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**SHORT TERM  
RENTAL STUDY**

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# *Short Term Rental Study*

## *Executive Summary*

### **Introduction**

With the growth of the sharing economy and the increased popularity of websites like Airbnb, VRBO, and FlipKey, short term rentals have proliferated in the City of New Orleans despite being prohibited in most zoning categories. While there is no official count, there are likely between 2,400 and 4,000 listings in New Orleans. The vast majority of these short term rentals operate without the proper approvals. Even if an operator wanted to follow the rules, get a license, and pay fees and taxes, the use is allowed in very limited locations. Under the current regulations, short term rentals are allowed in few districts and there is no licensing structure to regulate short term rentals. Having a structure in place is important to regulate short term rentals, to minimize the negative impacts on surrounding properties, and to facilitate enforcement on problem operators. Recognizing the issues with the current short term rental regulations, the City Council passed Motion M-15-391 directing the City Planning Commission to produce a Short Term Rental Study.

The study was guided by the following goals and objectives:

- Ensure the safety of visitors;
- Protect neighborhood character and minimize impacts to residential areas;
- Enable economic opportunities;
- Create equitable regulations for the hospitality industry;
- Create regulations based on best practices that respond to the unique circumstances in New Orleans;
- Generate revenue for the City;
- Facilitate public notice and information;
- Allow short term rentals based on their impact;
- Propose regulations that respond to the unique impacts of each short term rental type to minimize nuisances;
- Propose enforceable regulations;
- Prioritize enforcement; and
- Implement a system where problem operators would not vest property rights.

### **Key Findings**

Based on the review of nationwide best practices and the analysis of the situation in New Orleans, the following key findings informed the proposed short term rental recommendations:

- There are likely between 2,400 and 4,000 unique listing in New Orleans. About 70% are whole unit rentals with an average nightly rental rate of \$250.
- Demand for short term rentals is significant and mostly concentrated in the historic core neighborhoods.

- Short term rentals, as sleeping accommodations for non-residents, are subject to more stringent building code regulations than the typical single- or two-family residence.
- Many cities have struggled with the regulation and enforcement of short term rentals; however, the cities that have been most successful have categorized short term rentals into different types based on their impacts, put standards in place to ensure guest safety, set appropriate fees and fines to incentivize compliance, and reevaluated and revised the short term rental regulations after their implementation.
- Short term rentals are residential uses with commercial type impacts which should be permitted in commercial and mixed-use districts and only allowed in residential districts in limited circumstances.
- Short term rentals with lesser impacts, like those that are temporary or have a permanent resident present at the time of the rental, should be categorized separately and regulated with fewer restrictions.
- To preserve the existing residential housing stock for permanent residents and prevent proliferation of short term rentals in high demand residential neighborhoods, whole unit short term rentals should not be permitted by right, except in owner-occupied two-family dwelling and should be limited in density in residential districts.
- The Department of Safety and Permits should create a new license type and would administer and enforce the short term rental regulations.
- The City and the platforms should explore opportunities to cooperate on legitimizing and regulating the short term rental industry.
- Under the current tax structure, there is minimal revenue generation potential as short term rentals with two (2) bedrooms or less pay no taxes and between three (3) and five (5) bedrooms only pay \$0.50 per room per night. Those with six (6) or more bedrooms are subject to the 13% hotel sales tax, only 1.5% of which goes to the City. Revisions to State laws are required to change the current tax structure. This should be put in place prior to allowing short term rentals to fund their licensing and enforcement.

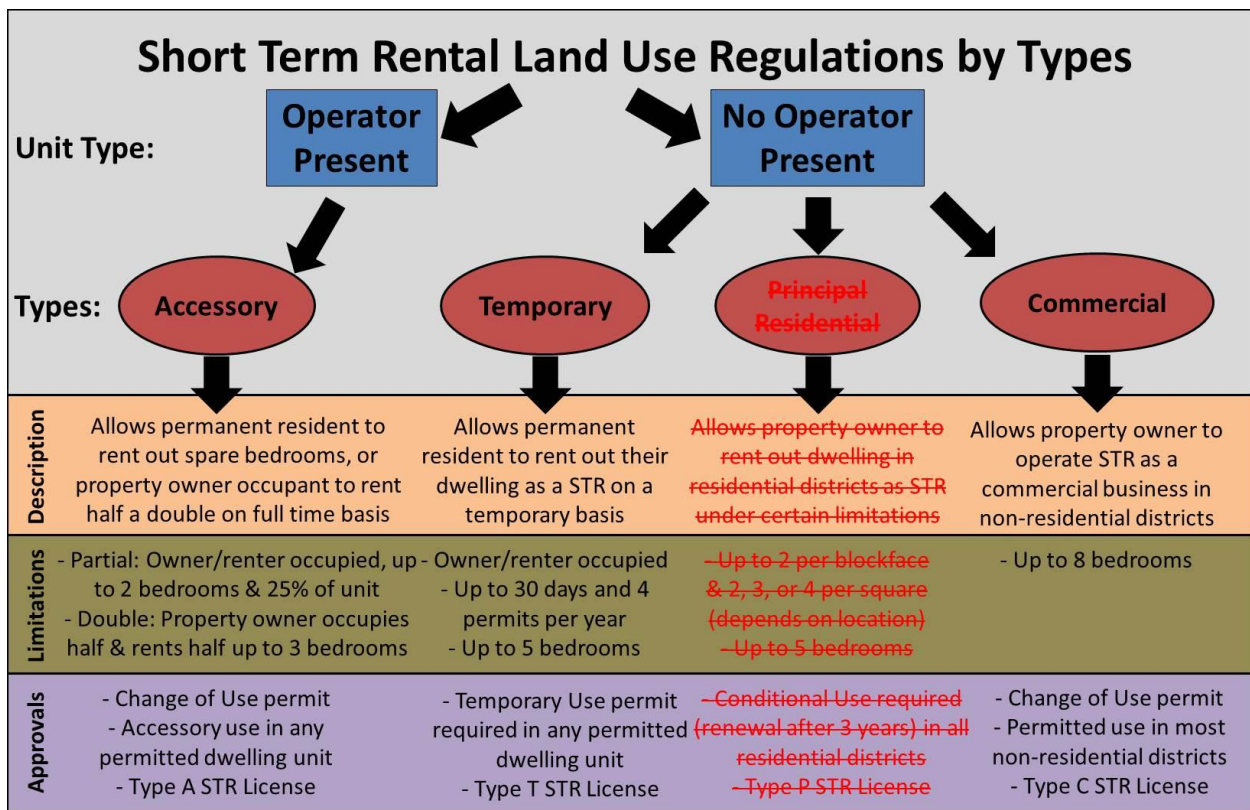
## Recommendations

### *Land Use and Zoning*

The City Planning Commission recommends revising the Short Term Rental definition to clarify that it takes place in a residential dwelling, rented to one party for less than thirty (30) days, and common bathrooms are allowed. There should be no neighborhood prohibitions for short term rentals. The following three (3) types of short term rentals are proposed:

- **Accessory Short Term Rental:** A short term that is accessory to a residential use. The partial unit accessory short term rental is limited to two (2) bedrooms (up to 25% of the unit) and three (3) guests. The whole unit rental is limited to where the property owner lives in one half of a two-family residence and the other half is used as a short term rental with up to three (3) bedrooms and six (6) guests. The operator or owner shall be present at the time of the rental. This type shall be allowed as an accessory use in all districts where a residence is permitted. **No additional parking beyond that required for a residential use is required.** A Type A Short Term Rental License is required.

- **Temporary Short Term Rental:** A permanent resident can rent the entire dwelling unit, with a maximum of five (5) bedrooms and ten (10) guests, using up to four (4) temporary use permits for a total of thirty (30) days per year. This type shall be allowed as a temporary use in all districts where a residence is permitted. No additional parking beyond that required for a residential use is required. A Type T Short Term Rental License is required.
- ~~**Principal Residential Short Term Rental:** A property owner can rent an entire dwelling unit for the entire year, with a maximum of five (5) bedrooms and ten (10) guests, subject to conditional use approval in all residential districts. The conditional use must be renewed after three (3) years and there shall be a cap of between two (2) and four (4) Principal Residential Short Term Rentals and bed and breakfasts per square (based on the location). If parking is required, then one (1) parking space per two (2) guest rooms shall be provided. A Type P Short Term Rental License is required.<sup>1</sup>~~
- **Commercial Short Term Rental:** A property owner can rent an entire dwelling unit, with a maximum of eight (8) bedrooms and sixteen (16) guests, as a permitted use in most commercial and mixed-use districts with limited restrictions. If parking is required, then one (1) parking space per two (2) guest rooms shall be provided.



To ensure consistency between these proposed short term rental regulations and the bed and breakfast regulations, the bed and breakfast regulations should be modified to allow for rentals of up to thirty (30) nights, reduce Principal Bed and Breakfasts to eight (8) maximum bedrooms,

<sup>1</sup> The City Planning Commission staff recommend a Principal Residential Short Term Rental type, but the Planning Commission eliminated the recommendation for creating this type.

eliminate prohibitions in certain neighborhoods, allow Accessory Bed and Breakfasts as a permitted or conditional use in more residential districts, and change density limits.

### *Operator Requirements*

To ensure that short term rentals are properly licensed and operate in a responsible manner, the following regulations should be put into place:

- A Short Term Rental License, which is a privilege and not a right, should be required for all short term rentals.
- The operator shall provide liability insurance, have an in town manager for any period the operator is out of town, maintain a log of all short term rental activity, and pay all applicable taxes and fees.
- Guests above the occupancy limit and outdoor activity shall be prohibited after hours.
- Guests shall be notified of all short term rental rules and regulations as well as contact information for the property manager, emergency services, and the City's Short Term Rentals website.
- The operator shall maintain a safe environment by complying with Building and Life Safety Codes, prohibiting rental of accessory structures, providing smoke detectors and fire extinguishers, and posting the location of fire exits and escape routes.
- The operator shall post a copy of the short term rental license so that it is visible from the street and shall notify the applicable neighborhood organizations and residents within 150 feet of the subject property of the short term rental use, limitations, and contact information.
- It shall be a violation to advertise a short term rental without a license, without posting the license number, without posting the address, or outside the scope of the license.

### *Platform Agreements*

The City should work with the platforms to reach agreements to cooperate on the following:

- Platforms should collect and remit all applicable taxes or inform their users of their requirement to pay taxes.
- Platforms could require that all listings provide and post a permit number to advertise.
- Upon notice from the City of evidence of a violation, platforms should provide specific, relevant data to the City and remove or modify listings that are found in violation of the short term rental regulations.

### *Permitting, Licensing, Revenue, & Enforcement*

In order to allow short term rentals to operate, a licensing and an enforcement structure needs to be established. To do so, the City will have to do the following:

- With limited ability to tax short term rentals, the City should lobby the Louisiana Legislature to create a Short Term Rental tax, or amend the existing Hotel-Motel Sales Tax, that would allow the City to tax short term rentals with five (5) or fewer bedrooms.
- The ability to tax short term rentals with five (5) or fewer bedrooms needs to be put into place prior to licensing short term rentals.
- The Department of Safety and Permits indicated that they would need to create a new Short Term Rental License.
- To administer and enforce these new licenses, the Department of Safety and Permits would need an additional 3 or 4 staff members and a budget of \$175,000 to \$300,000 to administer and enforce the proposed short term rental regulations.
- The license fee should be \$50/year for a Temporary Short Term Rental License (Type T), \$200/year for an Accessory Short Term Rental License (Type A), and \$500/year for a ~~Principal Residential~~ and a Commercial Short Term Rental License (Types ~~P and~~ C).
- To effectively enforce short term rentals, the City needs to change State Law to increase the maximum fine to above \$500.
- The Department of Safety and Permits should develop an administrative adjudication process for zoning-related short term rental violations and a civil citation mechanism for City Code-related short term rental violations.
- The City should develop a short term rental website with a listing of licensed short term rentals and online reporting of short term rental violations.
- There should be an annual review where public hearings are required for short term rentals with multiple complaints.

## Next Steps

This Short Term Rental Study is the first step in any regulation of short term rentals and further action is required to implement any of the recommendations in this study. To adopt any changes to the Comprehensive Zoning Ordinance, the City Council would adopt a motion for a text amendment which would require consideration by the City Planning Commission prior to final adoption by the City Council. To adopt changes to the City Code, City Council would have to adopt an ordinance. To change the tax and fine structure, action is required by the Louisiana State Legislature. All of these actions would be subject to public comments before the appropriate legislative body.



## A. *Existing Conditions*

### **Short Term Rentals Study Background**

Short term rentals are residential dwelling units that are being rented for less than 30 consecutive days, typically by guests visiting the city. In recent years, technology and new platforms, such as Airbnb, HomeAway, and FlipKey, have made it easier to rent bedrooms and whole units as short term rentals, and they have proliferated around the world and in New Orleans. The current short term rental regulations are not working for short term renters and neighborhoods alike. The purpose of this Short Term Rental Study is to utilize nationwide best practices and local insights to propose a new system to regulate short term rentals in New Orleans.

#### *Council Motion M-15-391*

The scope of the Short Term Rental Study is outlined in the motion that directs the City Planning Commission to conduct the study. The City Council adopted Motion M-15-391 directing the City Planning Commission to study the regulation of Short Term Rentals in the new Comprehensive Zoning Ordinance (CZO) from a land-use perspective, in light of municipal regulatory schemes recently enacted by local government entities around the United States. The City Council plans to adopt amendments to the City Code to implement a permitting and enforcement scheme in conjunction with the land-use regulations in the CZO.

The City Council desires comprehensive regulation of Short Term Rentals in the City Code and CZO, consistency between the two, and recommendations from the City Planning Commission as to what provisions should be included in or omitted from the CZO rather than the City Code. City Council Motion M-15-391 directs the City Planning Commission to include the following subject matter in the study, without narrowing its breadth:

1. Whether a more appropriate definition of the use currently referred to as “Short Term Rentals” should be amended into the Comprehensive Zoning Ordinance of the City of New Orleans, such as a bifurcated definition similar to that of “Bed and Breakfast”;
2. Whether the definition of Short Term Rentals, or any amended definition, should include a limitation of the size of any permitted Short Term Rental, such as a limitation on the number of bedrooms or dwelling units that may be rented per lot of record;
3. Where the use currently referred to as “Short Term Rentals” should be prohibited, a conditional use, or a permitted use;
4. If any supplemental use standards are necessary to further regulate such use;
5. If it is appropriate to create a temporary use (as contemplated in Article 21.8 [of the Comprehensive Zoning Ordinance]) and any additional specific requirement for either the use currently referred to as “Short Term Rentals” or subcategory of short term rentals if the recommended definition is bifurcated;
6. If there is a set of best practices that has developed based on short term rental regulation recently enacted by local governmental entities around the United States, or a set of recommendations to be made by the City Planning Commission based on its study of such recently enacted regulations; and

7. Whether and how the Council should amend the City's bed and breakfast regulations in conjunction with any amendments to the City's short term rental regulations.

City Council Motion M-15-391 further grants the City Planning Commission and its staff the flexibility to expand the scope of the study, and to make any and all legal and appropriate recommendations deemed necessary in light of the study, review, and public testimony resulting from the motion.

### *Scope of Work*

The City Planning Commission used the City Council Motion M-15-391 as a guide for the study, but expanded the scope to look at all aspects of short term rental regulations. The scope of Motion M-15-391 focuses on land use and zoning regulations of Short Term Rentals and consistency with the City Code. The City Planning Commission has taken a more expansive view with this study because the zoning regulations would not work without a permitting and licensing structure, City Code provisions to regulate the use, an enforcement structure, and a fee and tax structure to fund the regulatory regime.

The report is broken down into the following sections. This first section of the study lays out the background on short term rentals, the platform providers, and uses available studies to estimate the expanse of short term rentals in New Orleans. The second section outlines the benefits and issues associated with short term rentals. The third section reviews the existing short term rental regulations. Next, the study summarizes the public comments and reviews how other cities regulate short term rentals, followed by an analysis on regulating the impacts of short term rentals. The final sections provide recommendations for short term rental regulations in the Comprehensive Zoning Ordinance and the City Code, other changes that are required to establish a short term rental license, revenue, and enforcement structure, and outlines issues that are outside of the City's immediate control.

### *Study Goals*

The City Planning Commission staff developed the following goals and objectives to guide the Short Term Rental Study and its recommendations:

- Ensure the safety of visitors traveling to New Orleans;
- Protect neighborhood character and minimize impacts to residential areas;
- Enable appropriate entrepreneurial and economic opportunities;
- Treat like uses similarly and create equitable regulations for the hospitality industry;
- Create a regulatory framework that is based on best practices yet responds to the unique circumstances in New Orleans and the limitations on City government;
- Enhance opportunities for City revenue generation;
- Facilitate public notice and information;
- Categorize allowable short term rentals in types based on their use and impact;
- Permit the least impactful types of short term rentals;
- Propose regulations and standards that respond to the unique impacts of each Short Term Rental type to minimize nuisances and mitigate their impacts;

- Propose enforceable regulations;
- Prioritize enforcement, especially for “problem” operators; and
- Implement a system where short term rentals would not vest property rights and would allow for licenses to be revoked/not renewed for operators who violate the regulations.

## **Description of Short Term Rentals**

In general, short term rentals are any rentals of a residential dwelling unit that are less than 30 days (or 60 days in the Vieux Carré). Thirty days is the standard timeframe that the Department of Housing and Urban Development, the building code, and most municipalities use to distinguish between short term and long term rentals. This standard has been adopted by most cities including New Orleans. Most often, short term rentals are associated with certain commercial (and quasi-commercial) uses like hotels, motels, hostels, and bed and breakfasts. This is changing as more historical residential structures are being rented on a short term basis. The focus of this study is on the short term rental of residential dwelling units and not commercial short term rentals, such as hotels.

### *Short Term Rental Types*

Residential short term rentals in New Orleans run the gamut from a property owner who rents out a spare bedroom once a year for Mardi Gras to the out-of-town property owner who rents out multiple units on a short term basis year-round. Most of the short term rentals are somewhere in between. Through our study, we have identified the following major categories of short term rentals in New Orleans:

- Occupant rents a spare bedroom during special events;
- Occupant rents a whole unit while on vacation or during special events;
- Property owner rents spare bedroom on a regular basis;
- Tenant rents a spare bedroom on a regular basis;
- Owner rents a second or vacation home while they are not in town;
- Owner lives on the property and rents an additional unit (other side of double);
- Property owner does not live onsite and rents unit(s) for a mix of long and short term;
- Property owner does not live onsite and rents exclusively short term;
- Property owner/investor rents multiple units on one property; and
- Property owner/investor rents units on multiple properties on short term basis.

This is not an exhaustive list, but most types of short term rentals fit into one of these categories. Looking at these types of short term rentals, you can break down certain aspects of the short term rental that would have different impacts and might need different types of regulations:

- Occupancy: owner occupancy, renter occupancy, or no permanent residential occupancy;
- Portion of unit: full unit rental or partial unit rental;
- Time rented on a short term basis: permanent or temporary; and
- Use of property: single-family, two-family, or multiple-family.

