" means any sign giving the name or names of principal contractors, architects and lending institutions responsible for construction on the site where the sign is placed, together with other information included thereon.
7. "Directional sign" means a sign giving directions, instructions or facility information (e.g., parking, exit or entrance signs).
8. "Directory sign" means a sign on which the names and locations of occupants or the use or uses of a building are listed on a building diagram attached to the wall of the building.
9. "Drive-through menu board sign" means a freestanding or wall sign used for establishments to display their menu items and prices. The establishment shall have and maintain provision for automotive drive-through customers in order to be eligible for a drive-through menu board sign.
10. "Existing nonconforming sign" means any sign located within the city limits on the date of adoption or amendment of the ordinance codified in this chapter, which does not conform with the provisions of this chapter, as amended, but which did conform to all applicable laws in effect on the date the sign was erected. Existing nonconforming signs shall not include temporary signs.
11. "Freestanding sign" means a sign, not attached to any building or similar type of structure, which is securely and permanently attached to the ground.
12. "Illuminated sign" means any sign internally illuminated, in any manner, by an artificial light source, including all signs lit with neon tubes, either directly or indirectly. Such illuminated signs include, but are not limited to: television screens, monitors (computer or otherwise sourced), backlit canopies, LED, neon, internally illuminated channel letters, acrylic formed faces and other types of directly or indirectly illuminated signs.
13. "Incidental sign" means a sign, emblem, or decal informing the public of the property address, business hours, facilities or services available on the premises (e.g., open/closed signs, restroom signs and bank card signs).
14. "Integral sign" means any memorial sign, tablet, name or date of erection of a building when cut into any masonry surface or when constructed of bronze or other incombustible material mounted on the face of a building.
15. "Label sign" means a manufacturer's identification of the manufacturer, nature, ownership, or destination.
16. "Logo sign" means a sign bearing characters, letters, symbols, or characteristic design which, through trademark status or consistent usage, has become the customary identification for a business.
17. "Menu sign" or "menu board sign" means a sign displaying the food products and prices provided by the eating and drinking establishment.
18. "Noncommercial sign" means a sign that bears only property address numbers, postal box numbers or names of occupants of premises.

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19. "Off-site sign" means a sign which directs attention to a business, profession, product, activity or service which is not conducted, sold or offered on the premises or at the location where the sign is located.
20. "Pennant" means a long, tapering, usually triangular flag or an emblem similar in shape to a ship's pennant.
21. "Political election sign" means a temporary sign advertising a candidate or candidates for public elective office, or a political party, or signs urging a particular vote on a public issue decided by ballot in connection with local, state or national election or referendum.
22. "Political free speech sign" means a temporary sign expressing an opinion on a public, social, or ballot issue.
23. "Portable sign" means any mobile, movable sign or sign structure, such as a sandwich-board sign (A-frame sign), which is not securely attached to the ground or any other structure.
24. "Private use sign" means a temporary sign announcing an event, use or condition of personal concern, nonbusiness in nature, including, without limitation, "garage sale" or "lost animal" signs.
25. "Projecting sign" means any sign affixed to any building or wall, the leading edge of which extends beyond such building or wall.
26. "Real estate sign" means any sign which is used to offer property for sale, lease or rent.
27. "Residential development sign" means a sign identifying a recognized subdivision, condominium complex or residential development.
28. "Roof sign" means any sign erected or constructed wholly upon and over the roof of any building or structure; provided, however, that a sign on the surface of a canopy shall be regarded as a projecting or wall sign.
29. "Special event sign" means individual temporary booth, tent, or vendor sign allowed for a special event or festival.
30. "Temporary community service event sign" means a sign for the purpose of "community service event" or "civic event."
31. "Temporary sign" means a sign not constructed or intended for long-term use. For the purposes of this definition, a temporary sign shall not be in place greater than 24 hours, unless specifically allowed a greater duration by this chapter. Temporary signs installed pursuant to this title do not have vested status and cannot become permanent installations.
32. "Trailer sign" means any sign mounted, painted, or attached through some other method on a vehicle normally licensed by the state as a trailer and used for advertising or promotional purposes.
33. "Transient business sign" means any sign used for any person either as principal or agent who sells goods, wares, services or merchandise at a fixed location on private property not within a permanent structure or building. A permanent structure or building is one

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which rests on a foundation and which substantially complies with the International Building Code and the LMC.

34. "Vehicle sign" means advertisement or graphics intended to advertise business affixed to a vehicle, but does not include license plates, license plate frames or vehicle brand.

35. "Wall sign" means any sign painted on or attached to and erected and confined within the limits of the outside wall of any building and supported by such wall or building and which displays only one advertising surface. Awning, canopy, and window (for the purposes of this definition, the window area is not calculated for temporary "sale" and "special product announcements" signs) signs are considered wall signs for the purposes of this definition. In addition, single-sided signs located parallel to the building wall, in the same building elevation, and separated from the wall are considered wall signs for the purposes of this definition.

1.36. "Warning sign" means any sign which is intended to warn persons of danger or prohibited activities such as "no trespassing," "no hunting," "flammable," "dangerous dog," "no parking," "no dumping" and rules that govern.

"Sign area" means, for regularly shaped signs, the simple area of the sign. For irregularly shaped signs, the area shall be that of the rectangle, triangle or circle (whichever is smaller) or logical outer boundary of a polygon which will wholly contain the sign; provided, that the outer boundary of the polygon does not protrude beyond the sign as determined by the city administrator or his/her designee. The structure supporting a sign shall not be included in determining the area of the sign unless the structure is designed in a way to form an integral background for the display. In the case of a wall mural (see LMC 14.08.040) incorporating commercial wording, the sign area includes only the portion of the mural which contains the wording circumscribed as set forth in this definition. In the case of double sided signs, erected in a manner so that the display surfaces are placed directly back to back to one another, the area of one side is that which is used to calculate the allowed area of a sign, provided the surfaces are identical in size, color and design. In the case of business listing signs, each business sign area shall be calculated separately, and compiled for a total area excluding clearly defined spacing and/or gaps.

Site development permit.

"Site development permit" means an application for site preparation of undeveloped land where no building or structure is altered, moved or constructed.

