

## MEMORANDUM

TO: Alder Bidar-Sielaff, Alder Clear, Alder Phair, Alder Rummel, Alder Zellers  
Michael P. May, City Attorney

FROM: Heather Allen, Common Council Legislative Analyst

DATE: August 5, 2013

RE: **Short-term rental regulations**

### Overview

Travelers today have more accommodation options than ever before. Websites offering short-term rentals such as Airbnb and VRBO have increased in popularity in recent years. These websites offer user-friendly portals to connect to homeowners willing to let out rooms or entire houses for short-term stays. The websites enable a direct connection between the traveler and the renter, and as a result sometimes circumvent local safety regulations, permit requirements and tax collections.

Cities around the country have addressed short-term rentals through varied laws and regulations. New York recently fined a renter's landlord \$2,400<sup>1</sup> for having an illegal hotel which violated the 2010 short-term rental ban. At the same time, Airbnb, HomeAway, TripAdvisor and FlipKey have established a new organization, the Short Term Rental Advocacy Center (STRAC) to advocate for the "short-term rental marketplace to continue to thrive to the benefit of all stakeholders." STRAC asserts that more leisure travelers chose to stay in short-term rental homes (22%) and condos (24%) last year than ever before and that short-term rentals represent a \$24 billion annual market in the U.S. or 8% of the total U.S. travel market.<sup>2</sup>

The table on the following page details some of the regulations intended to address short-term rentals. There is a wide variety in the approaches to the regulations from a complete ban (NYC) to regulating short-term rentals as if they were bed and breakfasts (Portland, New Orleans) to providing conditional use permits (Green Bay). Rules pertaining to occupancy, permit requirements, density, fines, and fees vary widely. Generally, most of the regulations which allow some form of short-term rental require the payment of all applicable local taxes. Please see the following table for a comparison of the regulations.

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<sup>1</sup> Lieber, Ron. *A \$2,400 Fine for an Airbnb Host*. Bucks: Making the Most of Your Money. The New York Times Blog. Retrieved from [http://bucks.blogs.nytimes.com/2013/05/21/a-2400-fine-for-an-airbnb-host/?\\_r=0](http://bucks.blogs.nytimes.com/2013/05/21/a-2400-fine-for-an-airbnb-host/?_r=0)

<sup>2</sup> [www.stradvocacy.org](http://www.stradvocacy.org)