## Short Term Rental Platforms

Short term rentals have been around for decades. Prior to the internet, it was more difficult to rent dwellings on a short term basis, especially to someone visiting New Orleans from another city. Units were rented on a short term basis through past experiences, word of mouth, soliciting guests at ports of entry, or advertising in the classifieds. Short term rentals happened, but they were limited due to the difficulty in finding guests, the cost to advertise, and concerns about fraudulent listings. Short term rentals have gained in popularity over the past couple of decades as online listings have made it easier to connect out of town guests with local hosts. In the past couple of years, the number of short term rentals have exponentially increased as these platforms have become more popular. Below is a short summary of some of the most popular short term rental platforms:

### *Airbnb*

Airbnb was founded in San Francisco in 2008. Airbnb has rapidly grown to over 2 million listings in over 190 countries and 34,000 cities. To use Airbnb, the site requires both the host and the guests to confirm their identity. The website encourages the hosts and the guests to rate and review each other. Airbnb does more than just advertises the listings; it handles the transaction between the guest and the host and takes a fee from each totaling about 10-13%. In some cities, states, and countries, Airbnb collects and remits hotel, transient occupancy, and/or sales taxes to the jurisdiction. In addition, Airbnb offers a \$1 million host protection insurance to provide liability coverage for certain types of incidents. According to Airbnb, there were approximately 2,400 listings in New Orleans during the past year.<sup>2</sup>

### *HomeAway (VRBO)*

HomeAway is an Austin based business that was founded in 2006. HomeAway has grown by acquiring numerous other vacation rental websites including VRBO.com, VacationRentals.com, Homelidays, OwnersDirect, bookabach, stayz, travelmob, and many other sites. HomeAway has about 25 different brands, many of which are international. HomeAway has over 1 million listings in 190 countries. HomeAway is as an advertising platform. HomeAway charges about \$400 to \$1,000 per year for a host to advertise on its platform. Interested guests then contact the host and book directly with the host. HomeAway has just started processing credit cards, with a 2.5% fee, on behalf of the host. There are just over 1,000 listings in New Orleans.<sup>3</sup>

### *TripAdvisor (FlipKey)*

TripAdvisor bills itself as the world's largest travel site and it allows travelers to book flights, hotels, vacation rentals, cruises, and travel attractions. TripAdvisor focuses on traveler reviews with 250 million reviews of its over 5 million listings of accommodations, restaurants, and

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<sup>2</sup> *Overview of the Airbnb Community in New Orleans, Louisiana*, November 2015

<sup>3</sup> November 2015 staff search

attractions in 47 countries. FlipKey is the vacation rental site for TripAdvisor. FlipKey has 300,000 listings in over 11,000 cities throughout the world. FlipKey provides free listings and charges a booking fee of about 13% of the total rental amount. FlipKey has approximately 325 listings in New Orleans.<sup>4</sup>

### *Other Platforms*

In addition to the aforementioned platforms, there are many other websites that list rentals on short or long term basis. A search by the City Planning Commission staff found over 40 websites with short term rental listings including 20 with listings in and around New Orleans. These listings include various websites that advertise housing rentals, corporate housing rentals, listings targeted to the film industry, local websites, and international websites. The following websites have listings in New Orleans:

- Craigslist: a free advertising platform that lists housing rentals, with some short term rentals. In a November 2015 search there were just under 400 listings New Orleans region in the “sublet & temporary housing” category.
- Tripping: an aggregator website that combines listings from multiple short term rental platforms large (including HomeAway and FlipKey) and small. There are 2,900 listing in the New Orleans region.
- Zilyo: an aggregator website that has over 2.5 million listings from multiple platforms including Airbnb. Currently there are over 2,300 listing in and around New Orleans.
- AllTheRooms: another aggregator website that combines listing for short term rentals with hotels, bed and breakfasts, and other listings. There are almost 900 listings in the New Orleans area.
- FilmNewOrleans.org: a city run website to support the film industry that includes housing listings for film crew members.
- 9flats: A German based company with 200,000 listings. There are eight listings for New Orleans including bed and breakfast, entire apartments, and private rooms.
- AlwaysonVacation: a vacation listing website based out of California with over 65,000 rental listings worldwide. There is only one listing in New Orleans.
- BedyCasa: A French company with almost 50,000 listings including one in New Orleans.
- Booking.com: A platform that has a mix of hotels, bed and breakfasts, and vacation home with about 200 listings in the New Orleans area.
- Couchsurfing: A website to connect hosts and travelers that allow them to stay for free (so unlike most other websites, these are not commercial exchanges).
- Homestay: An Ireland based company with seven listings in the New Orleans region. Requires that the host is present during the guest’s stay.
- HouseTrip: A United Kingdom based company that has received \$60 million in venture capital funding. It has 300,000 worldwide listings, but only one in New Orleans.
- OnlineVacationRentals.com: A Chicago based advertising website with one New Orleans listing.
- Rentalo: A Miami, Florida based vacation rental, hotel, and bed and breakfast advertising website with 134 listings in the New Orleans area.

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<sup>4</sup> November 2015 staff search

- Roomorama: It has 300,000 worldwide listings but only nine in New Orleans.
- Sea2Sky Vacation Rental: A California based company with one New Orleans listing.
- StopSleepGo: A London based vacation rental booking website with three New Orleans listings.
- Vacation Home Rentals: A Massachusetts based company with over 80,000 listing including 28 in New Orleans.
- Wimdu: A German based company with over 300,000 listings in 150 countries. They have eight listings in New Orleans.

There are many other websites that have short term rental listings, but do not currently have any listings in New Orleans. These websites are based both in the United States and worldwide. These websites including the following: ApartmentService.com, At Home Abroad, Best Nest Living, Cites Reference, Geronimo, Gloveler, Holiday Velvet, Interhome, iVacationRental, kid&coe, Kozaza, Luxury Retreats, Migoa, Niumba, onefinestay, only-apartments, Perfect Places, Preferred Residences, RedAwning, Vacation Candy, VaycayHero, VacationRoost, Villas International, and Waytostay.<sup>5</sup>

In addition to all of these platforms, there is an entire group of websites that provide support to short term rental hosts. The services include: managing online listings and booking, preparing units for rentals, cleaning services, and various other property management services for short term rentals. While the top two or three websites garner the most attention, the online presence of short term rentals goes beyond Airbnb, HomeAway, and FlipKey.

## Short Term Rentals in New Orleans

### *Permitted Short Term Rentals*

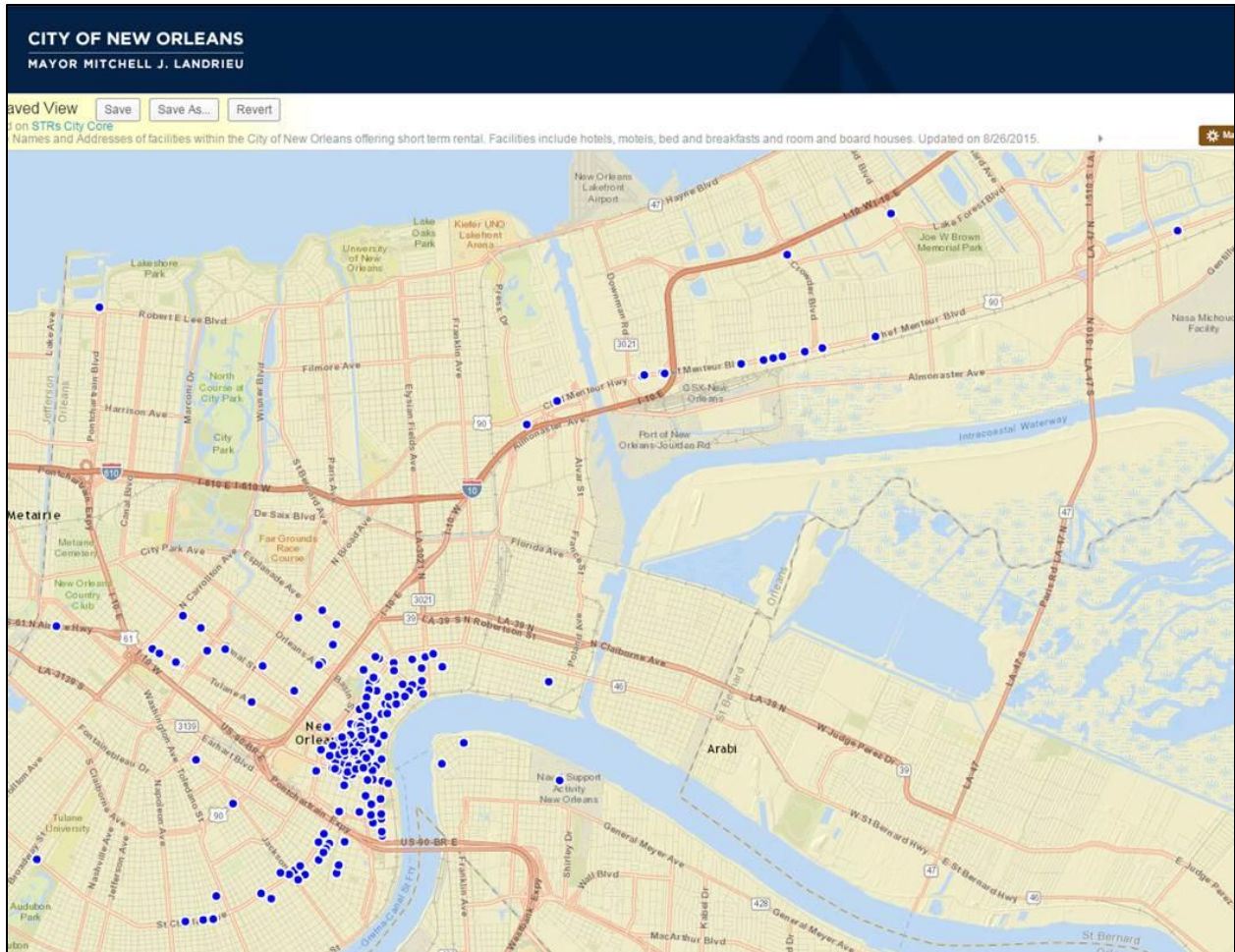
According to permit data available on data.nola.gov, there are 223 licensed short term rentals in the City of New Orleans.<sup>6</sup> Of these 223 short term rentals, 190 are licensed as hotels or motels, 14 are bed and breakfast inns, 10 are rooming and boarding houses, and 9 are classified as other.<sup>7</sup> The vast majority of these short term rentals are located in the Central Business District and the French Quarter (over 100 between these two neighborhoods). There are other clusters of short term rentals in Mid-City and Marigny, along the St. Charles Avenue corridor, and along the I-10 and Chef Menteur Highway corridors in Gentilly and New Orleans East.

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<sup>5</sup> These are just the platforms found by staff. There are likely many more short term rental websites available.

<sup>6</sup> Source: <https://data.nola.gov/Economy-and-Workforce/Short-Term-Rentals-visualization-/nv29-8z35> (last updated on August 26, 2015)

<sup>7</sup> These classifications come from the license data from the Bureau of Revenue, which does not necessarily match the land use classifications in the Comprehensive Zoning Ordinance or the Department of Safety and Permits' permit data.



**Figure 1:** Existing Licensed Short Term Rental Locations

### *Unlicensed Short Term Rentals*

There is no official assessment of unregulated short term rentals in the City of New Orleans. However, there are studies that use data from certain short term rental platforms that take a “snapshot” of short term rentals at a given time (both licensed and unlicensed). The following studies and fact sheets compiled by independent organizations and Airbnb, all completed within the past year and a half, provide some insight into the short term rental industry in New Orleans.

#### *Tulane University Policy Research Shop*

The Tulane report titled “Short Term Rentals in Orleans Parish” was commissioned by the Department of Safety and Permits and published in July 2014. Data in the report was current as of July 23, 2014. The study based illegal short term rental assumptions on the 1,499 Airbnb listings at the time of the study and did an individual review of each listing to categorize the residency of the landlord, rental price, and other pertinent information.

Of the approximately 1,500 listings, there was an average of 1.29 properties per landlord and 57% were deemed primary residences. The average listing price was \$250 for a whole unit and



\$111 for a private room. The study used reviews to determine the actual usage of the listings. The study found that over half of the reviews came from four neighborhoods: Marigny/Bywater (23%), Tremé (12%), Seventh Ward (9%), and St Claude/St Roch (7%). The fifth most popular neighborhood was the French Quarter with 7% of the reviews.

The study found minimal impact on the stock of long term housing. The authors defined certain types of whole house rentals as “listings of concern” and compared those to the housing demand in the respective neighborhood. The neighborhood with the highest number of “listings of concern” was the Marigny/Bywater neighborhoods with 65, representing 1.3% of the total number of housing units from the 2010 census. Citywide, the study identified 351 “listings of concern” based on the number of full unit rentals that are not primary residences, since these listings arguably remove units that might otherwise be rented on a full-time basis.

### *Inside Airbnb*

Inside Airbnb<sup>8</sup> is an independent, non-commercial website from a New York based data activist. The website is an interactive site that allows users to explore Airbnb listing in various cities,<sup>9</sup> and it offers extensive data on Airbnb listings but not other service platforms. Furthermore, not all relevant data is made available on Inside Airbnb. Since not all data is made available, Inside Airbnb made the following assumptions: occupancy is estimate based of reviews, 50% of renters leave a review, the average length of stay is 5 nights based, and occupancy is capped at 70%.<sup>10</sup>

Inside Airbnb estimates 2,646 listing in New Orleans: 1,822 (69%) are entire homes, 780 (30%) are listed as private rooms, and 44 (2%) are shared rooms. The average nightly rental listing price for each is \$250, \$92 and \$75, respectively, with an overall average of \$201. The average estimated occupancy per year is 127 nights per listing, with an average income of \$1,608 per month per listing or \$1,968 per month specifically for an entire house listing. The large majority of listings (90%) set up calendars for “high availability,” indicating it is more than a part time hosting situation, with an the average calendar in New Orleans available for 255 days per year. Finally, 45% of listings are operated by hosts with multiple listings, and the most active host has 31 listings in New Orleans.

The site also allows the user to pinpoint data for individual neighborhoods. The most highly concentrated neighborhoods are: the French Quarter with 210 listings, Marigny with 174, Mid-City with 171, Tremé with 171, Seventh Ward with 163, Bywater with 149, Lower Garden District with 135, St. Claude with 113, Bayou St. John with 102, Fairgrounds with 91, and St. Roch with 73. This information is detailed in Table 1 below.

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<sup>8</sup> Insideairbnb.com

<sup>9</sup> The most recent update for New Orleans, which was used in this report, was from September 2, 2015.

<sup>10</sup> These assumptions by Inside Airbnb are based on published reports and other sources. More information can be found at the following link: <http://insideairbnb.com/new-orleans/#>



## *Nola Short Term Rental Report*

This independent report<sup>11</sup> was produced by three New Orleanians and released in September 2015. The report includes a map and the searchable database of short term rental listings that is frequently updated.<sup>12</sup> This study includes both Airbnb and HomeAway in the analysis via a “representative subset” collected off of Zilyo, a search engine for “peer to peer” rentals. A total of 1,335 rentals, active in June and July of 2015, are examined.<sup>13</sup>

The study found that the average “entire home” rental price was \$251 per night, and that exacerbates the affordable housing problem because it dwarfs the fair market rental average of \$26 per night for a fulltime resident in a long-term rental. A landlord would make more money renting out a unit as a short term rental to a tourist for four nights per month than a full month rental to a resident. The study noted that 70% of the listings are for whole unit rentals meaning that most people are not just renting out a spare bedroom. The study found the following neighborhood had the largest number of listings: Marigny/Bywater with 198, Lower Garden District with 91, French Quarter with 90, Mid-City with 77, and Seventh Ward with 76. The study further examined the data by average number of reviews to determine which neighborhoods have the highest frequency of rentals. This breakdown provided the following neighborhoods with the highest number of reviews (and presumably stays): Marigny/Bywater with 30, Seventh Ward with 25, French Quarter with 18, Mid-City with 14, and Lower Garden District with 11.

## *Airbnb Fact Sheet*

In November 2015, Airbnb released a fact sheet with information on its New Orleans users over the past year.<sup>14</sup> There were 2,400 hosts in New Orleans and 171,000 guests that rented a New Orleans Airbnb listing in the past year. Airbnb provided the following additional information:

- Number: There are 2,400 hosts but no figures on the number of total listings or number of listings per host.
- Economic Impact: Airbnb estimated that the average guest spends \$1,100 per trip for a total direct spending of \$140 million at New Orleans businesses.
- Host Income: Typical host earned \$10,900 over the past year.
- Nights Hosted in past year: 0-30 days: 52%, 31-60 days: 15%, 61-90 days: 9%, 91-120 days: 6%, 121-180 days: 9%, and >180 days: 8%.
- Location: No information was provided on the location of listings.
- Listing Type: No information was provided on the type of listing (whole unit or partial unit) or if the rentals are the host’s primary residence.
- Size: 96% of active listings have 3 or fewer bedrooms.
- No information was provided on rental rates.

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<sup>11</sup> Nolarentalreport.com

<sup>12</sup> The report was last updated on January 5, 2016 and was previously updated on November 5, 2015.

<sup>13</sup> The report writers stated that by including a representative subset that their averages are accurate, but they have likely underestimated the total number of short term rental listings in New Orleans.

<sup>14</sup> Data came from the period from November 1, 2014 to October 31, 2015.

## *Data Summary and Analysis*

These studies and Airbnb fact sheet indicate a few things. There is a growth in short term rental listings in recent years. Just Airbnb listings have grown from about 1,500 to 2,500 in about a year. There is also a wide discrepancy in the figures between studies. The Nola Rental Report and Inside Airbnb studies have a difference of over 1,000 listings,<sup>15</sup> even though their data scrapes took place around the same time (although from different sources), which indicates that the publically available data is not entirely reliable.

Regardless, based on these studies, there are likely between 2,400 and 4,000 unique listings in New Orleans. However, it is difficult to estimate, because a host might list his or her unit multiple times and on multiple different platforms to increase exposure. Furthermore, just because a unit is listed, that does not mean that it is an active short term rental, as there are units that are listed that never rent, and there are units that are rented only intermittently.

The studies reveal similar estimates regarding the breakdown of whole unit rentals and the nightly rental rates for whole and partial unit rentals. Inside Airbnb attempted to estimate occupancy. They estimated that 50% of the renters left reviews, which might be an overestimate, because Airbnb states that 72% of guests leave reviews. Based on these studies, we can likely assume that the short term rental market can be summarized as follows:

- Number: between 2,400 and 4,000 unique listings in New Orleans;
- Types: about 70% whole unit rentals and 30% room or partial unit rentals;
- Rates: about \$250 /night for whole unit rentals and \$90-\$115 for partial unit rentals; and
- Occupancy: an average of 80 to 130 nights per year per listing.

There is also a spatial pattern of short term rentals in New Orleans. Most of the short term rentals are located in the French Quarter, its surrounding neighborhoods, and certain neighborhoods along the river. Therefore, the geographic distribution of short term rentals is not equal. The following tables summarize data from the Inside Airbnb website, which is found to be the most extensive dataset regarding short term rentals. The listings are current as of September 2, 2015. It contains exclusively Airbnb data, as other rental platforms such as HomeAway and Flipkey are not included. The top 15 listing neighborhoods, those with over 65 listings, are included, after that cutoff the number of listings drop substantially. The data is then compared to housing data made available by The Data Center from the United States Census 2008-2012 American Community Survey. The first table indicates the number and frequency of short term rentals while the second provides the estimated financial impact of short term rentals.

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<sup>15</sup> The Nola Rental Report includes a representative subset of both Airbnb and HomeAway listings while Inside Airbnb includes all listings, but from just Airbnb.

**Table 1: Top 15 Airbnb Listing Neighborhoods Housing Profiles**

Neighborhood	Listing #s	Annual Nights Rented (est.) <sup>16</sup>	Whole Unit Rentals	% Full Unit Rentals	Total Housing Units	% Units Listed as Whole Unit Rentals	% Vacant <sup>17</sup>	% Owner Occupied
Audubon	66	104	44	67%	5,956	0.7%	10%	56%
Bayou St. John	102	120	64	63%	2,284	2.8%	25%	41%
Bywater	149	<b>158</b>	110	74%	2,498	<b>4.4%</b>	29%	42%
Central Business District	108	87	96	89%	1,782	<b>5.4%</b>	29%	36%
Central City	132	108	92	70%	8,728	1.1%	40%	23%
Fairgrounds	91	85	63	41%	3,203	2.0%	22%	43%
French Quarter	210	<b>158</b>	196	93%	4,619	<b>4.2%</b>	43%	32%
Leonidas	75	103	45	60%	4,050	1.1%	25%	44%
Lower Garden District	135	105	96	71%	4,895	2.0%	22%	31%
Marigny	174	<b>160</b>	119	68%	2,359	<b>5.0%</b>	20%	36%
Mid-City	171	114	103	60%	7,079	1.5%	26%	24%
Seventh Ward	163	141	103	63%	6,889	1.5%	38%	35%
St. Claude	113	<b>174</b>	69	61%	4,446	1.6%	39%	49%
St. Roch	73	73	35	48%	4,178	0.8%	38%	45%
Tremé - Lafitte	171	<b>156</b>	107	63%	3,037	<b>3.5%</b>	37%	34%

Sources: Inside Airbnb and The Data Center analysis of data from 2008-2012 American Community Survey

Table 1 highlights the fifteen neighborhoods with the most Airbnb listings. The impact on the neighborhood is not just exhibited in the total number of listings, but also the frequency of rentals, number of whole unit rentals, and the percent of housing units available on Airbnb as whole unit rentals. According to Inside Airbnb estimates, in the Bywater, French Quarter, Marigny, St. Claude, and Tremé – Lafitte neighborhoods, the average listing is rented 150 days, or over 40% of the year. In addition, a majority of the listings are whole unit rentals, except in the Fairgrounds and St. Roch neighborhoods. The whole unit rentals that are rented on a frequent basis are either second homes or units whose main use are as short term rentals. These units are concentrated in many of the same neighborhoods. In Bywater, the Central Business District, French Quarter, Marigny, and Tremé – Lafitte over 3% of the neighborhood’s housing units are being listed as whole unit rentals on Airbnb alone, a substantial percent of the housing stock. It is

<sup>16</sup> Based on the Inside Airbnb assumption that 50% of the guests leave a review and stay an average of 5 nights.