21.90.316 Site plan.

"Site plan" means a scaled drawing which shows the areas and locations of all buildings, streets, roads, improvements, easements, utilities, open spaces, and other principal development features for a specific parcel of property and other information as required by the applicable sections of this code. [Ord. 1223 § 2, 2004.]

18.08.385 Slow charging.

"Slow charging" means an electrical outlet which is present in homes and businesses and typically operates on a 15- or 20-amp breaker on a 120-volt alternating current (AC) circuit and

standard outlet. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011. Formerly 18.08.21.90.383.]

"Specified anatomical areas" means and includes any of the following:

1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

1.2. Less than completely and opaquely covered human genitals, pubic region, anus, buttocks, or female breast below the top of the areola.

"Specified sexual activities" means and includes any of the following:

1. The caressing, fondling, or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or

3. Masturbation, actual or simulated; or

1.4. Excretory functions as part of, or in connection with, any of the sexual activities specified in this definition.

"Start -oOf Construction, special flood hazard:

" means and includes- substantial -improvement, -and -means -the- date -the- building- permit -was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement- as within 180 -days -of -the- permit– date.– – The -actual -start -means -either -the first- placement -of- permanent- construction -of -a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any -work– beyond– the stage– of excavation;– or– the– placement– of– a– manufactured– home– on– a– foundation. Permanent -construction- does -not -include- land -preparation, -such– as– clearing,– grading– and filling;– nor– does– it– include– the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.– For a substantial improvement, the -actual -start– of– construction– means– the– first– alteration– of any– wall,– ceiling,– floor, or– other– structural– part of a building, whether or not that alteration affects the external dimensions of the building.

21.90.320 Stock in trade.

"Stock in trade" means any item or goods that are kept on hand for sale to customers as part of a business; or that are produced, purchased, processed, finished, or fabricated as part of a home occupation and are intended for resale, or are incorporated into any such item, or are used to make, manufacture, produce, process, finish, or fabricate any such item; provided, that it does not include samples. [Ord. 1223 § 2, 2004.]

21.90.324 Street.

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"Street" means a public right-of-way which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley. [Ord. 1223 § 2, 2004.]

"Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

21.90.328 Street, developed.

"Street, developedDeveloped street" means a right-of-way improved to the minimum development standards established by the city. [Ord. 1223 § 2, 2004.]

21.90.332 Street, undeveloped or substandard.

"Street, undeveloped or substandardUndeveloped or substandard street" means a right-of-way not improved to the minimum development standards established by the city. [Ord. 1223 § 2, 2004.]

18.08.390 Street line.

"Street line" means the right-of-way of a street. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

18.08.400 Structure.

"Structure" means anything constructed or erected with a fixed location. Among other things, structures include buildings, mobile homes, flagpoles, towers, tower structures, light displays, homes, walls, fences, billboards, and poster panels. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 1246 § 2, 2005; Ord. 754 § 1, 1984.]

"Structure, special flood hazard:

" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

21.90.336 Subdivision code.

"Subdivision code" means LMC Title 17. [Ord. 1223 § 2, 2004.]

21.90.340 Subdivision, major.

"Subdivision, majorMajor subdivision" means the division or redivision of land into five or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership, in conformance with Chapter 17.12 LMC. [Ord. 1223 § 2, 2004.]

21.90.344 Subdivision, short.

"Subdivision, shortShort subdivision" means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, in conformance with Chapter 17.08 LMC. [Ord. 1223 § 2, 2004.]

"Substantial Damage, special flood hazard":

means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement, special flood hazard":

means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1) Before the improvement or repair is started; or

2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

1) Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Suite" means a group of interconnected rooms, intended for sleeping, that are for rent or use by a guest, and individually designated by number, letter, or other means of identification. A suite may or may not include areas for cooking and eating.

"Temporary lighting" means lighting which does not conform to the provisions of this chapter and which will not be used for more than a temporary period. Temporary lighting is intended for uses which by their nature are of limited duration; e.g., civic events, or construction projects.

18.08.403 Temporary food service establishment.

"Temporary food service establishment" means an eating and drinking establishment operating for a temporary period (one day up to six months) in connection with a fair, community event, public exhibition or other similar gatherings in which a special use permit is obtained. [Ord. 1421 § 1 (Att. A), 2012.]

"Tenant" and "occupant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

21.90.346 Terrain classification. Definitions of "tTerrain classification, special flood hazard" are as follows:

1. "Ordinary terrain" means a cross slope range of zero percent to eight percent;
2. "Rolling terrain" means a cross slope range of eight percent to 15 percent;
3. "Hilly terrain" means a cross slope range of over 15 percent. [Ord. 1223 § 2, 2004.]

18.08.404 Theater.

"Theater" means a structure or area designed for the presentation of live performances, including dramatic works, concerts, and motion pictures. [Ord. 1421 § 1 (Att. A), 2012.]

18.08.405 Transient accommodation.

"Transient accommodation and/or lodging"– means the rental of any building or portion thereof used for the purpose of providing lodging for periods of less than 30 days.means a dwelling unit or motel room regularly rented to transient guests with a less than monthly rental period for each individual or group of guests. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 852 § 1, 1989.]

18.08.410 Travel trailer.

"Nontransient lodging" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

"Travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet and length not exceeding 31 feet 11 inches.

"Total outdoor light output" means the maximum total amount of light, measured in lumens, from all outdoor light fixtures on a project site. Includes all lights and luminous tubing used for all classes of lighting. For lamp types that vary in their output as they age (such as high pressure sodium, metal halide, and fluorescent), the initial output, as defined by the manufacturer, is the value to be considered. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 1057 § 4, 1997; Ord. 754 § 1, 1984.]

"Tower/tower structure" means a structure taller than its diameter which can stand alone or be attached to a building or other structure, and anything tall and thin approximating the shape of a column or tower.

21.90.348 Townhouse.

"Townhouse" means a duplex dwelling unit meeting the following criteria: (1) no dwelling unit overlapping another vertically; (2) common side walls joining units; (3) not more than two dwelling units in one structure; and (4) each unit being on its own lot of record. [Ord. 1223 § 2, 2004.]