City, State	Regulation	Year	Conditions	Fees	Renewal	Occupancy	Districts	Other Conditions	Planning	Taxes	Fines	Density	Other Notes
Green Bay, WI	Transient Residential Use (Conditional Use Permit)		Conditional Use Permit (CUP) is required to rent out a property for less than 28 days.	\$300 registration fee.	CUP is subject to review on a yearly basis or if the Plan Commission or Common Council has reason to review.	Occupancy rules based on existing State, City and County rules.	Allowed in residential districts with CUP.	Applicant must conduct a neighborhood meeting prior to applying for CUP for all neighbors within 500 feet.	Plan Commission reviews the application.	10% hotel tax.	Fines up to \$500 and possible permit suspension or revocation.	Application will be considered based on density of other CUPs within 500 feet of property.	Requires documentation of occupants, dates, addresses, vehicle license numbers. As of June 2013, 7 properties have received permits.
New York, NY	Short-Term Rental Ban	2010	No rentals less than 30 days allowed in multi-family residential buildings. Unless the owner/occupant is present, the renter has access to all areas of the dwelling, or is family.					<b>EXCEPTIONS</b> Single family homes are permitted to rent out on short-term basis. One company One Fine Stay facilitates these rentals and operates carefully within existing laws, collecting and remitting occupancy and sales taxes to local governments.			Fines can range from \$1,000 to \$5,000 and up.		Co-op boards or neighbors can initiate complaints about "illegal hotels" spurring intervention from City of New York.
New Orleans, LA	Short-Term Rentals are generally prohibited (60 days or less in the French Quarter or 30 days or less outside the French Quarter).		Short-Term Rentals are prohibited unless they are regulated as Bed and Breakfasts. B&Bs are any dwelling with 1-9 sleeping rooms. There are four categories of B&Bs (for paid occupancy up to 7 nights).	Fees for Bed and Breakfast Permits: 1 to 2 rooms \$200.25, 3 to 5 rooms \$600.25, 6 to 9 rooms \$0.	B&B permit to be renewed annually. An annual occupational license tax of \$2/sleeping room also required for B&Bs with 6+ rooms.			<b>TAXES</b> The hotel tax is 13%. The 4% sales tax is applicable to B&Bs with 6+ sleeping rooms. If breakfast or beverages are sold there is 5% City sales tax. Hotel occupancy privilege tax is also charged to guests for the right to occupy sleeping rooms. This tax is in addition to sales tax and only applies to an establishment with 3-9 sleeping rooms (\$0.50/room).					Also need an occupational/general business license.
Austin, TX	Short-Term Rental Licensing	2012	All residential properties renting on a short-term basis need a license, require a certificate of occupancy or third party inspection and proof of payment of local hotel taxes.	\$285 fee annually.	License must be renewed annually.					<b>TAXES</b> Must provide proof of payment of local hotel taxes for license.		<b>DENSITY</b> There are two types of Short-Term Rentals: owner-occupied (Type 1) and those not owner-occupied (Type 2). No more than 3% of STRs within each census tract can be type 2s.	
Portland, OR	Short Term Rentals Prohibited in Residential Areas absent Conditional Use Permit (CUP)		Short-Term Rentals in non-residential zones have parking, accessibility, and safety requirements.	Type 2 Conditional Use Review to become licensed as a Bed and Breakfast (\$3,000 - \$4,000).				<b>OTHER CONDITIONS</b> According to the zoning code, a Bed and Breakfast facility is where an individual or family lives in a house in a residential zone and rents bedrooms to overnight guests. Bed and Breakfast facilities in residential zones are limited, by the zoning code, to a maximum of 5 bedrooms for guests. The individual or family who operate the Bed and Breakfast must occupy the house as their primary residence and the house must be at least 5 years old before a Bed and Breakfast facility is allowed. A new B&B in a residential zone requires a land use review, which takes some time and has a significant fee attached.					

<b>Chicago, IL</b>		2011	Maximum amount of rentals per building is 6.	\$500 fee for vacation rental or short-term rental licence.	Permits must be renewed every 2 years.	Only property owners may obtain vacation rental licenses.	No more than one person for every 125 sq ft. building codes apply.	\$1,000,000 of liability insurance is required.			The building commissioner has the right to inspect the property for any reason at any time.		Rental owner must sanitize sheets, plates and utensils, linens, and towels between guests.
<b>Maui, HI</b>	Short-Term Rental Housing		A total of 400 Short-Term Rental Properties are permitted. Short-Term Rentals are restricted to certain communities and then caps the total number of rentals.				Owner must live within 30 miles, or hire a management company.		Planning Commissions can place conditions on Short-Term Rentals to mitigate adverse impacts to neighborhoods.	The permit holder shall have a current transient accommodations tax license and general excise tax license for the Short-Term Rental home.		Those who are found to be operating without a permit are ineligible to apply for a permit for 5 years. Other enforcement rules and penalties include stiff fines, community service and possible criminal penalties.	Parking spaces are required for 4+ bedroom units.
<b>Palm Desert, CA</b>	Short-Term Rentals	2012	Short-Term Rental Permits are required if the property is rented for 27 days or less.	\$25 application fee.	Permits must be renewed annually.					9% Transient Occupancy Tax.		Fines up to \$5,000 for lack of permit, or failure to pay tax.	The ordinance replaced a previous ordinance requiring Conditional Use Permits (\$500) and a public hearing for all applications.