<sup>17</sup> This figure only includes permanent residential units. Units owned by people whose permanent residence is elsewhere, meaning the unit is a second home, are classified as vacant. For example the vacancy rate in the French Quarter is high due to the presence of a large number of second homes.

also important to note that in these neighborhoods, excluding Audubon, less than half of the housing units are owner occupied, meaning that short term rentals are more likely to compete with long term rental units.

Neighborhood	Listings	Whole Unit Rental (% of total)	Ave. Price per Night Full Unit Rentals	Monthly Nights Booked (est.) <sup>18</sup>	Monthly Income Full Unit rentals (est.)	Ave. Monthly Rent	% Renters cost burdened <sup>19</sup>
Audubon	66	44 (67%)	\$371	9	\$3,336	\$1,596	47.4%
Bayou St. John	102	64 (63%)	\$223	10	\$2,228	\$1,014	57.5%
Bywater	149	110 (74%)	\$190	13	\$2,475	\$939	60.1%
Central Business District	108	96 (89%)	\$261	7	\$1,824	\$1,066	55.4%
Central City	132	92 (70%)	\$213	9	\$1,913	\$772	60.5%
Fairgrounds	91	63 (41%)	\$220	7	\$1,537	\$1,047	63.0%
French Quarter	210	196 (93%)	\$302	13	\$3,923	\$1,151	50.6%
Leonidas	75	45 (60%)	\$197	9	\$1,776	\$947	59.3%
Lower Garden District	135	96 (71%)	\$385	9	\$3,466	\$1,158	45.9%
Marigny	174	119 (68%)	\$242	13	\$3,152	\$902	49.9%
Mid-City	171	103 (60%)	\$226	10	\$2,260	\$949	64.2%
Seventh Ward	163	103 (63%)	\$275	12	\$3,300	\$891	75.7%
St. Claude	113	69 (61%)	\$132	15	\$1,986	\$949	77.5%
St. Roch	73	35 (48%)	\$190	6	\$1,141	\$801	74.7%
Tremé - Lafitte	171	107 (63%)	\$263	13	\$3,419	\$838	70.5%

Sources: Insider Airbnb and The Data Center analysis of data from 2008-2012 American Community Survey

Table 2 highlights the potential financial impact of whole unit short term rentals in the fifteen neighborhoods with the most listings. In all of these neighborhoods, a property owner can make more money renting a unit on a short term basis, than a long term basis. In some neighborhoods, income from short term rentals are two times (Audubon, Bayou St. John, Bywater, Central City, Mid-City, St. Claude) or three times (French Quarter, Lower Garden District, Marigny, Seventh Ward, and Tremé – Lafitte) greater than the average long term rental rates. This could potentially lead to a rise in long term rental rates or the conversion of units from long term rentals because the owners can maximize profit from renting units on a short term basis. Additionally, in twelve of these neighborhoods over half of renters are classified as “cost burdened” (spending over 30% of income on rent) meaning that residents are already paying too much of their income for rent and may have to relocate if rents rise.

<sup>18</sup> Based on the Inside Airbnb assumption that 50% of the guests leave a review and stay an average of 5 nights.

<sup>19</sup> Cost burdened is defined as spending over 30% of monthly income on rent.

## ***B. Current Short Term Rental Regulations***

Under current City law, short term rentals are regulated in a number of ways. Under the Comprehensive Zoning Ordinance, short term rentals are permitted in very limited locations. Short term rentals are also regulated by the Department of Safety and Permits for compliance with the Building Code and the State Fire Marshal for compliance with the Life Safety Code. In addition, the City Code has a number of regulations for short term rentals and similar uses. Finally, State law governs the taxation and penalty limits of short term rentals.

### **Comprehensive Zoning Ordinance Regulations**

The Comprehensive Zoning Ordinance (CZO) provides land use regulations for short term rentals and other similar uses, such as bed and breakfasts, hostels, hotels/motels, and timeshares. Short term rentals essentially are rentals for dwelling, lodging, or sleeping purposes for less than 30 days<sup>20</sup> that are not otherwise defined as a hotel, motel, bed and breakfast, or another defined land use. Therefore, short term rentals are defined both by what they are and what they are not.

Furthermore, there are no use standards for short term rentals. Short term rentals are only permitted in the S-LC Lake Area General Commercial District, the MI Maritime Industrial District Commercial and Recreational Sub-District, and the CBD-7 Central Business District. Short terms rentals are conditional uses in certain Commercial Center & Institutional Campus Districts and other Central Business Districts.<sup>21</sup>

However, other similar uses in the CZO have more specific definitions and correlating use standards, which are fully provided below:

#### *Definitions (Article 26)*

Here are the definitions for short term rentals and similar uses from the Comprehensive Zoning Ordinance:

**Short Term Rentals.** Rentals of a premises or any portion thereof for dwelling, lodging or sleeping purposes with duration of occupancy of less than sixty (60) consecutive days in the Vieux Carré and less than thirty (30) consecutive days outside the Vieux Carré. Hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated in this ordinance separately from short term rentals are not considered to be short term rentals.

**Bed and Breakfast.** A residential structure that provides sleeping rooms for overnight paid occupancy. Bed and breakfast is further defined as follows:

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<sup>20</sup> 60 days in the Vieux Carré Districts

<sup>21</sup> Short term rentals are conditional uses in the C-2, MU-1, MC, MS, LS, CBD-1, CBD-2, CBD-3, and CBD-4 Districts.

- A. Bed and Breakfast, Accessory.** An owner-occupied building designed as either a single-family or a two-family dwelling that has been converted to a single-family dwelling, which provides no more than four (4) guest rooms for overnight paid occupancy of up to fourteen (14) nights. Common bathroom facilities may be provided rather than private baths for each room.
- B. Bed and Breakfast, Principal.** An owner- or operator-occupied residential structure that provides no more than nine (9) guest rooms for overnight paid occupancy of up to fourteen (14) nights. Common bathroom facilities may be provided rather than private baths for each room.

**Hostel.** An establishment providing sleeping accommodations for a fee in a sociable accommodation where guests can rent a bed in a dormitory and share bathroom, lounge, and kitchen facilities.

**Hotel/Motel.** An establishment providing a room for sleeping accommodations for a fee with private bathroom facilities and customary lodging services. Related ancillary uses may include, but are not limited to, conference and meeting rooms, restaurants, sale of convenience items, bars, and recreational facilities. Hotels shall be permitted to include units for sale designed or used exclusively for permanent residential use in all districts except in Light Industrial (LI), Heavy Industrial (HI), and Business Industrial Park (BIP) districts.<sup>22</sup>

**Timeshare Building.** A building containing condominium units, rooms or suites of rooms, with or without culinary facilities and subject to a timeshare plan. The construction of or conversion to timeshare buildings must be registered with the Department of Safety and Permits by applying for a Certificate of Use and Occupancy.

### *Use Standards (Article 20)*

There are no use standards for short term rentals in the Comprehensive Zoning Ordinance. The only similar use with use standards is a bed and breakfast. In general, bed and breakfasts are limited to one per blockface in residential districts and are prohibited in the French Quarter, the Garden District, and a portion of the Lower Garden District. There are different standards for the two types of bed and breakfasts where accessory bed and breakfasts are more residential in nature and principal bed and breakfasts are more commercial uses. Accessory bed and breakfasts are required to be owner occupied, appear to be a single-family dwelling, are limited to four rental bedroom that are less than 25% of the structure, and do not allow for renting common areas for social events. Principal bed and breakfasts allow for “operator” occupancy, allow up to nine guest rooms, and allow for restaurants and the leasing of common areas. Below are the complete bed and breakfast use standards:

#### **20.3.I Bed and Breakfast**

In addition to the regulations below, all bed and breakfasts shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.

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<sup>22</sup> On November 9, 2015, City Council approved a text amendment to add this final sentence to the definition (Zoning Docket 080/15, Ordinance 26,685 MCS).

### **20.3.I.1 Bed and Breakfast General Standards (Accessory or Principal)**

- a. In any residential district, only one (1) bed and breakfast, whether accessory or principal, is permitted per blockface.
- b. Bed and breakfasts are prohibited within the following areas:
  - i. The area bounded by the centerlines of Prytania Street, Pontchartrain Expressway, Magazine Street, and the downside street of Felicity Street from Coliseum Street to Prytania Street.
  - ii. The area referred to as the Garden District, bounded by the centerline of St. Charles Avenue, the downtown side of Jackson Avenue, the centerline of Magazine Street, and the downtown side of Louisiana Avenue, with the exception of those bed and breakfasts grandfathered pursuant to Ordinance No. 14,168 M.C.S., November 12, 1990, subject to confirmation of continuous use and legal non-conforming status.
  - iii. In all Vieux Carré Districts.

### **20.3.I.2 Bed and Breakfast Accessory Standards**

- a. Proof of owner occupancy shall be established by submission of proof of a homestead exemption submitted to the Department of Safety and Permits. The owner-occupant's ownership interest must be at least fifty percent (50%).
- b. If more than one (1) principal building exists on a lot, or two (2) or more contiguous lots have been historically acquired together and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.
- c. The bed and breakfast shall appear outwardly to be a single-family dwelling, giving no appearance of a business use other than a permitted sign.
- d. The bed and breakfast may have one (1) attached projecting sign not to exceed four (4) square feet in area. The sign shall complement the architecture of the structure.
- e. The bed and breakfast is limited to a maximum of four (4) units for overnight accommodation.
- f. Bedroom rental units are limited to no more than twenty-five percent (25%) of the total habitable space of the gross floor area of the structure.
- g. Cooking facilities are prohibited in individual guest rooms.
- h. If meals are provided, only registered guests may be served.
- i. Leasing of a common dining area for social events is prohibited.

### **20.3.I.3 Bed and Breakfast Principal Standards**

- a. Proof of owner or operator occupancy shall be established by submission of proof of a homestead exemption (owner) or legal leasing agreement (operator) submitted to the Department of Safety and Permits.
- b. If more than one (1) principal building exists on a lot, or two (2) or more contiguous lots have been historically used together and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, for at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.
- c. All signs shall comply with applicable sign regulations for the zoning district.

- d. The bed and breakfast is limited to a maximum of nine (9) units for overnight accommodation.
- e. Cooking facilities are prohibited in individual guest rooms.
- f. If the zoning district allows restaurants, meals may be served to guests other than those registered with the bed and breakfast, provided the facility meets all other applicable city and state codes for food service.
- g. Leasing of common areas for social events is allowed, provided the facility meets all applicable off-street parking requirements and complies with the noise ordinance and all other provisions of the City Code.

### *Accessory Use Standards (Article 21)*

There are currently no accessory use standards for short term rentals, but there are accessory use standards for home occupations, which allows for limited commercial activity by a resident in his or her dwelling.

**Home Occupation.** A home occupation is an accessory use and is subject to the following requirements.

1. The home occupation shall be conducted entirely within the dwelling and shall be clearly incidental and secondary to the use of the dwelling for residential purposes. No home occupation may be operated in an accessory structure.
2. The home occupation is limited to fifteen percent (15%) of the floor area of the dwelling unit.
3. A home occupation may not be established prior to the member(s) of the family conducting the home occupation taking possession of, and residing in, the dwelling.
4. No person other than a resident of the dwelling may be employed as part of a home occupation.
5. Vehicular traffic and on-street parking shall not be increased beyond what normally occurs through residential usage.
6. The receipt, sale, or shipment of deliveries is not permitted on or from the premises, with the exception of regular U.S. Mail and/or an express shipping service that is characteristic of service to residential neighborhoods. Other types of truck deliveries are not permitted.
7. A home occupation shall not generate noise, solid waste, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in a residential use. No outside storage or display of materials, merchandise, inventory, or heavy equipment is permitted. No mechanical equipment is permitted, except that which is normally used for domestic or household purposes.
8. No stock, merchandise, or products may be displayed, stored, or sold on the premises.
9. No exterior alteration that changes the residential character of the principal building is permitted. A separate entrance from the outside of the building to the home occupation is prohibited.
10. A home occupation sign in accordance with Article 24 is permitted. Additional signs are prohibited.
11. Any type of motor vehicle service and repair, taxicab or other vehicle dispatch, or beauty salons are prohibited home occupations.
12. Day care homes are not considered a home occupation.



13. All home occupations require an occupational license.

*Temporary Use Standards (Article 21)*

There are no temporary use standards for short term rentals or any similar uses. There are temporary use standards that permit certain types of temporary commercial uses in residential districts. The allowed temporary uses include farmers markets, garage sales, holiday sales lots, outdoor entertainment events, parking lots, public markets, viewing stands, storage containers, and temporary cell towers. These uses and their limitations are found in Table 21-3 in the Comprehensive Zoning Ordinance (see below).

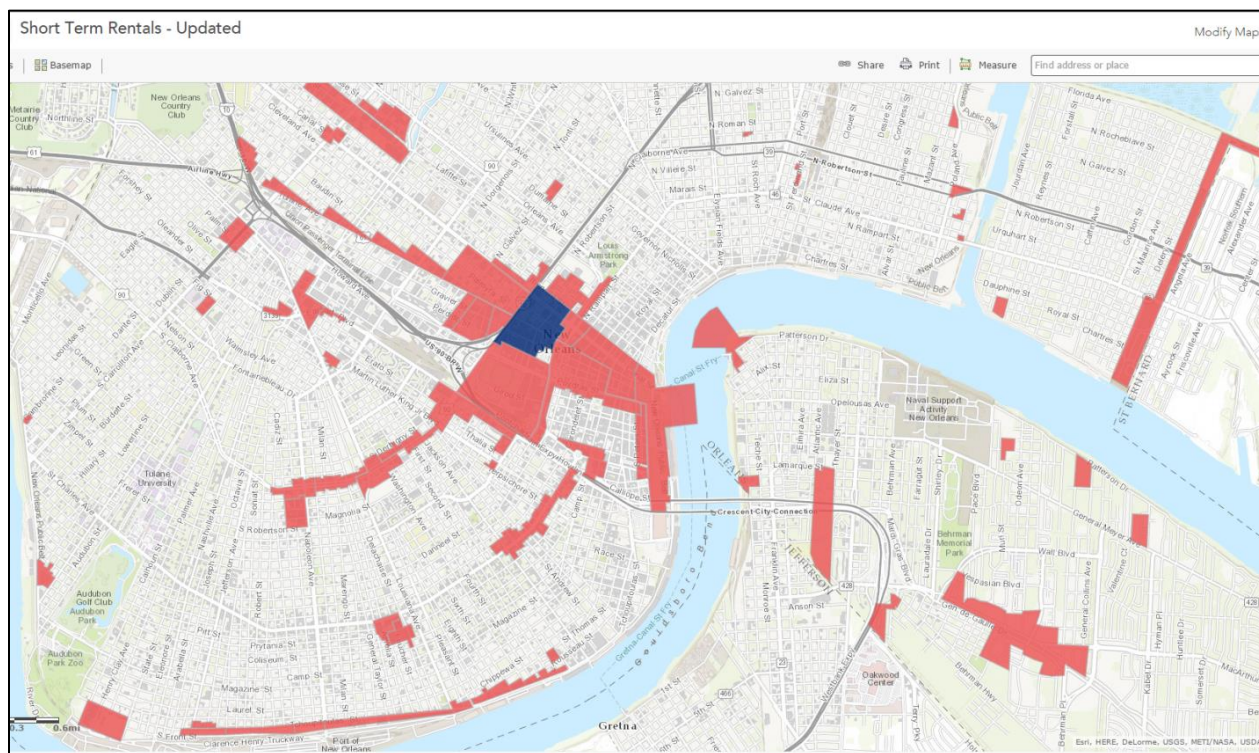
**Table 3: Permitted Temporary Uses Table 21.3 (Limited to include uses in residential districts)**

<b>Permitted Temporary Use</b>	<b>District</b>	<b>Timeframe</b>	<b>Hours of Operation</b>	<b>Temporary Use Standards</b>
Farmers Markets (Temporary)	Any Zoning District	Max of one (1) event per week per premise	7:00 a.m. to 8:00 p.m.	Section 21.8.C.3
Garage/ Yard Sales	Any Zoning District	Max of three (3) consecutive days, with no more than three (3) consecutive sales events in any twelve (12) month period.		Section 21.8.C.5
Holiday Sales Lots (Temporary)	Any Zoning District	Max. Of forty five (45) days		Section 21.8.C.2
Outdoor Entertainment Events (Temporary)	Outdoor Space – Public or Private property	Max of three (3) consecutive days per event, max of eight (8) events per calendar year		Section 21.8.C.7
Parking Lots (Temporary)	Any Zoning District where special events are permitted	Duration of the event, and an additional two (2) days before and two (2) days after the special event		Section 21.8.C.10
Public Markets (Temporary)	Any Zoning District	Max of one (1) event per week per premise	7:00 a.m to 8:00 p.m.	Section 21.8.C.6
Reviewing Stands (Temporary)	Private property within any Zoning District along Parade Routes	Carnival Season		Section 21.8.C.11
Storage Containers (Temporary)	Any Zoning District	Residential: Maximum of fourteen (14) days Non- Residential: Maximum of seventy-two (72) hours		Section 21.8.C.12

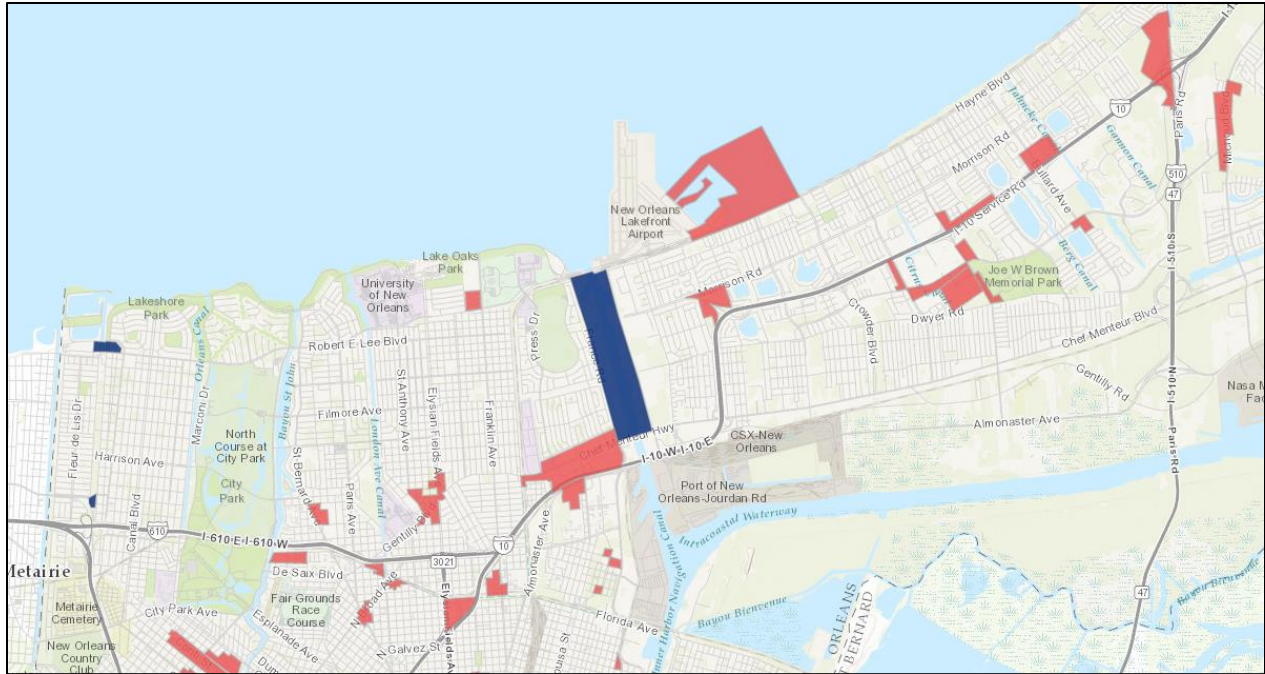
Permitted Temporary Use	District	Timeframe	Hours of Operation	Temporary Use Standards
Telecommunications Cell on Wheels(COW) (Temporary)	Any Zoning District	Declaration of Emergency: Maximum of ninety (90) days Community Event: Maximum of ninety (90) days		Section 21.8.C.13

*Permitted and Conditional Uses (Articles 7-17)*

Below are two maps that show where short term rentals are permitted (blue) and conditional (red) uses. That is followed by the use tables that show the zoning districts where short term rentals and similar uses are permitted (P), conditional (C), and prohibited uses (no letter/blank space).