18.08.415 Upholstery shop.

"Upholstery shop" means a retail service for the upholstery and re-upholstery of furniture. [Ord. 1421 § 1 (Att. A), 2012.]

18.08.420 Used or occupied.

"Used" or "occupied" includes the words intended, designed, or arranged to be used or occupied. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.352 Vehicle.

"Vehicle" means a device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway,

including mopeds, and excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks. [Ord. 1223 § 2, 2004.]

21.90.356 Walkway.

"Walkway" means a hard surfaced portion of a street, right-of-way, trail, or easement intended for pedestrian use. [Ord. 1223 § 2, 2004.]

"Water or sewer improvements" means the acquisition of right-of-way and/or easements, design, inspection and installation of improvements to city standards, as defined in RCW 35.91.020 as it now reads or as hereafter amended. They are further defined to include the following:

1. 1. "Water system improvements" includes, without limitation, such things as treatment facilities, mains, reservoirs, wells and appurtenances such as valves, pumping stations and pressure-reducing stations.
2. 2. "Sewer system improvements" includes, without limitation, such things as treatment facilities, mains and maintenance holes, pumping stations, force mains, inlets, catch basins, ditches, and swales. This term also includes all sanitary sewer or storm sewer improvements.

"Water and sewer latecomer reimbursement agreements" means a written contract, as approved by the city council and executed by the mayor, between the city and one or more developers providing for construction of water or sewer facilities and for partial reimbursement to the developer(s) by owner(s) of properties benefited by the improvements. [Ord. 1483 § 2, 2014.]

21.90.360 Watercourse.

"Watercourse" means the course or route followed by waters draining from the land, formed by nature or man and consisting of a bed, banks, sides, and associated wetlands and headwaters. A watercourse shall receive surface and subsurface drainage waters and shall flow with some regularity (but not necessarily continuously), naturally, and normally, in draining from higher to lower lands. The watercourse shall terminate at the point of discharge into a larger receiving body such as a lake. Watercourses shall include sloughs, streams, creeks, and associated wetlands. [Ord. 1223 § 2, 2004.]

21.90.364 Wetland.

"Wetland" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. [Ord. 1223 § 2, 2004.]

18.08.430 Yard / Setback.

"Yard" or "/ Setback" means an open space on a lot which is unobstructed from the ground upward, and the minimum distances required for buildings and structures to be set back from the property lines, except for the projection of such features as cornices, eaves, gutters, shades and related architectural elements, which may project not more than four feet into a required front or rear yard or two feet into a required side yard in the residential zones and not more than six feet into any required yard in the commercial zones. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 1121 § 1, 1999; Ord. 1056 § 1, 1997; Ord. 857 § 1, 1990; Ord. 754 § 1, 1984.]

21.90.300 Setback.

"Setback" means the minimum distances required for buildings and structures to be set back from the property lines. [Ord. 1223 § 2, 2004.]

21.90.304 Setback area.

"Setback area" means the lot area between the lot lines and the setback lines. [Ord. 1223 § 2, 2004.]

21.90.308 Yard / Setback line.

"Yard / Setback line" means a line which is parallel to a lot line or access easement located at the distance required by the yard / setback. [Ord. 1223 § 2, 2004.]

18.08.440 Yard, front.

"Yard, frontFront yard" or "setback, front" means a yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the building. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.188 Lot line, front.

"Front lot line" means the line separating any lot or parcel of land from a street right-of-way. On a through lot, the line abutting the street providing primary access to the lot or the street address of the lot. On a flag lot, it is the interior lot line most parallel to and nearest the street from which access is obtained. [Ord. 1223 § 2, 2004.]

18.08.450 Yard, rear.

"Rear yardYard, rear" or "setback, rear" means a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the building. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.192 Lot line, rear.

"Rear lot line" means a lot line or lines which are opposite and most distant from the front lot line. [Ord. 1223 § 2, 2004.]

18.08.460 Yard, side.

"Yard, sideSide yard" or "setback, side" means a yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of the building. [Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]

21.90.196 Lot line, side.

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~~"Side lot line" means any lot line that is not a front or rear lot line. [Ord. 1223 § 2, 2004.]~~

~~18.08.470 Yard, special.~~

"Yard, special~~Special yard~~" means a yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon. ~~[Ord. 1421 § 1 (Att. A), 2012; Ord. 1398 § 1 (Exh. A), 2011; Ord. 754 § 1, 1984.]~~

~~21.90.368 Zone, zoning district.~~

"Zone" or "zoning district" means a defined area of the city within which the use of land is regulated and certain uses permitted and other uses excluded as set forth in LMC Title 18. ~~[Ord. 1223 § 2, 2004.]~~