**Figure 2:** Districts where short term rentals are permitted (blue) and conditional (red) uses.



**Figure 3:** Districts where short term rentals are permitted (blue) and conditional (red) uses.

**Table 4: Open Space Districts Use Table (Article 7)**

Uses	District				
	OS-N	OS-G	OS-R	NA	GPD
Short Term Rental					
Bed and Breakfast – Accessory					
Bed and Breakfast – Principal					
Hostel					
Hotel/Motel					
Timeshare Building					

**Table 5: Rural Development Districts Use Table (Article 8)**

Uses	District	
	R-RE	M-MU
Short Term Rental		
Bed and Breakfast – Accessory	C	P
Bed and Breakfast – Principal		P
Hostel		
Hotel/Motel		
Timeshare Building		

**Table 6: Historic Core Neighborhoods Residential Districts Use Table (Article 9)**

Uses	District				
	VCR-1	VCR-2	HMR-1	HMR-2	HMR-3
Short Term Rental					

**Table 6: Historic Core Neighborhoods Residential Districts Use Table (Article 9)**

Uses	District				
	VCR-1	VCR-2	HMR-1	HMR-2	HMR-3
Bed and Breakfast – Accessory			P	P	P
Bed and Breakfast – Principal			C	C	C
Hostel					
Hotel/Motel					
Timeshare Building					

**Table 7: Historic Core Neighborhoods Non-Residential Districts Use Table (Article 10)**

Uses	District									
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU
Short Term Rental										
Bed and Breakfast – Accessory								P	P	P
Bed and Breakfast – Principal								P	P	P
Hostel									P	
Hotel/Motel									P	C
Timeshare Building										

**Table 8: Historic Urban Neighborhoods Residential Districts Use Table (Article 11)**

Uses	District				
	HU-RS	HU-RD1	HU-RD2	HU-RM1	HU-RM2
Short Term Rental					
Bed and Breakfast – Accessory	C	C	C	C	C
Bed and Breakfast – Principal				C	C
Hostel					
Hotel/Motel					
Timeshare Building					

**Table 9: Historic Urban Neighborhoods Non-Residential Districts Use Table (Article 12)**

Uses	District		
	HU-B1A	HU-B1	HU-MU
Short Term Rental			
Bed and Breakfast – Accessory	P	P	P
Bed and Breakfast – Principal	P	P	P
Hostel			C
Hotel/Motel			C
Timeshare Building			

**Table 10: Suburban Neighborhoods Residential Districts Use Table (Article 13)**

Uses	District										
	S-RS	S-RD	S-RM1	S-RM2	S-LRS 1	S-LRS 2	S-LRS 2	S-LRD 1	S-LRD2	S-LRM1	S-LRM2
Short Term Rental											
Bed and Breakfast – Accessory		C	C	C					C	C	C
Bed and Breakfast – Principal											
Hostel											
Hotel/Motel											
Timeshare Building											

**Table 11: Suburban Neighborhoods Non-Residential Districts Use Table (Article 14)**

Uses	District						
	S-B1	S-B2	S-LB1	S-LB2	S-LC	S-LP	S-LM
Short Term Rental					P		
Bed and Breakfast – Accessory			P	P	P		
Bed and Breakfast – Principal			P	P	P		
Hostel					C		
Hotel/Motel					C		C
Timeshare Building					P		

**Table 12: Commercial Center & Institutional Campus Districts Use Table (Article 15)**

Uses	District								
	C-1	C-2	C-3	MU-1	MU-2	EC	MC	MS	LS
Short Term Rental		C		C			C	C	C
Bed and Breakfast – Accessory				P	P				
Bed and Breakfast – Principal				P	P				
Hostel	P	P	P	P	P	P	P		P
Hotel/Motel	P	P	P	P	P	P	P	P	P
Timeshare Building		C		C			C	C	C

**Table 13: Centers for Industry Use Table (Article 16)**

Uses	District			
	LI	HI	MI	BIP
Short Term Rental			P <sup>23</sup>	
Bed and Breakfast – Accessory				
Bed and Breakfast - Principal				
Hostel				P
Hotel/Motel	P	C	P	P

<sup>23</sup> Short term rentals are a permitted use in the MI District Commercial and Recreational Sub-District subject to the design standards of **Article 16, Section 16.4.C**.

Uses	District			
	LI	HI	MI	BIP
Timeshare Building			P <sup>24</sup>	

Uses	District						
	CBD-1	CBD-2	CBD-3	CBD-4	CBD-5	CBD-6	CBD-7
Short Term Rental	C	C	C	C			P
Bed and Breakfast – Accessory	P	P	P		P	P	
Bed and Breakfast – Principal	P	P	P		P	P	
Hostel	P	P	P	P			P
Hotel/Motel	P	P	P	P	C	P	P
Timeshare Building	C	C	C	C			P

Short term rentals, as well as timeshares, are only permitted in the S-LC Lake Area General Commercial District, the MI District Commercial and Recreational Sub-District, and the CBD-7 Central Business District. Short terms rentals are also conditional uses in certain Commercial Center & Institutional Campus Districts and Central Business Districts.<sup>25</sup> Since accessory bed and breakfasts are required to be residences, they are permitted or conditional uses in most districts that allow residential uses. Accessory bed and breakfasts are allowed in more districts because they are limited in size and required to be owner occupied. Principal bed and breakfast are more intense uses that are limited to higher intensity residential districts and non-residential districts. Because of their more intense nature, hostels and hotel/motels are prohibited in residential districts and are permitted or conditional uses in the higher intensity non-residential districts.

## **Building & Life Safety Code Requirements**

### *The International Residential Code (IRC)*

The International Residential Code is one of several codes published by the International Code Council, which is the governing building code for one- and two-family dwellings. The New Orleans Department of Safety and Permits uses the IRC when evaluating single- and two-family residential renovation and new construction projects. Some basic requirements of the IRC include: lighting, ventilation and heating in all habitable rooms, emergency escapes in sleeping rooms, and smoke alarms in all sleeping rooms, outside of sleeping areas and on each floor of a

<sup>24</sup> Timeshare buildings are a permitted use in the MI District Commercial and Recreational Sub-District subject to the design standards of **Article 16, Section 16.4.C**.

<sup>25</sup> Short term rentals are conditional uses in the C-2, MU-1, MC, MS, LS, CBD-1, CBD-2, CBD-3, and CBD-4 Districts.

residence. Additionally, the IRC regulates the minimum size of habitable rooms, the design of stairways and ramps, and the design of handrails and guardrails.

The IRC references a Lodging House which is defined as a one-family dwelling where one or more occupants are primarily permanent in nature, and rent is paid for guestrooms. An owner-occupied lodging house with five or fewer guestrooms shall be permitted under the provisions of the IRC if the residence is equipped with a residential sprinkler system. Otherwise, any type of lodging facility would be considered commercial in nature and the provisions of the International Building Code would apply.

### *International Building Code (IBC)*

The International Building Code is also published by the International Code Council and is the governing building code for anything that is not a one- or two-family dwelling. The New Orleans Department of Safety and Permits uses the IBC when evaluating commercial and multi-family residential renovation and new construction projects. Some basic differences between the IRC and IBC include requirements for smoke and fire alarm systems, sprinkler systems, horizontal and vertical fire separation, fire extinguishers, protected exit stairs and additional means for egress. Commercial structures are also required to be accessible to persons with physical disabilities. Different requirements are triggered based on the layout of the structure, the type of construction, and the number of occupants.

The IBC distinguishes between four residential occupancy types - two of which include uses that would be considered short term rentals. The residential group R-1 is 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), and motels (transient). The residential group R-3 is residential occupancies where the occupants are primarily permanent in nature or not classified as other residential occupancy groups including boarding houses (non-transient) with 16 or fewer occupants, boarding houses (transient) with 10 or fewer occupants, care facilities providing care to five or fewer people, congregate living facilities (non-transient) with 16 or fewer occupants, and congregate living facilities (transient) with 10 or fewer occupants.

The IBC defines *transient* as the occupancy of a dwelling unit or sleeping unit for not more than 30 days. A *boarding house* is defined as a building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit. A *congregate living facility* is a building or part thereof that contains sleeping units where residents share bathroom and/or kitchen facilities.

### *Life Safety Code (NFPA 101)*

The Life Safety Code is published by the National Fire Protection Association and is the governing code used by the Louisiana State Fire Marshal. Residential and commercial occupancy types are addressed in the Life Safety Code and the bulk of the standards address construction, protection, and occupancy features necessary to minimize danger to life from the effects of fire, including smoke, heat, and toxic gases created during a fire.

The Life Safety Code defines three occupancy types that would be considered short term rentals: one- and two-family dwellings, lodging and rooming houses, and hotels and dormitories. One- and two-family dwellings include those buildings containing not more than two dwelling units in which each dwelling unit is occupied by members of a single family with not more than three outsiders, if any, accommodated in rented rooms. One- and two-family dwelling occupancy types are exempt from review by the Louisiana State Fire Marshal. Lodging or rooming houses include buildings that provide sleeping accommodations for 16 or fewer persons on either a transient or permanent basis, with or without meals, but without separate cooking facilities for individual occupants. Hotels and dormitories include buildings or groups of buildings under the same management in which there are sleeping accommodations for more than 16 persons and primarily used by transients for lodging with or without meals. While both the lodging and rooming houses and the hotels and dormitories occupancy types are subject to review by the Louisiana State Fire Marshal, more safety regulations are required for the higher occupancy hotel and dormitory structures. The following table summarizes which codes are triggered for different potential short term rental types and sizes.

<b>Occupancies</b>	<b>International Residential Code (IRC)</b>	<b>Life Safety</b>	<b>International Building Code (IBC)</b>
Occupied by a family w/ no more than three outsiders renting	IRC* (w/ sprinklers)	One- & Two-Family Dwellings	R-3 (w/o sprinklers)
Owner-Occupied w/ two to five guestrooms w/ residential sprinkler system	IRC	Lodging or Room House	
Sleeping accommodations for 10 or fewer occupants w/o individual cooking facilities		Lodging or Room House	R-3
Sleeping accommodations for 11 to 16 occupants w/o individual cooking facilities		Lodging or Room House	R-1
Sleeping accommodations for more than 16		Hotel or Dormitory	R-1

\*As a general practice, the Department of Safety and Permits has been allowing owner-occupied single-family residences with two or fewer guestrooms to be reviewed under the IRC.

### *New Orleans City Code of Ordinances (City Code)*

Chapter 26 of the City Code adopts the requirements of the International Residential Code and the International Building Code. There are also several amendments to the codes included in this chapter.



## **Permitting & Licensing Requirements**

The City's Building Code requires that any time there is a proposed change in the use of a building or space, a permit must be obtained, regardless of the extent of work that will be done. Changes in a building's occupancy type can trigger new building code or zoning code requirements. Applying for a Change of Use permit provides the Department of Safety and Permits an opportunity to review possible changes in applicable requirements. Any conversion of a residential structure into a short term rental, bed and breakfast, hostel, hotel/motel or timeshare building would require a Change of Use permit which can be applied for online through the One Stop App. Rentals that do not have a permanent residential component or rentals with more than two guestrooms trigger a review by the State Fire Marshal. The Department of Safety and Permits will not approve a permit without an exemption letter from or a set of plans approved by the State Fire Marshal.

A Mayoralty Permit or Occupational License is also required in order to conduct business in Orleans Parish. This allows the City of New Orleans Bureau of Revenue to collect applicable fees and sales tax. Currently, a short term rental would obtain a Mayoralty Permit if it has five rooms or less. For short term rentals with more than five rooms an Occupational License would be required. Both the Mayoralty Permit and Occupational License can be applied for at the One Stop Shop and are renewed annually by the Bureau of Revenue. An initial review of the application is done by the Department of Safety and Permits in order to verify that the location meets all building and zoning code requirements.

## **Enforcement**

Enforcement of short term rentals is currently handled by the Zoning Division of the Department of Safety and Permits. Violations are investigated as complaints are received from the public. Complaints can be submitted by calling the Zoning Division directly or visiting the One Stop Shop and speaking with a Zoning Inspector.

After a complaint is received from the public it is entered into LAMA, the City's Land Management Software, and a Zoning Inspector performs an inspection of the property to determine if a violation exists. If the inspector determines a violation exists, a notice of violation is issued to the property owner. The property owner is given an opportunity to comply with the Code by ceasing the illegal use of the property or applying for the appropriate license/permits (if applicable). If corrective action is not taken by the property owner, an administrative adjudication hearing takes place. If the adjudication hearing officer finds the property owner in violation, a maximum fine of \$500 may be imposed per City Code and State Law.

## ***C. Public Input on Short Term Rental Study***

Public input is an important part of any planning study, especially this short term rental study. City Planning Commission staff solicited input in a number of ways, which helped guide the assessment, analysis, and recommendations in this study.

### **Public Input Received**

#### *Public Hearing*

On Tuesday, September 29, 2015, the City Planning Commission's Planning and Special Projects Committee held a two hour public hearing to obtain input on the Short Term Rental Study. At this meeting, each person was given up to one minute to speak and speakers were allowed to be ceded a maximum of 4 minutes per individual speaker. Over 120 people signed in or filled out a comment card (all sign in sheets and comment cards are included in the attachments). Video of the Planning and Special Projects Committee meeting and all public comments can be found at the following link:

[http://cityofno.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=2177](http://cityofno.granicus.com/MediaPlayer.php?view_id=2&clip_id=2177).

#### *Written Comments*

In addition to the public hearing, the City Planning Commission has received written public comments by mail, by email to [CPCinfo@nola.gov](mailto:CPCinfo@nola.gov) or directly to CPC staff members, or in person at the public hearing. By the public comment deadline, the City Planning Commission has received approximately 460 written comments on the Short Term Rental Study. Written comments were received by email until noon on Tuesday, January 19, 2016. All written comments can be found at the City Planning Commission's Short Term Rental Study website at the following link: <http://nola.gov/city-planning/major-studies-and-projects/short-term-rental-study/>.

#### *Additional Meetings*

As a follow up to the public hearing, the City Planning Commission staff invited and accepted invitations from various groups for meetings about the Short Term Rental Study. The City Planning Commission staff met with the following individual, groups, companies, and organizations:

- French Quarter and Garden District neighborhood organizations (October 8);
- PIANO (B&B group), Hotel Lodging Association, and Convention and Visitors Bureau (October 8);
- NOLA Rental Report (October 8);
- Dwight Norton and Jeffrey Goodman (October 16);
- Short Term Rental Committee (October 16);
- Various neighborhood groups (October 16);

- Alliance for Neighborhood Prosperity (October 16);
- Airbnb (October 23);
- Travel Tech Association (short term rental platform trade association) (October 26);
- HomeAway (October 26); and
- Philip Supino, Durango, Colorado City Planner (November 18).

The City Planning Commission staff also held meetings with various City Departments and governmental agencies including: the Department of Safety and Permits, the One Stop Shop, the Mayor’s Office, the City Attorney’s Office, and the State Fire Marshal regarding this study.

## **Summary of Public Comments**

On either side of the debate, the public comments addressed a number of the benefits and negative impacts associated with short term rentals. Those benefits and impacts are summarized in the assessment section below.

In addition to describing the benefits and impacts of short term rentals, many public comments made recommendations on how to regulate short term rentals in New Orleans. Comments suggested limiting short term rentals by block or blockface, with a neighborhood or citywide cap, in certain zoning districts, or in certain neighborhoods (especially the French Quarter and the Garden District). Other comments suggested limiting short term rentals to 30 bedrooms per block, having a maximum bedroom size or occupancy, or limiting short term rentals to one per lot. Some comments recommended having a minimum stay requirement or a maximum number of days per month or year that a unit can be rented on a short term basis.

Many comments said that short term rentals need to be owner occupied with homestead exemption, while others wanted to allow for second home, out-of-state, and corporate owners, and some wanted provisions to allow renters to operate a short term rental. Other comments focused on how short term rentals should be run with operational requirements, providing guests with a code of conduct, neighborhood notice provisions, posting of permit information, requiring commercial liability insurance, and logging rental activity for inspection by the City. Some comments noted that short term rental should be held to the same building, Americans with Disabilities Act requirements, fire, health, and occupational codes as hotels and bed and breakfasts. Some comments requested regulations for temporary short term rentals.

Some comments focused on the permitting and enforcement side of short term rentals. Some comments suggested different types of permits for different types of short term rentals and making the approval processes easier. Other comments focused on taxing short term rentals the same as bed and breakfasts and hotels. Many comments said that the regulations need to be enforced and that homestead exemptions, licenses, and permits should be revoked for non-compliance.

Another category of comments focused on regulating the platforms that advertise and book on behalf of the short term rentals. Some comments indicated that we need the booking data and addresses from the platform providers. Other comments stated that we should require that the

providers check whether the short term rentals have the proper city permits and licenses, and hold the platforms accountable for facilitating unlicensed short term rentals.

The final group of comments focuses on examples of regulations from other cities. Public comments suggested that we look at regulations in the following cities: Austin, TX; San Francisco, CA; Portland, OR; San Antonio, TX; New York City, NY; Key West, FL; Vail, CO; Pima County, AZ; Los Angeles, CA; Santa Monica, CA; Durango, CO; Philadelphia, PA; Jersey City, NJ; Paris, France; Barcelona, Spain; Quebec, Canada; and a few other cities.

## ***D. Assessment of Impacts of Short Term Rentals***

The public comments received indicate some of the major benefits and issues associated with short term rentals, which are summarized below. One issue that required further review was short term rentals' impact on affordable housing. In addition, the staff reviewed health and safety, permitting, enforcement, and revenue issues associated with short term rentals.

### **Benefits of Short Term Rentals**

The proponents of short term rentals cite their benefits as reasons why they should be legalized and regulated. The benefits outlined by the short term rental proponents are based on the growth of the sharing economy, the economic impact of short term rentals, their role in the tourism industry, the financial benefit to the city, how short term rentals can remove blight to revitalize and activate neighborhoods, and their minimal impact on affordable housing and neighborhood quality of life.

The proponents argue that short term rentals are a key component of the global phenomenon of the sharing economy. The sharing economy allows individuals to earn money by selling handmade crafts on Etsy, becoming a cab driver through Uber, or renting their spare bedroom as a short term rental. Technology has allowed the sharing economy to flourish, and it will continue to do so as it becomes easier for people to connect through the internet, social media, apps, and sharing economy platforms. Given the growth of the sharing economy and the scope of short term rentals in New Orleans, it would be counterproductive and ineffective to ban short term rentals and impossible to enforce.

The proponents state that one of the key benefits of short term rentals is that it provides additional income to the hosts. This allows the host to pay for their housing costs, whether it is rent or their mortgage, property tax, and insurance, or make improvements or keep up their home. This is increasingly important as housing costs continue to rise, and short term rental income allows people to stay in their homes. In addition, short term rentals provides jobs and additional income to property managers, house keepers, handymen and women, landscapers, and others who directly support the short term rental industry.

The proponents also cite the importance of short term rentals in supporting New Orleans' tourism industry. Short term rentals provide additional rooms for tourists, especial during special events and peak times. The short term rental industry says that some people will not travel to a destination if they cannot stay in a short term rental, and those who stay in short term rentals tend to stay longer and spend more than someone who stays in a hotel. Short term rental visitors want to live like locals and tend to spend money at local, neighborhood businesses. Short term rental's guests support restaurants, bars, and other businesses that depend on the tourism industry and provide a significant economic impact for the City, State, and region.

The proponents say that the City needs to legalize and regulate short term rentals and they would be willing to pay the taxes and fees which would be a financial windfall for the city. While there would certainly be some more permit fees and hotel-motel sale tax revenues, the current taxing

structure severely limits how much the City would gain.<sup>26</sup> There is certainly greater earning potential, but changes to State law are required to accomplish this.

The proponents say that short term rentals are a benefit for the neighborhoods. Many short term rentals were blighted properties that were only rehabilitated because of the earning potential of renting the property on a short term basis. In addition, proponents say that allowing second home owners to rent their property on a short term basis helps activate properties that would otherwise sit empty most of the year. Short term rental proponents say that quality of life concerns with short term rentals are limited to a few problem owners and are not an issue with the vast majority of short term rental operators who are regulated by reviews and whose business depends on providing good management.

Finally, the proponents state that short term rental's impact on affordable housing is overstated. Short term rental income helps people stay in their homes, and for the most part do not take away units that would be rented on a long-term basis. The units that are only rented on a short term basis are only 2% of the City's overall housing stock,<sup>27</sup> so it only has a minimal impact on the increase in rents and property values.

In summary, the proponents cite the follow major benefits of short term rentals:

- Short term rentals are part of the rapidly growing sharing economy.
- They provide additional income for hosts and individuals that support short term rentals.
- Short term rentals support the tourism economy and provide a significant financial benefit to the region.
- There is potential for the City to earn additional income through taxes and fees.
- Short term rentals help reduce blight, activate neighborhoods, and support local businesses.
- The negative impacts on neighborhood quality of life and affordable housing are overstated as most operators are good managers.

## **Negative Impacts Associated with Short Term Rentals**

Opponents have a number of concerns about the impacts short term rentals have on their neighborhoods. The opponent's concerns with short term rentals mostly fall within the following topics: commercialization of residential districts, neighborhood quality of life impacts, the changing the character of neighborhoods, the reduction of affordable housing, and unfair competition with hotels, bed and breakfasts, and legal short term rentals.

The overarching concern of the opponents with short term rentals is the commercialization of residential neighborhoods. Many residents purchased homes in residential neighborhoods and are

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<sup>26</sup> The current tax law provides the City with limited ability to tax stays at small short term rentals. The City cannot tax establishments with 2 rooms or less and only at a very minimal tax for establishments with 3 to 5 rooms (more on this in the Revenue Section below).

<sup>27</sup> The 2% figure is cited by the Alliance for Neighborhood Prosperity, a short term rental provider trade group.

concerned that short term rentals, which have some of the impacts of commercial uses, are operating near their homes. There is especially a concern over investors purchasing homes and renting them out only as a short term rental. They say that these uses are “mini-hotels” because no one ever lives there and should be prohibited in residential districts, like other commercial uses.

The opponents state that there are numerous issues associated with the short term rentals in residential neighborhoods. Short term rentals reduce the quality of life of neighborhoods because of an increase in late night activity, partying, noise, crime, litter, property damage, fire danger, loitering, public urination, vehicles parked on the street, and other issues that harm the quality of life of these residential areas. These quality of life issues are made worse because there is not a property owner, full time resident, or staff member onsite to regulate the activities of guests. There are additional concerns in multiple family dwelling structures where short term renters cause problems in common spaces and represent a security concern because they are strangers who have not been vetted. All of these quality of life issues may reduce the property values for neighboring properties.

In addition to the quality of life concerns, opponents are concerned that the short term rental concentration is changing the character of neighborhoods. As homes are converted to short term rentals, there are less full-time residents in the community. This reduces the cohesion in the neighborhood, reduces the number of people who are invested in the neighborhood, and damages businesses that serve the local population. This changes the neighborhood from one that serves residents to one that serves tourists. This is especially a problem in neighborhoods with and near tourist destinations because of the high concentration of short term rentals.

Another impact of short term rentals cited by the opponents is the reduction of affordable housing. Short term rentals can remove units from the long-term rental housing stock and may contribute to increases of rents on the long-term rentals that remain.<sup>28</sup> Legalizing short term rentals will increase the incentive to convert long term rental to short term rentals because renting a unit for a weekend or two can earn as much or more than the monthly rent of a full time tenant. This also impacts housing prices. Investors who purchase units to rent out on a short term basis are willing to pay more than someone who wants the unit as a residence, which drives up housing prices. The impact is greatest in the neighborhoods with the highest concentration of short term rentals. This phenomenon can have ripple effects as people priced out of one neighborhood are moving to nearby neighborhoods and pricing long-term residents out of those neighborhoods.

Opponents of short term rentals in the hotel, motel, and bed and breakfast industry state that they welcome competition, but that they want a level playing field. Since most short term rentals are not licensed, they do not pay hotel taxes, which is essentially a 13% price discount. In addition, short term rentals do not have to comply with the same building code, health, safety, fire, and ADA regulations as hotels and bed and breakfasts. Hotels have to locate in certain zoning districts where land and structures are more expansive than in most residential districts. Finally, most short term rentals do not have the proper commercial liability insurance as commercial

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<sup>28</sup> Opponents cite that 70% of short term rentals are whole unit rentals that would be rented on a long-term basis if the current rules prohibiting short term rentals were enforced.

overnight guest accommodations. All of these factors mean that are less up-front and re-occurring costs for a short term rental than a hotel or bed and breakfast which allows short term rentals to charge less and have an unfair competitive advantage. If permitted, short term rentals should be subject to the same rules and regulations as the rest of the hospitality industry.

In summary, the opponents of short term rentals cite the following negative impacts associated with short term rentals:

- Short term rental are a commercial encroachment in residential neighborhoods.
- Short term rentals reduce neighborhood quality of life due to late night activity, noise, crime, litter, property damage, fire danger, loitering, and reduced on street parking.
- Short term rentals result in a reduction in long-term residents which changes the character of neighborhoods, especially in neighborhoods with the highest concentration of short term rentals.
- Short term rentals reduce the number of affordable housing units.
- Short term rentals have an unfair competitive advantage from hotels, bed and breakfasts, and legal short term rentals because they are not licensed, do not pay taxes, are not held to the same safety requirements, and have lower capital and operating costs.

## **Affordable Housing Issues**

### *Loss of Housing Stock*

The City of New Orleans experienced a loss of 70% of its housing stock, including one-half of all rental units, following Hurricane Katrina and the subsequent levee failures in August 2005. The devastating effects of the disaster were felt by both homeowners and renters alike. In the ten years since the storm, property owners have navigated the processes implemented by the Road Home Program, insurance companies, and the City to return to their residences or find alternative housing. Historically, the City of New Orleans is a place where renters outnumber the number of homeowners, which is still the case today as 78,233, or 53%, of the City's 148,398 occupied housing units are renter occupied while 70,175, or 47%, are owner occupied.<sup>29</sup> In the years following the storm, as people worked on rebuilding their lives, many property owners chose not to or were unable to rebuild their rental units. This was due to a number of reasons, including that rental property owners may have been burdened with rebuilding their own home, were underinsured, or unable to secure funding through the Small Rental Program.

Though there were and are many vacant structures throughout the City, habitable residences were in high demand while the supply was low. Not having enough housing has caused habitable vacancy rates to shrink and prices to escalate making housing unaffordable in many key neighborhoods and for many longtime residents of those neighborhoods. Lastly, over the last ten years the City has seen an influx of new residents, many of whom are in a financial position to purchase or rent properties in neighborhoods where housing units are in high demand. As the

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<sup>29</sup> U.S. Census Bureau, 2013 American Housing Survey, <http://factfinder.census.gov>



demand for housing has increased in these high demand neighborhoods, the supply of habitable housing units has not kept the same pace causing housing prices and rents to rise.

### *Increase in Rents and Property Values*

Prior to Hurricane Katrina, the median gross rent (rent plus utilities) for a one-bedroom apartment in the City of New Orleans was \$698, whereas in 2015, the median gross rent for a one-bedroom apartment rose to \$925, a 33% increase.<sup>30</sup> Home values have increased by 54% as homeowners are paying significantly higher prices for construction costs, insurance, taxes, and utilities since the storm. The surge in housing costs has also impacted renters as increased housing costs are typically passed on to the renter. The recently released HousingNOLA report, a ten-year housing plan and policy recommendations for the City of New Orleans, asserts that New Orleans' housing unit demand over the next ten years for both rental and ownership units is more than 33,000 units.<sup>31</sup>

Though the impact of increased housing costs have been felt city-wide, high-demand neighborhoods, which are typically located near employment sectors and in the city's historic areas, are experiencing even higher costs as the supply of housing is tightened by demand. As rent prices increase, residents are forced to move to more affordable neighborhoods which often times means being further from work, school, transportation systems, and services.

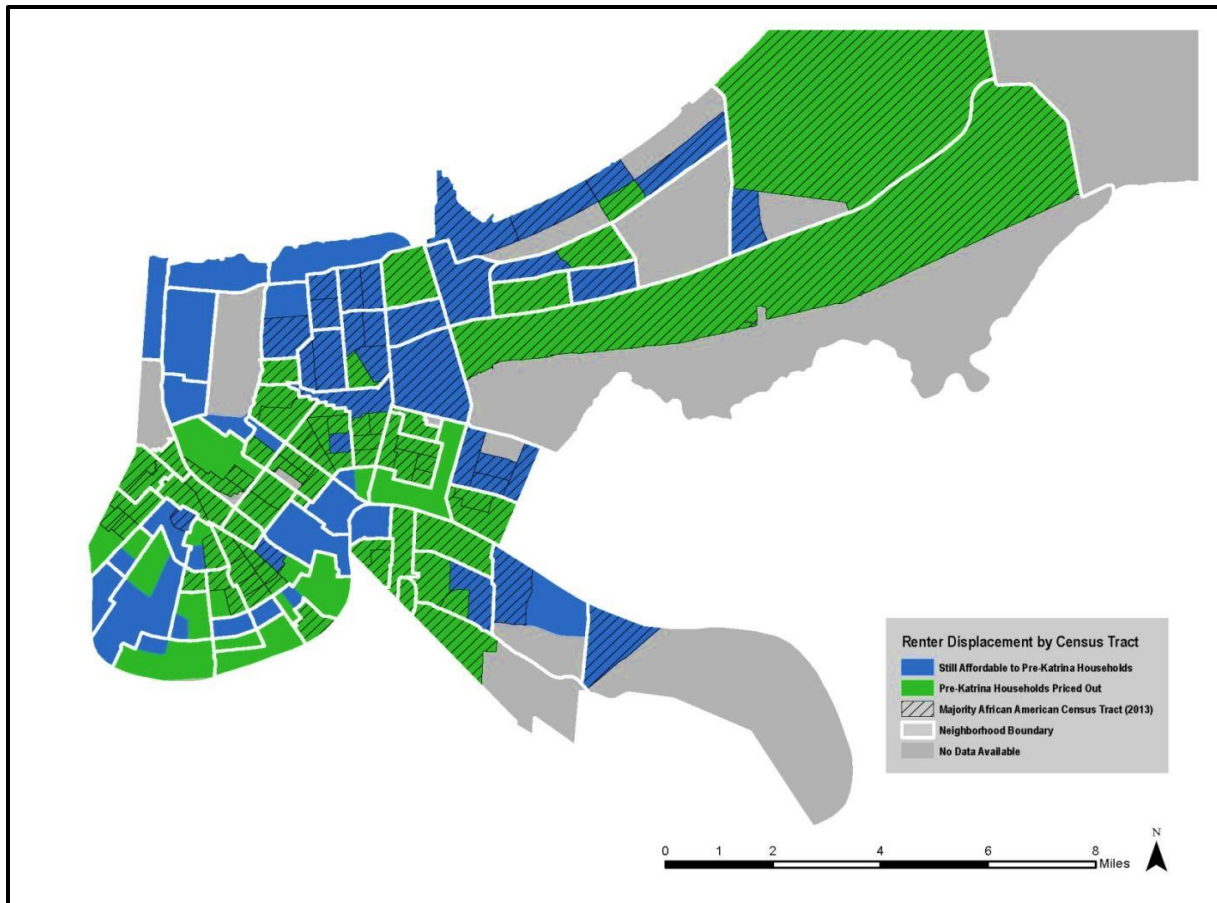
The map below, taken from the HousingNOLA report, shows neighborhoods (in blue) where housing has maintained pre-Katrina prices and neighborhoods (in green) where housing has increased and is no longer affordable to pre-Katrina residents.<sup>32</sup> The map shows many post-Katrina neighborhoods are no longer affordable to residents as housing prices have increased in the past ten years. While it is good that some neighborhoods have not seen housing cost increases (blue neighborhoods), many of these neighborhoods are located farther away from jobs and services or in areas with higher than average housing costs.

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<sup>30</sup> The New Orleans Index at Ten: Expanding Choice and Opportunity in the Housing Choice Voucher Program, <https://s3.amazonaws.com/gnocdc/reports/The+Data+Center-Expanding+Housing+Choice+in+New+Orleans.pdf>

<sup>31</sup> Housing NOLA, 12/10/2015.

<sup>32</sup> To create the map, HousingNOLA researchers utilized data obtained from the Greater New Orleans Fair Housing Action Center using the 2009-2013 American Community Survey. The data was also used to show the areas that are more than 50% African American are the same areas where residents have been displaced at a disproportionate rate when compared to the City as a whole.



**Figure 4:** *HousingNOLA Long-term Resident Housing Affordability* (Source: HousingNOLA Report)

### *Pressure to Convert Long-Term Rentals to Short Term Rentals*

There are concerns that property owners are converting their long term rentals into short term rentals because it's more profitable. While conducting the research for this study, the staff has heard it stated that investors are purchasing properties to rent exclusively as short term rentals. The assertion is that property owners who are offering their rental unit(s) as short term rentals are removing available long term rental housing from the market which removes housing units from the rental stock and increases housing costs. Platforms, such as Airbnb deny this claim stating that the majority of their hosts are only sharing their primary residence and only on an occasional basis. Further, the platform argues that renting out a unit or a room in the residence provides homeowners and renters the ability to supplement their income in order to afford the mortgage or rent on the residence.<sup>33</sup> Utilizing data collected from Inside Airbnb, Table 16 below considers how many nights a house or apartment would have to be rented in order to make it more profitable to lease a unit as a short term rental rather than leasing as a long-term rental. The data analyzes only the top 15 listing neighborhoods in New Orleans.<sup>34</sup>

<sup>33</sup> *Overview of the Airbnb Community in New Orleans, Louisiana*. November, 2015.

<sup>34</sup> Neighborhoods with more than 65 listings, which include whole unit and shared unit rentals.

**Table 16: Average Rent vs. Short Term Rental Rent in Top 15 Listing Neighborhoods**

Neighborhood	Average Monthly Rent <sup>35</sup>	Average Nightly Income for Whole Unit STR	Days/Year STR Would Have to be Rented to Equal Long-term Rental Income	Number of Whole Units Rented	Average Number of Nights Whole Units are Rented a Year	Number of Nights Units Exceed Minimum Profitability
Audubon	\$1,733	\$371	56	44	103	47
Bayou St. John	\$1,269	\$223	68	64	122	54
<b>Bywater</b>	\$1,584	\$190	100	110	161	61
Central Business District	\$1,829	\$261	84	96	82	-2
Central City	\$1,680	\$213	95	92	103	8
Fairgrounds	\$1,289	\$220	70	63	78	8
<b>French Quarter</b>	\$1,715	\$302	68	196	160	92
Leonidas	\$947	\$197	96	45	94	-2
Lower Garden District	\$2,046	\$385	64	96	98	34
<b>Marigny</b>	\$1,697	\$242	84	119	164	60
Mid-City	\$1,417	\$226	75	103	102	27
Seventh Ward	\$1,230	\$275	54	103	136	82
St. Claude	\$1,586	\$132	144	69	177	33
St. Roch	\$1,121	\$190	71	35	149	78
<b>Tremé - Lafitte</b>	\$1,406	\$263	64	107	156	92

The average cost of rent in each of the top 15 short term rental listing neighborhoods is outlined to show how many nights a unit would need to be rented as a short term rental in order to make it more profitable as a short term rental rather than as a long-term rental. As the table shows, 14 of the 15 top listing neighborhoods are renting the listed short term rental units for more nights than what it would take to make the same amount on a long-term rental. Using this data, Table 17 illustrates the profitability of a short term rental in these neighborhoods. Only one neighborhood, the Central Business District, does not generate higher profits from renting units on a short term basis.

**Table 17: Yearly Long-Term and Short Term Rental Profit and Difference**

Neighborhood	Long-Term Rent/Year	Short Term Rent/Year	Difference Between Long-Term and Short Term/Year
Audubon	\$20,796	\$38,213	\$17,417
Bayou St. John	\$15,228	\$27,206	\$11,918
<b>Bywater</b>	\$19,008	\$30,590	\$11,582
Central Business District	\$21,948	\$21,402	-\$546
Central City	\$20,160	\$21,939	\$1,779

<sup>35</sup> For this comparison the online search engine, Rent Jungle [www.rentjungle.com](http://www.rentjungle.com), was used. The database utilizes Rainmaker Insights data which updates data in real time and collects rental data throughout the United States. Accessed 12/2/15.

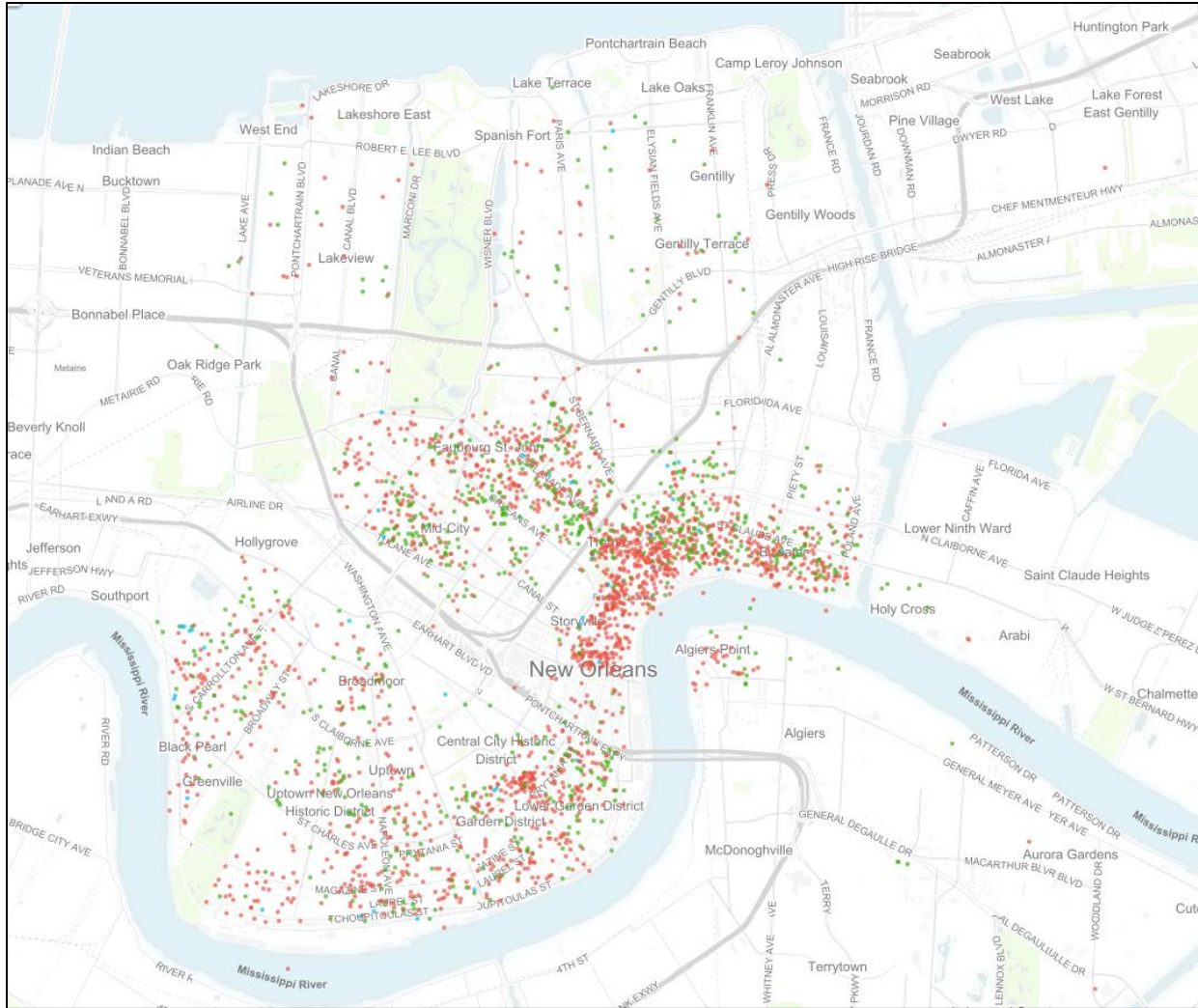
**Table 17: Yearly Long-Term and Short Term Rental Profit and Difference**

Neighborhood	Long-Term Rent/Year	Short Term Rent/Year	Difference Between Long-Term and Short Term/Year
Fairgrounds	\$11,364	\$17,160	\$5,796
<b>French Quarter</b>	\$20,580	\$48,320	\$27,740
Leonidas	\$11,364	\$18,518	\$7,154
Lower Garden District	\$24,552	\$37,730	\$13,178
<b>Marigny</b>	\$20,364	\$39,688	\$19,324
Mid-City	\$17,004	\$23,052	\$6,048
Seventh Ward	\$14,760	\$37,400	\$22,640
St. Claude	\$19,032	\$23,364	\$4,332
St. Roch	\$13,452	\$28,310	\$14,858
<b>Tremé - Lafitte</b>	\$16,872	\$41,028	\$24,156

*Neighborhoods Impacted by Short Term Rentals and the Amount of Impact*

The impact of short term rentals on individual neighborhoods varies. The data sites show core neighborhoods near the center of the City with numerous listings while neighborhoods located in the East, on the Westbank, and near the lakefront tend to have much fewer listings. Based on data compiled by the staff from several sources, it appears there are between 2,400 and 4,000 short term rentals operating city-wide, which include whole unit, private room, and shared space rentals. It is noted that Airbnb is only one of the platforms operating in the city; however, Airbnb is currently the largest operator serving both hosts and customers utilizing short term rentals. According to Inside Airbnb’s data, as of September, 2015, 1,342 or 74% of Airbnb’s 1,822 whole unit rentals are located in fifteen of New Orleans top-destination neighborhoods. As Figure 5 below shows, most Airbnb listings are concentrated in the city’s historic neighborhoods and near job centers. The following neighborhoods experience the highest number of whole unit rentals:

- The French Quarter had 196 whole unit listings (11% of total);
- Marigny had 119 whole unit listings (7% of total);
- Bywater had 110 whole unit listings (6% of total); and
- Tremé – Lafitte had 107 whole unit listings (6% of total).