~~21.90.372 Zoning code.~~

"Zoning code" means LMC Title 18. ~~[Ord. 1223 § 2, 2004.]~~

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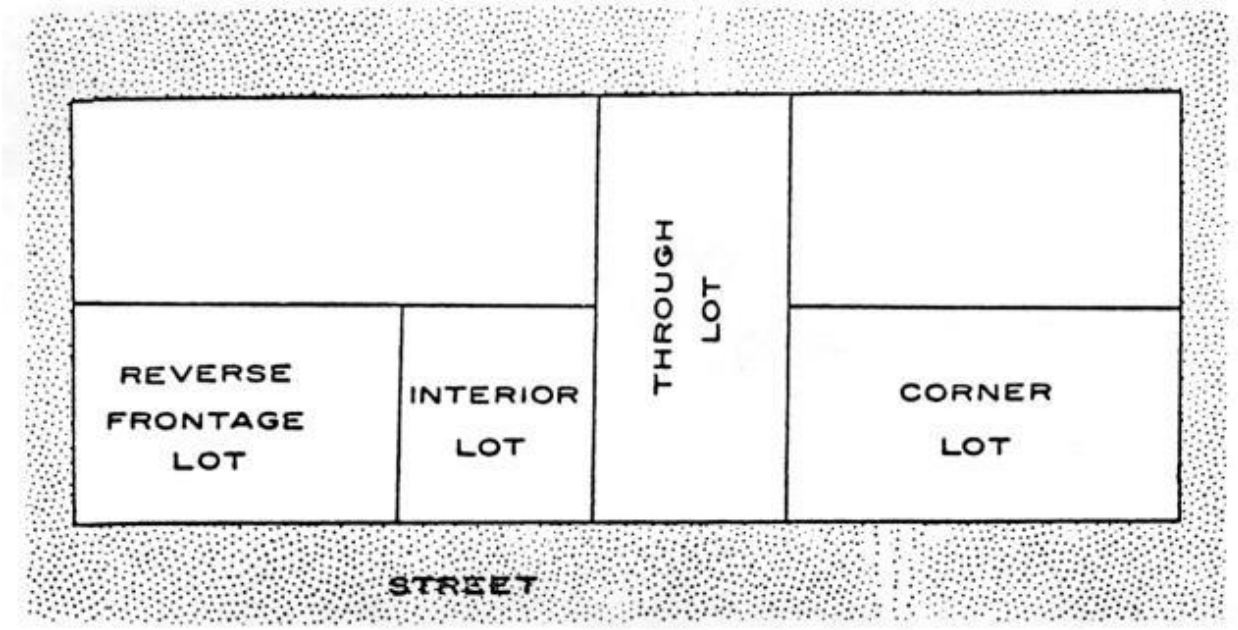
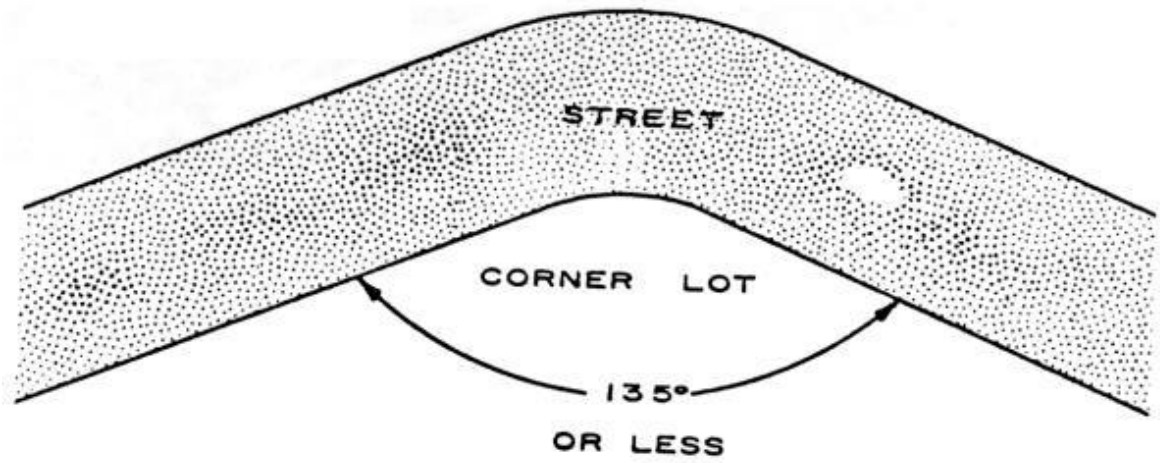
FIGURE 1





~~[Ord. 754 Figure 1, 1984; Ord. 551 Figure 1, 1976.]~~

Title 18
ZONING

Chapters:

18.04 General Provisions
18.08 DefinitionsReserved
18.12 Official Zoning Map
18.16 District Boundary Interpretation and Regulations
18.20 Residential Low Density 6,000 District (RL6)
18.21 Residential Low Density 12,000 District (RL12)
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18.24 Supplementary Residential Districts Regulations
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Chapter 18.08 DEFINITIONS (Zoning) is rReserved, and all definitions relevant to this chapter shall be included in Chapter 21.90 LMC. Unless specifically defined, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

NOTE: Although not shown in this document, this entire chapter has been removed and placed into 21.90.

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14.10.210 Definitions.

All definitions relevant to this chapter shall be included in Chapter 21.90 LMC. Unless specifically defined, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~For purposes of this chapter, the following terms, phrases, words and their derivatives shall be construed as specified in this section:~~

~~A. "Abandoned sign" means any sign and/or sign structure which represents or displays any reference to a business or use which has been discontinued for one year or for which no valid business license is in effect in the city. "Abandoned sign" shall also mean any sign remaining in place after a sign has not been maintained for a period of 60 or more consecutive days after notification of such by the city.~~

~~B. "Area" or "sign area" means, for regularly shaped signs, the simple area of the sign. For irregularly shaped signs, the area shall be that of the rectangle, triangle or circle (whichever is smaller) or logical outer boundary of a polygon which will wholly contain the sign; provided, that the outer boundary of the polygon does not protrude beyond the sign as determined by the city administrator or his/her designee. The structure supporting a sign shall not be included in determining the area of the sign unless the structure is designed in a way to form an integral background for the display. In the case of a wall mural (see LMC 14.08.040) incorporating commercial wording, the sign area includes only the portion of the mural which contains the wording circumscribed as set forth in this definition. In the case of double sided signs, erected in a manner so that the display surfaces are placed directly back to back to one another, the area of one side is that which is used to calculate the allowed area of a sign, provided the surfaces are identical in size, color and design. In the case of business listing signs, each business sign area shall be calculated separately, and compiled for a total area excluding clearly defined spacing and/or gaps.~~

~~C. "Balloon" means a flexible bag designed to be inflated with hot air or with a gas, and a bag shaped like a figure or object when inflated.~~

~~D. "Baroque" means a period as well as a style of art or design that used exaggerated motion and clear, easily interpreted detail to produce drama, tension, exuberance, and grandeur in sculpture, painting, literature, dance, and music. The style started around 1600 in Rome, Italy, and spread to most of Europe. For purposes of this title the term "Baroque" describes art, graphics, or design that represents this style which was characterized between 1575 to 1770 in Bavaria.~~

~~E. "Bavarian Alpine" means that area of land in present day Germany which extends from the Bavarian forest along the Czech Republic border to Garmisch-Partenkirchen on the Austrian~~

~~border, including the cities of Regensberg and Munich, then extending east along the Austrian border to Berchtesgaden and Passau, but not including the towns on the Tauber River, such as Nuremberg or Rothenberg.~~

~~F. "Bavarian folk art," also "bauernmalerei" which translates as "peasant painting" (literally "farmer painting") in German. Bauernmalerei was known throughout central Europe starting in the early 1500s where it took various forms from simple, naive-like decoration to more elaborate painting incorporating Renaissance, Baroque, and Rococo design. Bavarian folk art is a style of art or design which evolved following the end of the feudal system of land ownership and incorporates traditional design elements and colors characterized by stroke work using a round brush to paint natural elements (such as lilies, tulips, roses, daisies, cornflowers, fruit, leaves, and snail shells), mimic hard surfaces (such as wood, stone, and marble), and decorative elements (ornamentation such as scrolling). For purposes of this title, the term "Bavarian folk art" describes a style of art, graphics, or design that represents this style which was characterized during the 1500s to 1700s in Bavaria.~~

~~G. "Building face" means the outer surface of any building which is visible from any private or public street, highway or alley. For the purposes of building wall calculations, where multiple walls differ in outer edge plane, the secondary planes, corners, and/or angles shall be incorporated into the primary building elevation, and shall not be calculated independently, or as a secondary building elevation.~~

~~H. "Classical" means a stylistic period of the art of ancient Greece. The onset of the Persian Wars (480 BC to 448 BC) is taken as the beginning of the Classical period, and the reign of Alexander the Great (336 BC to 323 BC) is taken as the end of the period. For purposes of this title, the term "Classical" describes a style of art, graphics, or design that represents the style used during this time period.~~

~~I. "Commercial" means any activity carried on for a financial gain or a business endeavor.~~

~~J. "Community service event" or "civic event" means an event (e.g., festival, parking, fun run and/or meeting) sponsored by or for the benefit of a nonprofit organization.~~

~~K. "Design review board" means the board created by Ordinance 983 (Chapter 2.38 LMC), as amended.~~

~~L. "Eave line" means the juncture of the roof and the perimeter wall of the structure.~~

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M. "Educational institutions and facilities" means uses that provide state mandated basic education, public and private institutions of learning offering instruction from kindergarten to grade 12 required by the Education Code of the state of Washington; certified by the Washington State Board of Education; and/or under the authority and/or oversight of the Washington State Office of Superintendent of Public Instruction (OSPI). Preschools and pre-kindergarten facilities (day cares) are not educational institutions and facilities for the purposes of this definition.

N. "Erect" means to build, construct, attach, place, affix, raise, assemble, create, paint, draw or in any other way bring into being or establish.

O. "Height" (of a freestanding sign) means the vertical distance measured from the highest point of the sign structure to the grade of the adjacent street or the surface grade at any point beneath the sign, whichever provides the lowest elevation.

P. "Maintained" means not broken, torn or ripped, securely attached or affixed to the supporting structure, clean in appearance, without chipped, faded or peeling paint, or otherwise in a condition a reasonable person would deem in "good condition."

Q. "Maintenance" means the cleaning, painting and minor repair of a sign or any support for or attachment of a sign in a manner that does not alter the basic design, size, color or structure of the sign.

R. "Nonprofit organization" means an organization licensed by the state of Washington pursuant to RCW Title 24.

S. "Old World Bavarian Alpine theme" means a unifying or dominant design style typified by the Bavarian Alpine region of Europe during the 15th to 17th centuries. For the purposes of this chapter, "Old World Bavarian Alpine" shall mean design which includes Baroque, Rococo, Classical, or Bavarian folk art elements or graphics, or graphics painted or produced in a manner which mimics these styles, and which uses only colors which would have been found during the 15th to 17th centuries in Europe. Such colors shall conform with the examples shown within the Resolution of the Design Review Board No. 1-2011 or as approved by the design review board. This resolution is available for review at no cost at City Hall during normal business hours.

T. "Reader board sign" means a sign face consisting of readily changeable letters allowing frequent changes of copy.

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U. "Rococo," also referred to as "Late Baroque," means an 18th-century style of art or design which developed as Baroque artists gave up their symmetry and became increasingly ornate, florid, and playful. Rococo style may be described as more lighthearted than Baroque design and may be abstract and asymmetrical in decoration. For purposes of this title the term "Rococo" describes a style of art, graphics, or design that represents this style which was characterized between 1720 to 1775 in Bavaria.

V. "Sign" means a communication device, structure, or fixture located on the exterior of a structure and visible from public rights-of-way or located in the interior of a structure and visible from public rights-of-way which incorporates graphics, symbols, or written copy that is intended to promote the sale of a product, commodity or service, or provide direction or identification for a premises, business, or facility. "Sign" does not include actual unpriced stock in trade on display and available for sale. "Sign" does not include murals, but may be incorporated into a mural. "Sign" includes all structural members and, without limitation, the following types of signs:

1. "Bench sign" means a sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way. A bench sign does not include those components of a bench which are commemorative or information plaques, not used for commercial purposes.

2. "Billboard sign" means a freestanding sign without the on-site business name and information and/or off-site advertisement.

3. "Business listing sign" means a sign in which the names of the occupants of a building are given and displayed in columns and/or rows.

4. "Commemorative plaque" means a memorial plaque or plate, with engraved or case lettering, which is permanently affixed to or near the structure or object it is intended to commemorate.

5. "Community bulletin board" or "kiosk" means a freestanding structure or wall structure which includes a surface intended for the posting of messages; for example, announce events, sales, or provide information. Such structure shall only be established by the city of Leavenworth.

6. "Construction sign" means any sign giving the name or names of principal contractors, architects and lending institutions responsible for construction on the site where the sign is placed, together with other information included thereon.

7. "Directional sign" means a sign giving directions, instructions or facility information (e.g., parking, exit or entrance signs).

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8. "Directory sign" means a sign on which the names and locations of occupants or the use or uses of a building are listed on a building diagram attached to the wall of the building.

9. "Drive-through menu board sign" means a freestanding or wall sign used for establishments to display their menu items and prices. The establishment shall have and maintain provision for automotive drive-through customers in order to be eligible for a drive-through menu board sign.