**Figure 5:** Location of Short Term Rentals (Source: Inside Airbnb)

This study recognizes that New Orleans, like many cities throughout the United States, is facing a housing affordability crisis and that the lack of affordable housing units can be caused by a number of factors. Among them are rising housing costs, stagnant wages, more people renting, and increased demand due to improvements in the local economy.<sup>36,37</sup> Many people believe that short term rentals are also one of the factors contributing to the affordable housing shortage. Based on information gathered for this report, the staff has identified the following issues related to New Orleans housing affordability:

- Affordable housing demand is greater than affordable housing availability;
- Since August 2005, housing costs have risen for both homeowners and renters while wages have remained the same;
- In neighborhoods with the most short-term rental listings, it appears to be more profitable to rent units as short-term rentals rather than as a long-term rentals; and

<sup>36</sup> *The Exact Moment Big Cities Got Too Expensive for Millennials*, Bloomberg Business, July, 15, 2015.

<sup>37</sup> *Renting In America's Largest Cities*, NYU Furman Center/Capital One, May 28, 2015.

- With partial unit rentals, temporary whole unit rentals, and second homes, not all short-term rentals impact the available housing market.

## **Health & Safety Issues**

The International Building Code and the Life Safety Code both distinguish between transient (temporary) and non-transient (permanent) occupants of residential structures due to the increased safety concerns for transient occupants. The main concern is that transient occupants have little or no familiarity with their surroundings and in the case of an emergency, such as a fire, they may find it more difficult to navigate and exit the structure. Further, when occupants are asleep they may be unaware of a developing fire; if and when they are awakened they will likely be even more disoriented. Both the International Building Code and the Life Safety code attempt to ensure safety of transient occupants by requiring materials and equipment that will slow the spread of fire, giving occupants additional time to safely vacate and way finding devices that provide clear exit paths.

Some of the requirements of these codes may seem overly burdensome for smaller scale short term rentals. However, the Life Safety Code classifies dwelling units that are occupied by members of a single family with not more than three outsiders, if any, accommodated in rented rooms the same as a one- or two-family home. If you assume one or two occupants per available room for rent, this means that short term rentals that are owner occupied with one or two guestrooms will not need to meet any additional code requirements. Further, it has been the practice of Safety and Permits to allow owner-occupied single-family residences with two or fewer guestrooms to be reviewed under the IRC.

Short term rentals with more than two guestrooms or short term rentals that do not have a permanent residential component would be required to meet the more stringent commercial codes which will vary depending on numerous factors. This is imperative in order to ensure the safety of guests.

The Americans with Disabilities Act requires that public accommodations and commercial facilities provide accessibility features for users with disabilities. Per the Americans with Disabilities Act, places of lodging are exempt from ADA requirements if they contain no more than five rooms for rent and if the place of lodging is also the proprietor's residence. Places of lodging with more than five rooms for rent would be required to meet applicable ADA requirements which include but are not limited to: accessible access to the property (i.e. ramps), accessible routes within the property and accessible sleeping units including restrooms. The number of required accessible units is based on the number of overall units. For a place of lodging with one to 25 sleeping or dwelling units, one accessible unit is required.

## **Permitting & Licensing Issues**

Currently, anyone converting residential or commercial structure into a short term rental would be required to obtain a Change of Use permit from the Department of Safety and Permits. If the



property is located in a zoning district where the particular type of short term rental is a Conditional Use, then the Conditional Use would have to be obtained prior to the permit being issued. The Conditional Use process may be time consuming and be seen as overly burdensome, particularly for smaller scale short term rentals such as one or two room bed and breakfasts. Additionally, the Conditional Use is tied to the property in perpetuity. Once a Certificate of Occupancy is issued for a Change of Use permit, a Mayoralty Permit or Occupational License must be obtained.

Various studies that have been conducted show that the number of short term rentals in New Orleans ranges between 2,400 and 4,000. According to a dataset on data.nola.gov which pulls information from the Bureau of Revenue, there are 223 licensed short term rentals in New Orleans. That number includes hotels/motels, rooming houses and bed and breakfasts. This means that there are potentially thousands of unlicensed short term rentals in New Orleans that would need to come into compliance with the permit and license requirements.

## Enforcement Considerations

Enforcement of short term rentals is currently handled by the Zoning Division of the Department of Safety and Permits and is primarily complaint based. In 2013, 34 violations were reported alleging unlicensed short term rentals in New Orleans. Of those 34, two locations came into compliance by obtaining a license to operate a bed and breakfast. In 2014, 35 violations were reported as alleged unlicensed short term rentals. Of those 35, two locations came into compliance by obtaining a license to operate a bed and breakfast. In 2015, 162 violations were reported alleging unlicensed short term rentals. Of those 162, four locations came into compliance by obtaining a license to operate a bed and breakfast.

**Table 18:** *Short Term Rental Violations*

	<b>Violations report</b>	<b>Violations that came into compliance by obtaining a license</b>	<b>Licenses approved by the Department of Safety and Permits<sup>38</sup></b>
2013	34	2	12
2014	35	2	24
2015	162	4	20

Considering the estimated 2,400 to 4,000 short term rentals that exist in New Orleans, the City is receiving a relatively low number of complaints. Additionally, once a violation is reported, there is a low percentage of violators who come into compliance. There are several factors that likely lead to low levels of compliance:

- Lack of knowledge that permits and licenses are required;
- Prohibition of short term rentals and the perceived burden of conditional use approval in the zoning districts where they are authorized; and
- Lack of enforcement.

<sup>38</sup> Bed and breakfast licenses

Due to the existence of many easy-to-use online platforms, some short term rental operators may not realize that permits are required in order to operate. This is especially true with smaller scale bed and breakfast type short term rentals with infrequent use. In those cases, a simple violation letter will likely lead to compliance, if the district allows that particular type of short term rental by right. Often times, the type of short term rentals that are being operated may be conditional uses. A conditional use application fee is \$1,160 for structures less than 4,999 square feet and the approval typically takes four to six months from the time an application is submitted until an ordinance is signed. The conditional use process may discourage operators from coming into compliance, particularly if enforcement is lax. If the location is in a district where that particular type of short term rental is not permitted at all but there is a high demand, the operator may continue the illegal use if there is not effective enforcement.

Short term rental activity is often difficult to detect due to the residential nature of the use. If occupants of a short term rental are not causing a nuisance, neighbors often are unaware of their presence. Additionally, when nuisances occur, they typically occur during the evenings and weekends. During these times, there is no one available to receive complaints except for the police. Zoning inspectors and office staff work Monday to Friday from 8am to 5pm, so by the time they are available to receive a complaint, the nuisance has stopped, the occupants of the short term rental may have left, or the neighbor decides not to file the complaint. Further, if a complaint is filed after the incident occurred, it can be difficult to prove there was a transaction or a violation. There are several issues that make enforcement of short term rentals challenging:

- Short term rentals can be relatively undetectable;
- Activities happen when there are not enforcement agents or inspectors on duty; and
- Short term rental activities may be difficult to prove.

## **Revenue Issues**

Since most short term rentals operate without a license, they currently do not pay any hotel or sales tax to the City. This leads to unfair competition with overnight lodgings that do pay taxes and a loss of revenue for the City. If the City were to tax short term rentals under the current taxing structure, they would likely be treated in the same manner as bed and breakfasts. Below is a breakdown of how the hotel and lodging taxes operate in the City of New Orleans.

### *Hotel-Motel Sales Tax*

There is a 13% hotel-motel sales tax rate in New Orleans, but only 1.5% goes to the City of New Orleans.<sup>39</sup> If you stay in a hotel room for one night and pay \$100, you would pay \$13 in the hotel tax with only \$1.50 of that going to the City of New Orleans. So while the hotel tax rate is significant, there is little financial benefit to the City. In addition, this tax rate only applies to

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<sup>39</sup> The 13% Hotel-Motel Sales Tax is divided as follows: 4% Louisiana Sports and Exposition District, 4% Morial Convention Center, 1.5% City of New Orleans, 1.5% Orleans Parish School Board, 1% Regional Transit Authority, and 1% Convention and Visitors Bureau.



establishments with six or more rooms. A bed and breakfast or short term rental with five or fewer sleeping rooms does not pay the hotel-motel sales tax.

### *Occupancy Privilege Tax*

There is also a hotel occupancy privilege tax which is \$0.50 per room per night for establishments with 3 to 299 rooms.<sup>40</sup> There is no tax for establishments with two or fewer rooms. Under the current tax structure, a 5 room short term rental or bed and breakfast would pay only \$912.50 in taxes if every room was fully occupied every day of the year. A two room establishment would pay no taxes even if it is fully occupied all year.

### *Mayorality Permits/Occupational License*

Bed and breakfasts with one to five rooms are required to get a Mayorality Permit. The fee for this permit depends on the number of rooms, where one and two room bed and breakfasts pay \$200 and three to five room bed and breakfasts pay \$500 per year. Bed and breakfasts with six or more rooms do not receive a Mayorality Permit; they receive an Occupational License, which has a yearly fee of \$2 per sleeping room, and are subject to the hotel-motel sales tax.

To illustrate how the size of the short term rental or bed and breakfast impacts the taxes and fees that they pay to the City, here are three examples (2, 5, and 8 rooms) that trigger different taxes and fees. For the purpose of this analysis, we will assume occupancy of 180 days per year for each room (about 50% occupancy) and a nightly rate of \$100 per room.

**Table 19: Current Taxes and Fees by Room Number**

<b>Tax/Fee Type</b>	<b>2 Room</b>	<b>5 Room</b>	<b>8 Room</b>
Mayorality Permit/Occupation License fee	\$200	\$500	\$16
Occupancy Privilege Tax (\$0 for 0-2 room & \$0.50 per room/night with 3-299 rooms)	\$0	\$450	\$720
Hotel Tax (City's portion 1.5%)	\$0	\$0	\$2,160
<b>Total Taxes / Year</b>	<b>\$200</b>	<b>\$950</b>	<b>\$2,896</b>
<b>Yearly Taxes / Room</b>	<b>\$100</b>	<b>\$190</b>	<b>\$362</b>

The table above shows that larger venues contribute more taxes and fees to the City than smaller venues. This is obviously true on a total basis, but more significantly, it is also true on a per room basis. A one or two room bed and breakfast or short term rental only contributes \$200 per year in taxes and fees to the City. While we do not have exact figures of the breakdown of short term rentals by number of bedrooms, a majority of short term rentals are two or less bedrooms.<sup>41</sup> Therefore, under the current tax and fee structure, most short term rentals would pay no more than \$200 per year. In summary:

<sup>40</sup> Per Section 150-1002 of the City Code. For establishments with 300 or more rooms, the occupancy privilege tax is \$1 per room per night.

<sup>41</sup> Airbnb estimates that 96% of its active listings are three bedrooms or less.

- Under the current tax and fee structure, short term rentals with two bedrooms or less would only pay a \$200 permit fee to the City.
- Only short term rentals with six or more bedrooms would be subject to the hotel motel tax, of which only 1.5% goes to the City.
- Legalizing and taxing short term rentals under the current tax structure would likely only generate a couple hundred thousand dollars to the City per year.

## ***E. Nationwide Best Practices in Short Term Rental Regulations***

The City Planning Commission researched the short term rental regulations of 14 cities in an effort to better understand how these uses are regulated in other communities. Cities were selected in terms of their similarities with New Orleans, whether similar in development pattern, population, region, role as a travel destination, or any combination of these characteristics. The geographical distribution of surveyed cities is spread fairly evenly, with southeastern cities being the most represented group. This includes tourism-oriented cities like Savannah, GA, Charleston, SC, and Key West, FL. Also included in the Southeastern cities are Chattanooga, TN, and Nashville, TN, which is a city that also has a strong tourism industry. The second most represented regional group is located in the western United States and includes several cities that have recently adopted short term rental ordinances with different approaches, including San Francisco, CA, Santa Monica, CA, Durango, CO, and a city often cited for its inventive planning practices, Portland, OR. Other cities researched during this process include large northeastern cities such as New York City, NY and Philadelphia, PA and southwestern cities including Austin, TX and Santa Fe, NM. All of these cities have varying characteristics and their regulations reflect the differences in land use regulation approaches.

City Planning Commission staff collected information regarding the different components of a short term rental ordinance and have organized this information into 11 categories:

1. Definitions
2. Categories
3. Size limitations
4. Concentration
5. Time limitations
6. Owner occupancy
7. Fees
8. Notice
9. Taxes
10. Fines and enforcement
11. Building code and inspections

Communities' ordinances vary in complexity, but, more often than not, addressed some or all of the components listed above. The following section summarizes the different approaches taken in regulating short term rentals relative to the above listed components. This section will describe what is working for cities and what the City of New Orleans can take away from their experiences.

## **Aspects of Short Term Rental Regulations**

### ***Definitions***

Communities defined short term rentals in a variety of ways, which is consistent with the content and construction of land use regulations in that municipality. The majority of communities in the

survey named this use as a ‘short term rental’ or some variant of this including Chattanooga and Savannah’s ‘Short-term Vacation Rental,’ and San Francisco’s ‘Short-term Residential Rental.’ Only three of the surveyed communities used different terms including ‘Tourist Rooming Home’, ‘Timeshare’, and ‘Vacation Rental.’ These appear to be older definitions, meaning that either the community has not yet responded to the short term rental market, or it does not believe it requires distinction from other types of transient rental uses.

The majority of communities that have short term rental definitions included three specific components in their definition. This included stating that the use was for temporary or transient occupancy, that the use was within a residential dwelling unit, and that the temporary stay lasts no longer than 30 days. Some were more prescriptive than others, for example Chattanooga defines a short term rental as a use that occurs in a single-family residential dwelling unit, and communities varied widely on their use of transient, temporary, or guest. Another notable component of surveyed definitions is that a few specifically stated that short term rentals are not bed and breakfasts, hotels, or motels. The State of Wisconsin’s definition of Tourist Rooming Home simply states that they are ‘lodging other than hotels and motels and bed and breakfasts.’

Definitions of the various communities were different, as expected. Some had a size limitation, maximum number of rooms, and other regulations imbedded in them. Those topics were not covered in this section, as the staff’s analysis has individual sections for them. The definitions mostly stated how long, to whom, and in what type a structure this use can occur.

### *Categories of Short Term Rentals*

Short term rental offerings are often divided into three categories: full dwelling unit rental, single-room rental, and a shared-room rental. Four of the surveyed cities defined categories or types of short term rentals for the purpose of regulating them at a level appropriate for the level of potential impacts associated with the use. Nashville and Austin made this distinction based on owner-occupancy. Both treat the owner occupied short term rentals as low impact uses and do not limit the number of permits for that type nor limit the rental days per year.

<b>City</b>	<b>Categories</b>	<b>Description</b>
Austin, TX	Type 1	Owner-occupied
	Type 2	Non owner-occupied one- and two-family dwellings, 3% of census tract
	Type 3	Non owner-occupied multiple-family dwellings, 3% of census tract
Nashville, TN	Owner-occupied	No limit on number of rentals per census tract
	Non Owner-occupied	Limited to 3% of census tract
Philadelphia, PA	Short-term limited lodging	Rented $\leq$ 90 days per year, no permit required
	Limited lodging house	Rented $\leq$ 180 days per year, permit is required
Portland, OR	Type A	$\leq$ 2 rooms for rent, inspection required
	Type B	3 - 5 rooms for rent, conditional use approval required

Philadelphia's categories differ from these two cities in that its focus is not owner occupancy, but the number of times a unit is rented annually. Philadelphia allows units to be rented up to 90 days per year without a permit, and in no case can a unit be rented more than 180 days. Portland's system is also different from the previous three discussed in that its limitations are based on the number of rooms rented in a dwelling unit. Type A rentals, which have one or two rooms for rent, require a permit and inspection, but do not require the conditional use approval that the Type B must obtain.

Surveyed communities that made distinctions between types of short term rentals are all different in their approach or specificity. These cities attempt to untangle the more impactful short term rental types by owner-occupancy, times rented per year, or total number of rooms. These approaches are then supplemented with different use standards, permit caps, and design standards to further mitigate any possible negative impacts. These other standards will be discussed in later sections.

### *Size Limitations*

Half of the surveyed communities placed specific size limitations on short term rentals in addition to or instead of broader limitations by structure type. Four of these communities limited the number of rooms that can be dedicated to short term rentals. Portland's Type B and Chattanooga's short term rentals have the highest of this group, allowing up to five rooms to be used for short term rentals. Nashville allows up to four rooms and Portland allows its Type A short term rentals to have up to two rooms. Charleston allows up to nine short term rental units on one commercial lot and only one unit on residential property. Any use with ten or more units dedicated to short term rentals is required to be reviewed as an accommodation use.

The remaining three communities that regulate the size of short term rentals do so by number of guests. Both Santa Fe and Savannah allow two guests or adults per room. Chicago is even more prescriptive in requiring 125 square feet of floor area per guest for its vacation rental licenses. The half of the communities that did not specify a limit on rooms that could be rented in a single dwelling unit presumably rely on other requirements to regulate short term rentals. For example, if most homes have between two and three rooms and a community requires short term rentals to be owner occupied, then it would effectively limit the number of available rooms to between one and two.

### *Concentration*

Some of the surveyed communities limit the number of short term rentals by a defined geography, by lot, or by building. The logic behind limiting short term rentals in this manner is to limit what many see as commercial activity in residential neighborhoods and to limit the number of transient guests in favor of long-term residents. Charleston limits the number of rental units to one per lot if in a residential district and nine per lot if in a nonresidential district. Portland prescribes a maximum of one unit or less than 25% of units within a multiple-family residential structure. Similarly, Chicago limits vacation rentals to six per building. Limitations on

the number short term rental units in multiple family buildings are enacted in an effort to curb multiple family structures from converting into hotels, should a large number of units within a building be rented out.

Municipalities such as Nashville and Austin and the State of Wisconsin define geographic limits for short term rentals. The State of Wisconsin limits Tourist Rooming Homes from being located within 500 feet of each other. Nashville and Austin limit the number of short term rental permits issued to a certain percentage of housing units within a census tract. Both Austin and Nashville prescribe a limit for non-owner occupied short term rentals to 3% of the housing units per census tract. In Austin, this limit is for residential districts. Austin limits short term rentals to 25% of a census tract in commercial districts. Nashville maintains a web based mapping system that tracks the number permits available in each census tract.

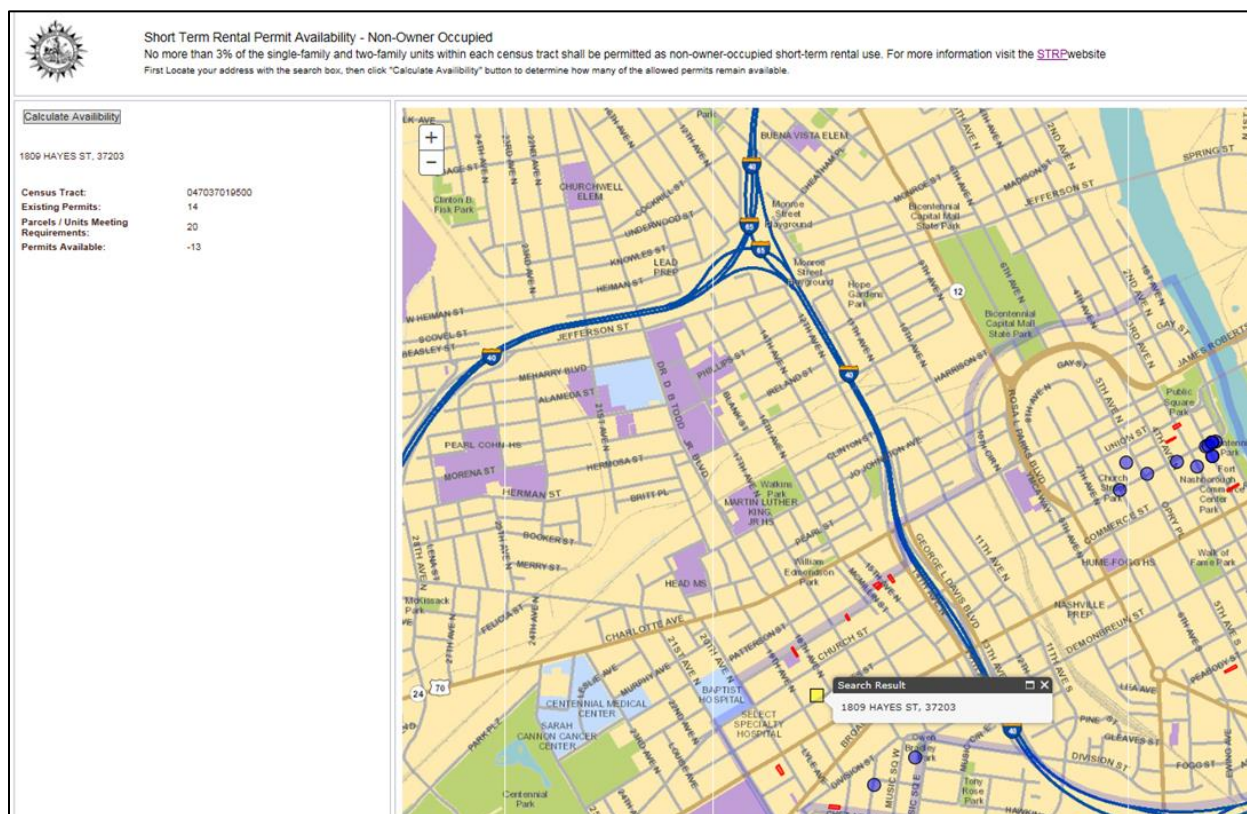


Figure 6: Nashville's Short Term Rental Permit Availability Map (Source: <http://maps.nashville.gov/strp/>)

This mapping tool lists the number of existing permits, parcels/units meeting requirements, and the number of permits available. Similarly, Austin provides a link on their website to a mapping service so citizens can find their census tract number and then find the number of permits available for the City's census tracts listed.