10. "Existing nonconforming sign" means any sign located within the city limits on the date of adoption or amendment of the ordinance codified in this chapter, which does not conform with the provisions of this chapter, as amended, but which did conform to all applicable laws in effect on the date the sign was erected. Existing nonconforming signs shall not include temporary signs.

11. "Freestanding sign" means a sign, not attached to any building or similar type of structure, which is securely and permanently attached to the ground.

12. "Illuminated sign" means any sign internally illuminated, in any manner, by an artificial light source, including all signs lit with neon tubes, either directly or indirectly. Such illuminated signs include, but are not limited to: television screens, monitors (computer or otherwise sourced), backlit canopies, LED, neon, internally illuminated channel letters, acrylic formed faces and other types of directly or indirectly illuminated signs.

13. "Incidental sign" means a sign, emblem, or decal informing the public of the property address, business hours, facilities or services available on the premises (e.g., open/closed signs, restroom signs and bank card signs).

14. "Integral sign" means any memorial sign, tablet, name or date of erection of a building when cut into any masonry surface or when constructed of bronze or other incombustible material mounted on the face of a building.

15. "Label sign" means a manufacturer's identification of the manufacturer, nature, ownership, or destination.

16. "Logo sign" means a sign bearing characters, letters, symbols, or characteristic design which, through trademark status or consistent usage, has become the customary identification for a business.

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~~17. "Menu sign" or "menu board sign" means a sign displaying the food products and prices provided by the eating and drinking establishment.~~

~~18. "Noncommercial sign" means a sign that bears only property address numbers, postal box numbers or names of occupants of premises.~~

~~19. "Off-site sign" means a sign which directs attention to a business, profession, product, activity or service which is not conducted, sold or offered on the premises or at the location where the sign is located.~~

~~20. "Pennant" means a long, tapering, usually triangular flag or an emblem similar in shape to a ship's pennant.~~

~~21. "Political election sign" means a temporary sign advertising a candidate or candidates for public elective office, or a political party, or signs urging a particular vote on a public issue decided by ballot in connection with local, state or national election or referendum.~~

~~22. "Political free speech sign" means a temporary sign expressing an opinion on a public, social, or ballot issue.~~

~~23. "Portable sign" means any mobile, movable sign or sign structure, such as a sandwich-board sign (A-frame sign), which is not securely attached to the ground or any other structure.~~

~~24. "Private use sign" means a temporary sign announcing an event, use or condition of personal concern, nonbusiness in nature, including, without limitation, "garage sale" or "lost animal" signs.~~

~~25. "Projecting sign" means any sign affixed to any building or wall, the leading edge of which extends beyond such building or wall.~~

~~26. "Real estate sign" means any sign which is used to offer property for sale, lease or rent.~~

~~27. "Residential development sign" means a sign identifying a recognized subdivision, condominium complex or residential development.~~

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28. "Roof sign" means any sign erected or constructed wholly upon and over the roof of any building or structure; provided, however, that a sign on the surface of a canopy shall be regarded as a projecting or wall sign.

29. "Special event sign" means individual temporary booth, tent, or vendor sign allowed for a special event or festival.

30. "Temporary community service event sign" means a sign for the purpose of "community service event" or "civic event."

31. "Temporary sign" means a sign not constructed or intended for long-term use. For the purposes of this definition, a temporary sign shall not be in place greater than 24 hours, unless specifically allowed a greater duration by this chapter. Temporary signs installed pursuant to this title do not have vested status and cannot become permanent installations.

32. "Trailer sign" means any sign mounted, painted, or attached through some other method on a vehicle normally licensed by the state as a trailer and used for advertising or promotional purposes.

33. "Transient business sign" means any sign used for any person either as principal or agent who sells goods, wares, services or merchandise at a fixed location on private property not within a permanent structure or building. A permanent structure or building is one which rests on a foundation and which substantially complies with the International Building Code and the LMC.

34. "Vehicle sign" means advertisement or graphics intended to advertise business affixed to a vehicle, but does not include license plates, license plate frames or vehicle brand.

35. "Wall sign" means any sign painted on or attached to and erected and confined within the limits of the outside wall of any building and supported by such wall or building and which displays only one advertising surface. Awning, canopy, and window (for the purposes of this definition, the window area is not calculated for temporary "sale" and "special product announcements" signs) signs are considered wall signs for the purposes of this definition. In addition, single-sided signs located parallel to the building wall, in the same building elevation, and separated from the wall are considered wall signs for the purposes of this definition.

36. "Warning sign" means any sign which is intended to warn persons of danger or prohibited activities such as "no trespassing," "no hunting," "flammable," "dangerous dog," "no parking,"

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~~"no dumping" and rules that govern. [Ord. 1490 § 1 (Att. A), 2014; Ord. 1426 § 1 (Att. B), 2012; Ord. 1397 § 1 (Exh. A), 2011.]~~

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14.04.020 Definitions.

All definitions relevant to this chapter shall be included in Chapter 21.90 LMC. Unless specifically defined, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~A. The definitions set forth in RCW 35.91.015 are hereby adopted and incorporated by this reference as if set forth at length.~~

~~B. For purposes of this chapter, the following words shall have the meanings set forth:~~

~~"Benefit or reimbursement area" means that area which includes parcels of real estate adjacent to or likely to require a connection to improvements made by a developer who has applied to the city for a latecomer reimbursement agreement pursuant to this chapter.~~

~~"City" means the city of Leavenworth, a legally incorporated municipality represented by the elected city council and/or designated office or official.~~

~~"City engineer" means the city of Leavenworth engineer or his/her designated representative.~~

~~"Cost of construction" means those costs (excluding interest charges or other financing costs) incurred for design, acquisition for right-of-way and/or easements, construction, labor, materials and installation required in order to create an improvement which complies with city standards, as determined by the city's engineer or authorized agent.~~

~~"Developer" means an individual, firm, corporation, limited liability company or partnership who proposes to improve real property within the city, or its urban growth area ("UGA").~~

~~"Direct connection" means a service connection, to be owned and maintained by the property owner and not the city, from existing or new utility improvements based on the following criteria:~~

~~1. Water system direct connections are single and dual water service taps;~~

~~2. Sewer system direct connections include side sewer (service) connections.~~

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~~"Segregation" means a large parcel, upon which is levied a reimbursement charge, is divided into smaller parcels. The associated charge is divided among the smaller parcels in accordance with the provisions of the original means of allocating the reimbursement charge.~~

~~"Water or sewer improvements" means the acquisition of right-of-way and/or easements, design, inspection and installation of improvements to city standards, as defined in RCW 35.91.020 as it now reads or as hereafter amended. They are further defined to include the following:~~

~~1. "Water system improvements" includes, without limitation, such things as treatment facilities, mains, reservoirs, wells and appurtenances such as valves, pumping stations and pressure-reducing stations.~~

~~2. "Sewer system improvements" includes, without limitation, such things as treatment facilities, mains and maintenance holes, pumping stations, force mains, inlets, catch basins, ditches, and swales. This term also includes all sanitary sewer or storm sewer improvements.~~

~~"Water and sewer latecomer reimbursement agreements" means a written contract, as approved by the city council and executed by the mayor, between the city and one or more developers providing for construction of water or sewer facilities and for partial reimbursement to the developer(s) by owner(s) of properties benefited by the improvements. [Ord. 1483 § 2, 2014.]~~

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14.16.040 Definitions.

All definitions relevant to this chapter shall be included in Chapter 21.90 LMC. Unless specifically defined, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~A. Mobile Home, Manufactured Home (Source RCW 46.04.302, Motor Vehicles). "Mobile home" or "manufactured home" means a structure, designed and constructed to be transportable in one or more sections, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating, and electrical systems contained therein. The structure must comply with the National Mobile Home Construction and Safety Standards Act of 1974 as adopted by Chapter 43.22 RCW, State Government—Executive, Department of Labor and Industries, if applicable. Manufactured home does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.~~

~~B. Designated Manufactured Home (Source: RCW 35.63.160 and 1988 c 239 s 1, Planning Commissions). A "designated manufactured home" is a manufactured home constructed after June 15, 1976, in accordance with the state and federal requirements for manufactured homes, which:~~

~~1. Is comprised of at least two fully enclosed parallel sections each not less than 12 feet wide by 36 feet long;~~

~~2. Was originally constructed with and now has a composition or wood shake or shingle, coated metal or similar roof of nominal 3:12 pitch; and~~

~~3. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built International Residential Code compliant single-family residences.~~

~~C. New Manufactured Home (Source: RCW 35.63.160 and 1988 c 239 s 1, Planning Commissions). A "new manufactured home" is any manufactured home required to be titled under RCW Title 46, Motor Vehicles, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032 (2), Excise Tax on Real Estate Sales.~~

~~D. Used Mobile Home (Source: RCW 82.45.030(2), Excise Tax on Real Estate Sales). "Used mobile home" means a mobile home which has been previously sold at retail and has been subjected to tax under Chapter 82.08 RCW, Retail Sales Tax, or which has been previously used~~

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~~and has been subjected to tax under Chapter 82.12 RCW, Use Tax, and which has substantially lost its identity as a mobile unit at the time of sale by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities.~~

~~E. Other. To the extent not defined in this chapter, words used in this chapter will be defined according to the definitions used within LMC Titles 14 through 21. [Ord. 1268 (Exh. B), 2005.]~~

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14.17.020 Definitions.

All definitions relevant to this chapter shall be included in Chapter 21.90 LMC. Unless specifically defined, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~"Flag" means a fabric or other flexible material attached to or designed to be flown from a flagpole or similar device.~~

~~"Flag, business" means a flag or representation of a flag displaying the letters, figures, design, symbol, trademark or device, including artificial representation of stock-in-trade, name, insignia, emblem, logo, product, service, or other graphic representation of a business.~~

~~"Flag, government" means an official flag displaying the name, insignia, emblem, or logo of any nation, state, municipality, or similar type of organization.~~

~~"Flagpole" means a free-standing structure or a structure attached to a building/structure or to the roof of a building/structure and used for the purpose of displaying flags.~~

~~"Light display" means an outdoor visual exhibition designed to dominate surrounding uses by incorporating items such as intense lighting which focuses attention on location.~~

~~"Tower/tower structure" means a structure taller than its diameter which can stand alone or be attached to a building or other structure, and anything tall and thin approximating the shape of a column or tower.~~

~~Other. To the extent not defined in this chapter, words used in this chapter will be defined according to the definitions used within LMC Titles 14 through 21 and the definitions found within the 2006 International Building Code, as amended in subsequent adoptions by the Washington State Legislature. [Ord. 1336 § 1, 2009.]~~

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14.28.040 Definitions.

All definitions relevant to this chapter shall be included in Chapter 21.90 LMC. Unless specifically defined, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~As used in this chapter, unless the context clearly indicates otherwise, certain words and phrases shall mean the following:~~

~~A. "Abandonment" means the discontinuation of use for a period of one year.~~

~~B. "Community development director" means the director of community development for the city of Leavenworth and his/her designee.~~

~~C. "Direct illumination" means illumination resulting from light emitted directly from a lamp or luminaire, not light diffused through translucent signs or reflected from other surfaces such as the ground or building faces.~~

~~D. "Fully shielded fixture" means a light fixture or luminous tube constructed and mounted such that all light emitted by the fixture or tube, either directly from the lamp, tube, or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal. A practical working way to determine if a fixture or tube is fully shielded: if the lamp or tube, any reflective surface, or lens cover (clear or prismatic) is visible when viewed from above or directly from the side, or from any angle around the fixture or tube, the fixture or tube is not fully shielded.~~

~~1. Examples of fixtures that are fully shielded: See Attachment A.~~

~~2. Examples of fixtures that are not fully shielded: See Attachment B.~~

~~E. "Glare" occurs when a bright light source causes the eye to continually be drawn toward the bright image or brightness of the source prevents the viewer from adequately viewing the intended target. Glare may create a loss of contrast or an afterimage on the retina of the eye reducing overall visibility. Two classifications of glare are discomfort glare and disability glare.~~

~~1. "Discomfort glare" does not necessarily keep the viewer from seeing an object, but does cause a constant adaptation of the eye to the contrast of light levels that in turn may cause a sensation of discomfort.~~

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2. "Disability glare" occurs when the bright light source causes stray light to scatter in the eye which causes the primary image on the retina to be obscured. It may prevent the viewer from seeing things of importance.