Another tool that a few cities utilize to limit the concentration of short term rental units is limiting the zoning districts in which they can be located. Half of the surveyed communities allow short term rentals in any zoning district or all zoning districts that allow residential uses. Chattanooga limits the number of short term rentals by only allowing them in one of its multiple

family zoning districts and in a special residential zoning district. Durango has a cap on short term rentals in certain residential districts and prohibits them in other residential districts. Charleston has a specific overlay zone in which short term rentals are permitted.

### *Time limitations*

Nearly all of the surveyed communities defined the number of consecutive days a dwelling unit must be occupied in order to classify it as a long-term rental. All of these communities set this number at or over 30 days and otherwise it would be considered a short term rental. The time per year a short term rental may be leased is also regulated by a number of communities. San Francisco allows a unit to be rented 90 days of the year if the owner is not present, and an unlimited number of times if the owner is present. The State of Wisconsin's regulations are similar in that it allows an unlimited number of days rented if the owner is present, but limits rentals to 30 days if the owner is not present.

Santa Fe's requirements are more prescriptive in that they allow one rental within a 7 day period and no more than 17 rentals per year. Philadelphia recently adopted requirements that allow individuals to rent short term rentals for no more than 90 days per year without a permit. The city allows up to 180 rental days for those which obtain a permit.

Specifying time limits that a unit can be rented without a permit presents a challenge for enforcement. It would require all short term rentals to be monitored for occupancy year around. The other approach to allow for a certain number of days for a unit to be rented while the owner is not present is one way to ensure that residents are able to rent their units during special events or while they are on vacation. Two local New Orleans examples are Mardi Gras and Jazz Fest when many locals choose to vacation or simply rent their primary residence for supplemental income.

### *Owner Occupancy*

Much of the discussion and concern surrounding short term rentals involves the lack of owner occupancy and someone to be held accountable should renters become a nuisance. Almost half of the surveyed communities require owner occupancy or a lessee that is authorized to rent the unit by the property owner. Many of these cities also define how many days per year an owner or lessee must occupy the structure. In San Francisco's case, the owner or lessee must reside at the dwelling for at least 275 days per year. This number correlates directly with the 90 days that San Franciscans are permitted to short term rent their dwelling units without being present. Municipalities including Austin and Nashville chose to regulate owner occupied short term rentals differently than those that are not owner occupied.

The presence of an owner or lessee certainly could alleviate some concerns about impacts these rentals have on surrounding properties, but non-owner occupied short term rentals can also be managed in a responsible manner and are a desirable use to some, as noted in the *Time Limitations* section. Austin and Nashville are two municipalities that simply regulate owner/lessee occupied short term rentals differently than those with the owner/lessee not present.

In Austin, this includes different building inspection requirements and a cap on the total number of permits issued per census tract.

### *Use Standards and Design Guidelines*

The majority of communities surveyed incorporated a number of use standards and design guidelines in their short term rental ordinances. Short term rentals are often a residential dwelling converted to host guests in one or multiple rooms or a full dwelling unit, and are imbedded in residential neighborhoods. Use standards and design guidelines are especially important for these uses to protect neighboring residents and the integrity of these residential neighborhoods. Jersey City, Savannah, and Philadelphia require that there be no change to the structure that would detract from its residential nature. Philadelphia further requires that there be no separate entrance for short term rentals and the primary residence. The other major design consideration for short term rentals is signage. Charleston, Chattanooga, and Philadelphia prohibit short term rentals from having exterior signage that advertises the rental unit. In an effort to preserve the residential character of neighborhoods, Charleston prohibits common areas for guests or commercial uses within the structure. Portland allows commercial meetings and banquets but requires a fee in addition to its standard permit fee.

Use standards of the communities to mitigate the impacts of short term rentals vary, but often include parking requirements, agent contact information, and notification to the occupants of certain city ordinances. Cities often require one additional parking space per room rented. Key West requires one space for a rental unit, but allows structures in historic districts to reserve parking off-site if the space cannot be accommodated on-site. Nashville and Santa Fe have prohibitions on recreational vehicle parking.

Another common use standard is that a short term rental must have an agent that is readily available to respond to complaints, should problems arise on site. Each municipality defines ‘readily available’ differently. Nashville requires an operator to be within 25 miles of the short term rental. Similarly, Charleston requires that an operator be within 2 hours of the short term rental. Both Key West and Nashville require that the operator be available 24 hours a day, 7 days a week.

Santa Fe and Philadelphia require that the owner or operator of a short term rental notify guests of city ordinances regarding trash, noise, and water. These notifications can help educate visitors of the local laws, which may be very different than that of their own city’s. Other miscellaneous use standards that have been adopted by communities include a minimum age for the primary renter, limiting the times occupants can have guests over, prohibiting equipment that might create a nuisance ‘detectable to the human senses’, and the prohibition of alcoholic beverage service to guests.

### *Fees*

Fees are a necessary component of any permitting and licensing system. Fees can pay for processing and reviewing of applications and requests as well as enforcement. The table below lists most of the surveyed communities’ short term rental fees and renewals.



**Table 21: Short Term Rental Fees of Surveyed Communities**

City	Fee		
	Permit	Renewal	Pre-Inspection
Nashville, TN	\$50	\$50	
Key West, FL	\$125	\$125	
Savannah, GA	\$150	\$50	
San Francisco, CA	\$50	\$50	
Austin, TX	\$285	\$235	
State of Wisconsin	\$110	\$128	\$300
Philadelphia, PA	\$125		

Permit fees vary widely and range from \$50 to \$285. Fees for renewing permits did not vary much from the initial permit fee, with the exception of Savannah’s, where the \$50 renewal fee is much less than the \$150 permit fee. The State of Wisconsin also included a pre-inspection fee of \$300 for the inspection of the rental unit by the Wisconsin State Department of Health and Safety.

When determining appropriate fees for short term rentals and any permit application, a municipality should determine an amount that will cover the costs associated with review and will promote users to seek a permit. The majority of the surveyed cities charge a fee between \$110 and \$150. The City of New Orleans will need to evaluate the costs to review these applications and create an appropriate fee schedule to reflect that.

### *Notice*

Four of the surveyed communities require some form of notification for surrounding properties to alert them of the use of a property as a short term rental. Santa Fe requires that all properties within a 200 foot radius be notified and Austin requires notification for a 100 foot radius. Portland’s notification requirement does not rely on a radius, but requires that all organizations sharing a boundary with the subject site be notified. Nashville requires notification to any residence sharing a common wall or driveway. Content of notification typically includes a description of the use and contact information of the responsible party. Portland requires that operators include within the notice a description of how all city requirements will be met. To ensure the content is accurate, Santa Fe requires that the notice sent to nearby properties first be approved by the land use director.

Another common way to notify residents of short term rentals and information regarding certain properties is by requiring the short term license or permit to be conspicuously displayed on the exterior of the structure with information including maximum occupancy, tax certificate number, and contact information for the owner or operator. At least 7 of the 14 communities surveyed require that short term rentals post a city-issued permit.

## *Taxes*

Requiring that taxes be paid for short term rentals is an almost universal requirement. Cities require that their version of hotel occupancy tax and various state or local taxes be paid at a defined percentage. The difference in municipalities is how or by whom they expect the taxes to be remitted. Philadelphia, Chicago, and Portland require the platform to collect taxes for the city, and remit them monthly. Not all platforms function like this, more often they are like advertising venues and do not process transactions. Portland states in its regulations that the host is responsible for remitting taxes should the platform not be able to do so. San Francisco places the tax obligation on all hosts, though it does require that the platform inform hosts of their tax obligations.

## *Fines and Enforcement*

Fines for short term rentals that are operating without a permit or operating in a manner that is a nuisance to surrounding properties vary greatly between cities. Fines range from \$50 per violation to \$3,000 per violation. Savannah, Key West, and Austin all have fines of \$500 per violation. Savannah's fine increases if the same short term rental is cited multiple times in a 12 month period, up to \$1,000. San Francisco has a similar system of increasing fines for multiple offenders, but bases its fine on 4, 8, and 12 times the standard hourly administrative rate. One of the seemingly effective tools that cities use as a deterrent for violations is the ability to revoke the short term rental license or permit. Santa Fe, San Francisco, Portland, and Nashville all have provisions that give the city the authority to revoke a short term rental permit. Most of these cities specify that the permit can be revoked after three violations on a site. San Francisco can revoke the permit for up to one year and Portland for up to two years. Chicago also has the ability to revoke vacation rental permits if a building is found to have more than six vacation rentals in one building. The city has the authority to revoke all permits if this is the case.

## *Building Code and Inspections*

Building codes are an essential component of any municipality's tools and are necessary to ensure safety standards are met to protect the health and safety of the public. As discussed in this report, differences in types of uses require compliance with different building codes, specifically residential or commercial building codes. Not every community surveyed specifically assigned a certain building code to short term rentals, but a number of communities at least required minimum life safety requirements for structures hosting guests.

The State of Wisconsin is one of the communities that specifically requires short term rentals meet the commercial building code in order to operate. Other cities, like Portland and Austin, require that an inspection be made to determine that no imminent threat to safety or hazards exists. Portland requires that rentals meet the building code for sleeping rooms. This requirement simply ensures that the room being rented was originally constructed as a bedroom or, in the case of converted spaces, that the conversion meets the appropriate codes. One of the most common requirements of cities surveyed is the requirement of basic life safety measures such as smoke alarms and carbon monoxide detectors.

The differences in safety requirements are also reflected in requirements for building and safety inspections. Most cities that require basic life safety measures do not appear to require inspections. Presumably, the inadequacies of a facility would be discovered if inspected as a result of a complaint. Other cities are more proactive in determining if safety requirements have been met. The State of Wisconsin, San Francisco, Savannah, Austin, Key West, and Chicago all require some type of inspection to ensure facilities are safe for transient occupancy. Cities like San Francisco and Savannah also require that these be conducted annually and include zoning, building, health, and fire safety inspections.

The importance of safety cannot be overstated when it comes to renting rooms or entire dwellings to visitors. Just as hotels are expected to maintain a certain level of safety, many cities are requiring this of short term rentals. Airbnb has also recognized this and has responded with a drive in 2015 to provide 25,000 smoke alarms and carbon monoxide detectors to hosts that use their service. The site also allows hosts to confirm if their site is equipped with smoke and carbon monoxide detectors.

## **Assessment of Regulations in Other Cities**

Communities approach the regulation of short term rentals in a variety of ways. Likewise, the levels of success the communities have had with these regulations have varied. After the staff's researched communities' regulations, many of the cities were contacted to discuss the actual success they are having with the adopted regulations and requirements.

Life safety requirements are one of the most common components of short term rental ordinances around the country, which range from requiring fire and carbon monoxide detectors to regular inspections by building and fire officials. New York City is having a major problem with property owners illegally converting apartment buildings for short term rental use. A May 15, 2011 press release from the Office of the Mayor of New York City gave examples of two former three-bedroom apartments that were converted for occupancy of over 40 guests each. Additionally, the City performed inspections that resulted in "Full Vacate Order" being issued for at least four buildings and "Partial Vacate Orders" for another four buildings because of overcrowding. As indicated in this report, the importance of life safety cannot be overstated and should be a consideration when developing regulations.

Another successful regulatory approach taken by communities is distinguishing between the levels of use of short term rentals. Making this distinction allows municipalities to regulate the different types of short term rentals based on their impacts. Communities typically view one- or two-room, owner- or permanent resident-occupied short term rentals as the least impactful because of an inherent responsibility of the permanent resident to the neighborhood. The most impactful type of short term rentals are often believed to be the full-unit, non-owner-occupied short term rentals. For example, Austin, TX, has had so many problems with disorderly conduct from these rentals that the City placed a moratorium on them until stricter regulations could be enacted. Though the City of Austin is having difficulties with non-owner-occupied short term rentals, the benefit of defining the different types of uses is to isolate those that are problematic while allowing those that are not causing problems the ability to continue to operate.

Furthermore, the distinction allows cities to adopt appropriate regulations based on potential impacts of that specific type of use.

Probably the most important components of a successful short term rental ordinance are fines and enforcement. Fines must be high enough to deter violations and noncompliance. New York City and Austin, TX are currently in the process of increasing their fines. Additionally, New York City recently doubled its short term rental enforcement budget to aid in addressing this issue. The staff also had conversations with an official from one city who acknowledged that their fines were too low and that at least one violator in the city would pay the fine and continue to operate illegally after being cited because rents they were receiving far exceeded fines levied by the municipality. Another lesson learned from other municipalities is that fees associated with permits or licenses should not be cost prohibitive and should effectively incentivize individuals to seek compliance.

The City of New Orleans can learn from the experience of the many cities that are addressing short term rentals. The staff has identified four major takeaways from the study of these regulations and discussions with cities around the United States:

- Both fees and fines should be set appropriately to incentivize compliance;
- Short term rentals differ in intensity of use and potential impacts. Distinguishing between the different types can help assign appropriate regulations that could mitigate the impacts of those more intense uses;
- Certain life safety standards must be in place to ensure a safe stay for guests; and
- Regular evaluation and reporting of the successes and failures of short term rental regulations is necessary in order to create the best possible system for that certain municipality. It would be impossible to simply replicate another city's efforts and expect it to be successful in New Orleans.

Though most cities have similar regulatory regimes for short term rentals, each city has a different issue that is central to their enforcement efforts. Austin is having issues with “party houses,” Portland is trying to increase compliance with permitting, and New York City is attempting to crackdown on unsafe conditions. All of these issues were seemingly addressed in adopted ordinances, but the specific issues that needed more attention did not appear until the system was in place. It will be essential for the City to put in place a system that not only addresses all of the concerns and issues surrounding short term rentals, but to be prepared to adjust these efforts over time as issues arise.

## ***F. Analysis: Regulating Impacts of Short Term Rentals***

This section analyzes the impacts of short term rentals and proposes recommendations on how to regulate those impacts. In developing regulations, the City Planning Commission staff was guided by the following goals and objectives:

- Ensure the safety of visitors traveling to New Orleans;
- Protect neighborhood character and minimize impacts to residential areas;
- Enable appropriate entrepreneurial and economic opportunities;
- Treat like uses similarly and create equitable regulations for the hospitality industry;
- Create a regulatory framework that is based on best practices yet responds to the unique circumstances in New Orleans and the limitations on City government;
- Enhance opportunities for City revenue generation;
- Facilitate public notice and information;
- Categorize allowable short term rentals in types based on their use and impact;
- Permit the least impactful types of short term rentals;
- Propose regulations and standards that respond to the unique impacts of each Short Term Rental type to minimize nuisances and mitigate their impacts;
- Propose enforceable regulations;
- Prioritize enforcement, especially for “problem” operators; and
- Implement a system where short term rentals would not vest property rights and would allow for licenses to be revoked/not renewed for operators who violate the regulations.

This section analyzes the following aspects of short term rentals and their regulations: land use and zoning, consistency with the Master Plan, affordable housing, building and life safety codes, permits and licenses, operational standards, regulation of short term rental platforms, revenue, and enforcement.

### **General Analysis**

#### *Support tourism while maintaining neighborhood character*

New Orleans is a tourism destination, and demand for short term rentals is high in certain neighborhoods. The short term rental regulations need to balance the demand while protecting the unique character of our neighborhoods. The tourism industry has impacts on the City, especially around Mardi Gras, Jazz Fest, the Sugar Bowl, Voodoo Festival, large conventions, and the many other special events that take place in New Orleans. These impacts can be felt in our neighborhoods as many of these tourists stay in short term rentals throughout the City.

The goal of the short term rental regulations should be to regulate this activity in such a way to minimize its impact on our neighborhoods. There are a few ways to accomplish this. The first way is to direct short term rentals to commercial and mixed use zoning districts. This can be done by making them a permitted use with few limitations in the non-residential districts and limiting short term rentals in residential districts. The second way is to permit the minimally

impactful short term rental types while strictly regulating the impactful types. This would include allowing permanent residents to operate a short term rental while they are home or on a temporary basis, while restricting the more impactful whole-unit, permanent short term rentals in residential districts. The final way to minimize the impacts of short term rental in residential districts is to limit their density to disperse them throughout the City.

### *Short Term Rental Uses in Non-Residential Districts*

Short term rentals, while a residential use in residential structures, may have the impact of a commercial use, where the property owner rents an entire dwelling unit for overnight paid occupancy. As such, short term rentals have a similar impact as bed and breakfasts. As a result, short term rentals should be a permitted use in non-residential districts where those similar uses are allowed. Since short term rentals are located in residential units and structures, they should not be allowed in districts where residential uses are prohibited.

- Short term rentals should be a permitted use in most non-residential districts, where similar uses and residential dwellings are permitted.

### *Commercial Uses and Impacts in Residential Districts*

One major question in regulating short term rentals are if they are considered commercial or residential uses. While there have not been any cases in Louisiana and many of the cases in other cities are around condominium and home owner associations' limitations on commercial uses, it would be prudent for the City to consider short term rentals to be residential uses. Even though they should be considered residential uses, short term rentals have commercial impacts due to their high turnover and the potential for late night activities. Limitations on use and location and other strict regulations are required for short term rentals to mitigate their commercial-like impacts.

- Although short term rentals have been ruled to be residential uses in some instances, they should be strictly limited in residential areas to mitigate their commercial-like impacts.

The purpose of residential zoning districts is to ensure that there are spaces for residential uses and to limit commercial impacts in these residential areas. While residential uses are the predominate activity in residential districts, limited non-residential and commercial uses are allowed in certain circumstances. For example, bed and breakfasts and daycare homes are allowed as permitted and conditional uses in many residential districts. These uses allow for the permanent use of a residential dwelling to engage in limited commercial activities. In addition, a home occupation is a permitted accessory use that allows for limited commercial activity within a residential dwelling that is clearly incidental to the residential use.<sup>42</sup> In addition, the new Comprehensive Zoning Ordinance allows for a Neighborhood Commercial Establishment as a conditional use in former non-residential structures in the Historic Core and Historic Urban Residential Districts.<sup>43</sup> Finally, the temporary use provisions in **Article 21, Section 21.8** allow

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<sup>42</sup> **Article 26, Section 26.6** and **Article 21, Section 21.6.R** of the Comprehensive Zoning Ordinance.

<sup>43</sup> **Article 26, Section 26.6** and **Article 20, Section 20.3.NN** of the Comprehensive Zoning Ordinance.

for temporary farmers markets, garage sales, holiday sales lots, parking lots, public markets, and other commercial uses subject to the time constraints in that section.

Short term rentals are a residential use, but they have commercial impacts that can be incompatible with the adjacent residential dwellings. As such, short term rentals should be limited to minimize their impact. This can be done in a few ways. The short term rental could be allowed as an accessory use to the main residential use, similar to a bed and breakfast or a home occupation. Also, a short term rental could be limited to a temporary use so the activity can take place only a few times per year. Finally, a short term rental could be restricted and limited in its activity. This is typically accomplished through the conditional use process, including for bed and breakfasts, day cares, and neighborhood commercial establishments where uses with commercial impacts are allowed in residential districts. The conditional use process allows for neighborhood notice and input and the impacts can be mitigated through the imposition of provisos. Therefore, short term rentals could be allowed in residential districts under the following conditions:

Short term rentals can be problematic when they are highly concentrated without onsite supervision in a particular area. The impacts of short term rentals can be mitigated by dispersing them throughout the neighborhood and the city. It is when short term rentals are highly concentrated that they can have a major impact on the surrounding properties. To prevent over-saturation in any particular area, regulations need to be in place to limit their density and disperse short term rentals to areas with lower concentration.