F. "Installed" means attached, or fixed in place, whether or not connected to a power source.

G. "Light trespass" occurs when neighbors of an illuminated space are affected by the lighting system's inability to contain light within the area intended. The most common form of light trespass is spill light which illuminates objects beyond the property boundaries.

H. "Low wattage" is lighting which is "muted," diffused and for purposes of this chapter is used primarily for architectural embellishment. This light shall not shine, glare, emit direct illumination, or cast a shadow on the adjacent property.

I. "Lumen" means the unit used to measure the actual amount of visible light that is produced by a lamp.

J. "Luminaire" means the complete lighting assembly, including the lamp, housing, shields, lenses and associated electronics, less the support assembly. A light fixture.

K. "Luminous tube (neon tube)" means a glass tube filled with a gas or gas mixture (including neon, argon, mercury or other gasses), usually of small diameter (10 to 15 millimeter), caused to emit light by the passage of an electric current, and commonly bent into various forms for use as decoration or signs. Does not include common fluorescent tubes.

L. "Mounting height" shall be measured as the vertical distance between the parking surface and the bottom of the lighting fixture.

M. "Outdoor light fixture" means an outdoor electrically powered illuminating device, outdoor lighting or reflective surface, lamp, luminous tube and/or similar devices, either permanently installed or portable, which is used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot and floodlights for:

1. Buildings and structures;

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~~2. Recreational areas;~~

~~3. Parking lot lighting;~~

~~4. Landscape and architectural lighting;~~

~~5. Billboards and other signs (advertising or other);~~

~~6. Street lighting;~~

~~7. Product display area lighting;~~

~~8. Building overhangs and open canopies;~~

~~9. Pedestrian walkways or areas;~~

~~10. Building or landscape decoration.~~

~~N. "Outdoor recreation facility" means an area designed for active recreation, whether publicly or privately owned, including, but not limited to, baseball diamonds, soccer and football fields, golf courses, tennis courts and swimming pools.~~

~~O. "Person" means any individual, lessee, owner, or any commercial entity including but not limited to firm, business, partnership, joint venture, or corporation.~~

~~P. "Rope lights" means lights which simulate neon lighting and are in an enclosed tube.~~

~~Q. Substantial alteration or remodel. (See the International Construction Code definition.)~~

~~R. "Temporary lighting" means lighting which does not conform to the provisions of this chapter and which will not be used for more than a temporary period. Temporary lighting is intended for uses which by their nature are of limited duration; e.g., civic events, or construction projects.~~

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~~S. "Total outdoor light output" means the maximum total amount of light, measured in lumens, from all outdoor light fixtures on a project site. Includes all lights and luminous tubing used for all classes of lighting. For lamp types that vary in their output as they age (such as high pressure sodium, metal halide, and fluorescent), the initial output, as defined by the manufacturer, is the value to be considered. [Ord. 1268 (Exh. C), 2005.]~~

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18.50.020 Definitions.

All definitions relevant to this chapter shall be included in Chapter 21.90 LMC. Unless specifically defined, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~As used in this chapter, the following words and terms are defined:~~

~~A. "Accessory structure" means a structure incidental, appropriate and subordinate to the main use of the property, and located on the same manufactured home lot or attached to the manufactured home itself, such as awnings, carports, porches, utility buildings and similar structures.~~

~~B. "Carport" means an accessory building or portion of a main building used as a covered shelter for an automobile and open on two or more sides.~~

~~C. "Manufactured home" means a structure transportable in one or more sections, that in the traveling mode is eight body feet or more in width or 32 body feet or more in length or more than 320 square feet in area and is built on a permanent chassis and designed to be used with or without a permanent foundation.~~

~~D. "Manufactured home lot" means that area within the manufactured home park that is designated for the private use of the occupants of the lot.~~

~~E. "Manufactured home park" means any tract of land that is divided into rental spaces under common ownership for the purpose of locating two or more manufactured homes for dwelling purposes.~~

~~F. "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use with or without motive power, of such size and weight as not to require a special highway movement permit and certified as approved as such by the Department of Labor and Industries by the attachment of their official "Green" seal.~~

~~G. "Utility buildings" means accessory structures intended for the storage of typical outdoor equipment incidental to the use and upkeep of an occupied manufactured home space, i.e., lawnmower, lawn chairs, barbecue, etc. [Ord. 1057 § 2, 1997; Ord. 675 § 1, 1980.]~~

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21.01.040 Definitions.

All definitions relevant to this chapter shall be included in Chapter 21.90 LMC. Unless specifically defined, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~Unless the context clearly requires otherwise, the definitions in this section apply throughout this title:~~

~~"Application" means a request for any land use permit required from the city for proposed development or action, including without limitation building permits, conditional uses, binding site plans, planned developments, subdivisions, variances, site plan reviews, permits or approvals required by critical area ordinances, and site-specific rezones.~~

~~"Closed record appeal" means an appeal on the record with no new evidence or information allowed to be submitted and only appeal argument allowed.~~

~~"Open record hearing" means a hearing that creates the record through testimony and submission of evidence and information. An open record hearing may be held on an appeal if no open record hearing has previously been held on the application.~~

~~"Public meeting" means an informal meeting, hearing, workshop, or other public gathering to obtain comments from the public or other agencies on an application. A public meeting does not constitute an open record hearing. [Ord. 1088 § 2 (Exh. A), 1998.]~~

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16.04.040 Additional definitions.

All definitions relevant to this chapter shall be included in Chapter 21.90 LMC. Unless specifically defined, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:~~

~~"City" means the city of Leavenworth, Washington.~~

~~"Department" means any division, subdivision or organizational unit of the city established by ordinance, rule or order.~~

~~"Early notice" means the city's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance procedures).~~

~~"Ordinance" means the ordinance, resolution, or other procedure used by the city to adopt regulatory requirements.~~

~~"SEPA rules" means Chapter 197-11 WAC adopted by the Department of Ecology. [Ord. 1085 § 1, 1998.]~~

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