There is no reason why short term rentals should be completely prohibited in certain neighborhoods, because if the impacts of the short term rental can be mitigated in one neighborhood they can be mitigated in other neighborhoods. With the appropriate regulations in place, the impact of short term rentals can be managed and dispersed. There are a number of ways to limit density including citywide caps, caps by neighborhood, or caps by census tract. In addition, limitations on concentration in specific areas can be established by limiting the number of short term rentals per blockface and/or square. This type of regulatory system can spread out short term rentals and their impacts across a neighborhood and the entire City.

- The short term rental can be accessory to the main residential use of the structure;
- The short term rental can be a temporary use of a permanent residential use of a unit; or
- The short term rental and its impacts can be mitigated through limitations and conditions.

## **Land Use & Zoning Analysis**

### *Short Term Rental Definition*

The current short term rental definition in the Comprehensive Zoning Ordinance is deficient because it does not completely describe the use; it describes the uses that it is not. The current

definition is a rental of a premise for sleeping purposes of less than 30 days<sup>44</sup> that is not a hotel, motel, bed and breakfast or another defined use. A short term rental, as defined in most other jurisdictions, is also defined as being within a residential dwelling unit. Many other jurisdictions include multiple definitions for the different types or categories of short term rentals. In addition, to differentiate a short term rental from a bed and breakfast and to minimize its impact, a short term rental unit should only be rented to one party at a time. Also, the definition should only include a 30 day threshold, which is the nationwide standard. There is no justification for a longer period that only applies to the French Quarter. The proposed short term rental types are described in the section below.

### *Short Term Rental Types*

Different kinds of short term rentals need different treatments; therefore, there should be different categories with different standards and license requirements for each type of short term rental. The staff has identified two major classes of short term rentals, one where only a portion of the structure is rented and the owner or resident is present onsite during the rental (accessory), and the other where the whole unit is rented and the resident is not present onsite. Having a category for an accessory short term rental, where the permanent resident is present at the time of the rental, allows for a minimally impactful short term rental because the resident is present to regulate the activity of the guests.

The whole unit rental can be divided into those that are a temporary rental and those which are principally used as a short term rental. The temporary category allows for a minimally impactful short term rental type due to its temporary nature. This type will mostly be associated with large, impactful events. The staff believes that the principal short term rentals should be further divided into two categories for those in residential districts and those in commercial and non-residential districts. The principal residential short term rentals should be highly regulated because of their commercial impacts. The commercial short term rentals should have much fewer limitations to steer short term rentals to the non-residential districts where the commercial impacts are anticipated. Based on these categories, the following four types of short term rentals are proposed:

An **Accessory Short Term Rental** is a rental where the operator is present onsite during the time of the rental. The principal use of the structure is a residential dwelling and the short term rental is an accessory use. The number of bedrooms and the percent of the unit available for short term rental purposes should be limited. Additionally, an owner-occupied two-family dwelling may be authorized to rent one of the two entire units, if the owner is present during the time of the rental. A Type A Short Term Rental License shall be required.

A **Temporary Short Term Rental** is a dwelling unit that is used as a permanent primary residence for most of the year. The temporary short term rental provisions would allow the occupant to rent out the whole unit for up to four Temporary Use Permits totaling thirty (30) days per year. A Type T Short Term Rental License shall be required.

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<sup>44</sup> 60 Days in the Vieux Carré Districts



A **Principal Residential Short Term Rental** is a whole dwelling unit in a residential district where the principal use is a short term rental. Because these short term rentals are located in residential zoning districts, they should require conditional use approval and their activity should be significantly regulated and limited. A Type P Short Term Rental License shall be required.

A **Commercial Short Term Rental** is a dwelling unit in a non-residential district where the principal use is a short term rental. Since the use is in a commercial or mixed-use district, it can be allowed with few restrictions. A Type C Short Term Rental License shall be required.

In the first section of the report, a number of different common types of short term rentals were identified. Here is how those common types of short term rentals would fit into these four proposed short term rental categories:

- Occupant rents a spare bedroom during special events (**Accessory** or **Temporary**);
- Occupant rents a whole unit while on vacation or during special events (**Temporary**);
- Property owner rents spare bedroom on a regular basis (**Accessory**);
- Tenant rents a spare bedroom on a regular basis (**Accessory**);
- Owner rents a second or vacation home while they are not in town (**Principal Residential** or **Commercial**);
- Owner lives on the property and rents an additional unit (other side of double) (**Accessory**);
- Property owner does not live onsite and rents unit(s) for a mix of long and short term (**Principal Residential** or **Commercial**);
- Property owner does not live onsite and rents exclusively short term (**Principal Residential** or **Commercial**);
- Property owner/investor rents multiple units on one property (**Principal Residential** or **Commercial**);
- Property owner/investor rents units on multiple properties on short term basis (**Principal Residential** or **Commercial**)

### *Owner/Resident Occupancy*

Owner occupancy is a component of short term regulations in many jurisdictions including bed and breakfast regulations currently in the Comprehensive Zoning Ordinance. Owner occupancy provides a level of accountability for the short term rental. If an owner is present onsite at the time of the rental, he or she is there to regulate the actions of the guests and respond to any complaints from neighbors. There is also some accountability if it is an owner occupied property even if the owner is not present. An owner is more likely to vet their guests if it is their personal home, rather than an investment property, because they would be concerned with damage to personal possessions and relationships with neighbors.

Long term renters also may share the feeling of investment in a property and a neighborhood. Even if they do not have a financial interest in the property, long-term renters may still rent out their home and have an investment in all of their belongings in that home. If a long-term occupant is present during the time of the rental, they would provide the same regulation of the guest's activities whether or not they own the structure. Because of the accountability associated

with having a long-term resident reside at the unit that is being rented on a short term basis, it does not matter if it is an owner- or long-term renter-occupied dwelling for accessory and temporary short term rentals. However, if the short term rental is in a long-term renter-occupied dwelling, written permission from the property owner shall be required, including their signature on any license application form.

Of greater concern is when a short term rental property is not occupied by an owner or a long term resident. If the “host” does not live in the structure, they are less likely to vet the guest because they may not be as concerned about the unit’s contents and they may not have developed relationships with the neighbors. This could be more of a problem if this is a vacation home where the owner lives in another city or an investment property with an absentee owner. In these cases, there needs to be greater limitations on the rental of the unit and more strict use and operational standards. These issues are less of a concern in non-residential districts where there are greater intensities of uses and there is less conflict with residential uses.

- Accessory and Temporary Short Term Rentals should require an owner- or long-term renter occupant. A whole unit Accessory Short Term Rental should require an owner living onsite.
- Use and operational standards should be established for Principal Residential Short Term Rentals to mitigate the impacts resulting from no permanent resident residing onsite.

### *Density & Concentration Limitations*

One major concern is the over concentration of short term rental uses especially with no owner occupancy in certain residential areas. The Comprehensive Zoning Ordinance regulates the concentration of bed and breakfasts by limiting them to one per blockface in residential districts. Cities that regulate the concentration of short term rentals in residential districts do so by lot, building, or census tract. Charleston and Portland allow one short term rental per block. Chicago allows up to 6 short term rentals per building. Austin and Nashville allow up to 3% of the housing units per census tract to be non-owner occupied short term rentals in residential districts. Durango, CO combines this approach by limiting short term rentals to one per blockface while having an overall cap in the neighborhoods with the greatest demand for short term rentals. Wisconsin prohibits a short term rental within 500 feet of an existing short term rental.

With the four proposed different types of short term rentals, it is important to determine if density restrictions are required for each type. The Accessory Short Term rental will be resident-occupied at the time of the rental. Since the owner or occupant is present and will regulate the activity of the guest, it has limited impact on the surrounding neighbors. Since the impact is limited, a cap on Accessory Short Term Rentals is not required. The Temporary Short Term Rentals are limited to thirty days per year and will typically be associated with major events, often in very close proximity to the event (i.e. near the St. Charles parade routes for Mardi Gras and the Fairgrounds for Jazz Fest). Since these short term rentals are temporary and often associated with events that have impacts much greater than the short term rental, a density restriction is not required. The Commercial Short Term Rentals are located in non-residential districts where other uses with similar impacts are permitted, so there does not need to be a cap or density restriction on Commercial Short Term Rentals.

The Principal Residential Short Term Rentals require density restrictions. These are the whole unit rentals in residential districts that are greatest concern of most nearby residents. To ensure that these uses do not overwhelm certain blocks and neighborhoods, a density limit is recommended. In addition, by limiting the density of whole unit short term rentals, conversion of long-term to short term rentals can be minimized. There are a couple of scales to look at the impact of short term rentals: the block level and the neighborhood.

There needs to be limitation on the block or square level to prevent over concentration in a specific area. For bed and breakfasts, it is one per blockface. This would allow up to four (4) per square, with only one per bounding street. Since this type of restriction is used for bed and breakfasts and is common in other cities as well, it is a suitable way to limit concentration. Another way to limit concentration while maintaining more flexibility would be to have a total limit for the square. This would allow another short term rental on the same blockface if the total limit per square has not been reached. A combination of the two would be most effective. There should be a cap on up to two short term rentals per blockface with an overall cap for the entire square. This cap should depend on the type of neighborhood where the short term rental is located.

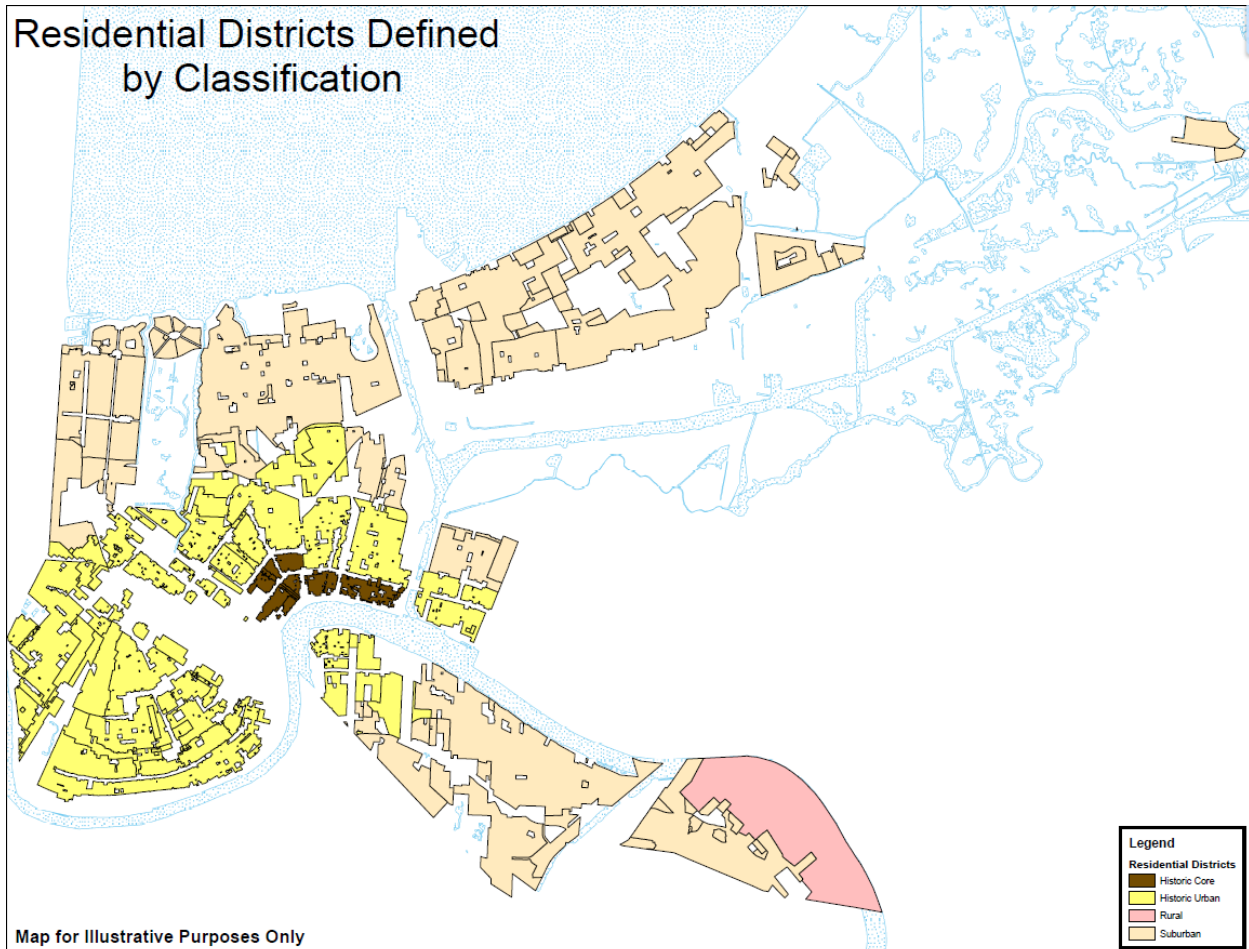
There is a higher density of housing units and a higher demand for short term rentals in the oldest neighborhoods of the City, so there should be a higher limit in these areas. In the suburban neighborhoods there is a lower density and less demand which warrants a lower cap. The Comprehensive Zoning Ordinance defines three different neighborhood types based on when the neighborhood developed, so these neighborhood types should be use in the short term rental regulations. The oldest areas are in the Historic Core Neighborhoods where short term rentals shall be limited to four (4) per square.<sup>45</sup> In the Historic Urban Neighborhoods, there shall be a limit of three (3) short term rentals per square.<sup>46</sup> In the Suburban Neighborhoods, short term rentals shall be limited to two (2) per square.<sup>47</sup> These square limits will allow for greater flexibility than the current regulations and respond to the specific development context of the neighborhood.

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<sup>45</sup> The Historic Core Neighborhoods include the French Quarter, Tremé, Marigny, and Bywater.

<sup>46</sup> The Historic Urban Neighborhoods include the rest of the areas that developed prior to World War II.

<sup>47</sup> The Suburban Neighborhoods include the post-World War II neighborhoods including Lakeview, Gentilly, New Orleans East, and most of Algiers.



**Figure 7:** Residential Districts grouped by their place type: Historic Core, Historic Urban, Suburban, and Rural

Since the short term rental use and this type of limitation on the location in a specific area is similar to bed and breakfast regulations, the limit should apply to bed and breakfasts as well. Therefore, there should be a limit of the number of Accessory and Principal Bed and Breakfasts and Principal Residential Short Term Rentals of four (4) per square in Historic Core Neighborhoods, three (3) per square in Historic Urban Neighborhoods, and two (2) per square in Suburban Neighborhoods with no more than two (2) per blockface. The bed and breakfast regulations should be revised to be consistent with these proposed short term rental regulations.



**Figure 8:** *Maximum Density of Principal Residential Short Term Rentals and Bed & Breakfasts by Neighborhood: Historic Core (4), Historic Urban (3), and Suburban (2)*

One neighborhood’s concern is that they would be overwhelmed by short term rentals. One alternative staff considered was putting a cap on the number of Principal Residential Short Term Rentals per neighborhoods or census tract. This is not necessary because of the density limits proposed above will limit the number of Principal Residential Short Term Rentals per neighborhood.

- Principal Residential Short Term Rentals and Bed and Breakfasts (both Accessory and Principal) should be limited to four (4) per square in Historic Core Neighborhoods, three (3) per square in Historic Urban Neighborhoods, and two (2) per square in Suburban Neighborhoods and not more than two (2) per blockface.

### *Prohibited Neighborhoods*

A number of neighborhood representatives have stated they do not want short term rentals in their community; some of these are the neighborhoods that have prohibitions on bed and breakfasts. The Comprehensive Zoning Ordinance currently prohibits bed and breakfasts in three neighborhoods: French Quarter, Garden District, and a portion of the Lower Garden District. The argument for prohibiting short term rentals in these neighborhoods is based on their current number of visitors and that short term rentals would overwhelm and be overly impactful on these communities. The staff believes that the proposed density limits and/or owner occupancy requirements will mitigate the impact of short term rentals. In addition, the staff feels that we should treat similar areas equally and having different regulations in similar neighborhoods runs counter to that argument. As a result, there is no need to prohibit short term rental in certain neighborhoods, because the proposed short term rental regulations will be effective in all neighborhoods.

According to the available data, there does not appear to be much of a problem with short term rentals in the Garden District.<sup>48</sup> In the Lower Garden District, there are more short term rentals, but it is a relatively contained with only 2% of the housing units listed as whole unit short term rentals. The proposed restrictions should mitigate the short term rentals in a way that would make an outright prohibition unnecessary. Short term rentals are very common in the French Quarter (the neighborhood with largest number of listings and with 4.2% of all housing units listed as whole unit short term rentals), but they may largely be second homes.<sup>49</sup> Second homes, if not rented on a short term basis, will likely sit vacant for most of the year. Allowing for limited, deconcentrated short term rentals in the French Quarter would activate under-utilized second homes while not taking long-term rentals off of the market.

- With the proposed density limitations the impacts of short term rental can be mitigated, and short term rental should not be prohibited in any neighborhood.

### *Size Limitations*

Limiting the size of a short term rental is one way to limit its impact. If there are fewer rooms, there should be fewer guests. The percent of the unit is one way to cap the activity of the short term rental and minimize its impact on surrounding properties. The bedroom cap is also a way to regulate the size of short term rentals. In the Comprehensive Zoning Ordinance, bed and breakfast regulations are the most appropriate comparison. An Accessory Bed and Breakfast is capped at four (4) guest rooms and a Principal Bed and Breakfast is capped at nine (9) guest rooms. In other cities, about half have maximum guest bedrooms and half do not. Most of the guest bedroom limits are around four or five bedrooms, with some as little as two rooms for the lower-impact class of short term rentals.<sup>50</sup> In addition, the building code has implications for short term rentals. At three and six bedrooms stricter building code regulations apply, so the natural caps are at two (2) and five (5) bedrooms.<sup>51</sup> In addition, these proposed bedroom limits can be verified on floor plans and during site inspections.

Another way to limit the size of short term rental units is based on guest occupancy. In other cities, this is usually based on the number of bedrooms. Most cities have a cap of two occupants per bedroom, two occupants per bedroom plus two, or two occupants per bedroom plus four. In the building code, the Department of Safety and Permits and State Fire Marshal assume two (2) occupants per bedroom. Owner-occupied dwellings with no more than three (3) guests are subject to the International Residential Code and do not require State Fire Marshal review; therefore, a partial unit Accessory Short Term Rental should be limited to three (3) guests. A whole unit Accessory Short Term Rental should be limited to three (3) bedrooms and six (6) guests. Temporary and Principal Residential Short Term Rentals should be limited to ten (10) or fewer guests because more stringent building code requirements start at eleven (11) guests. Finally, sleeping accommodations for more than sixteen (16) guests are considered a hotel or

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<sup>48</sup> There are only 15 listings in the Garden District, which is one tenth of certain other neighborhoods.

<sup>49</sup> Census data lists 45% of the housing units in the French Quarter as “vacant” because the census only considers permanent residential units as occupied.

<sup>50</sup> For example Portland’s Type A Short Term Rentals

<sup>51</sup> This corresponds to occupational limits of three (3) and ten (10) occupants, respectively, for certain types of transient rentals in the building code.

dormitory, so Commercial Short Term Rentals should be capped at sixteen (16) occupants. An occupant cap, in conjunction with a bedroom cap, is a useful tool to prevent overcrowding.

Where commercial uses are allowed in residential districts as an accessory use of a primary residential use, that commercial use is limited to a percentage of the structure. Home occupations are limited to 15% of the floor area of the dwelling unit and guest rooms in a bed and breakfast are limited to 25% of the gross floor area of the structure. Having a cap on the percent of the structure dedicated to guest rooms is a way to ensure that the short term rental does not overtake the primary residential nature of the structure. The 25% cap on gross floor area would be the most appropriate way to make short term rentals regulations consistent with bed and breakfast regulations.

- The partial unit Accessory Short Term Rentals shall be limited to two (2) bedrooms and three (3) guests. The guest rooms in the partial unit Accessory Short Term Rental shall be limited to 25% of the gross floor area of the unit.
- The whole unit Accessory Short Term Rental shall have onsite owner occupancy and be limited to three (3) bedrooms and six (6) guests.
- Temporary and Principal Short Term Rentals shall be limited to five (5) bedrooms and ten (10) occupants.
- Commercial Short Term Rental should be limited to eight (8) bedrooms and sixteen (16) occupants.
- The occupancy limit for a short term rental shall be limited to two (2) occupants per bedroom, subject to the maximum occupancy limit of each short term rental type.

### *Time Limitations*

One common way to regulate short term rentals is to limit the number of days per year that a unit can be rented on a short term basis. The purpose of this is twofold. First, it limits the impact of the short term rental. A unit that is rented on a short term basis for three months of the year would have less of an impact than one that is a short term rental for the entire year. Second, a cap on the number of days a unit can be rented on a short term basis limits the incentive to convert long term rentals to short term rentals. The following communities have a cap on days a unit can be rented without the permanent resident present at the time of the rental: Wisconsin 30 days, San Francisco 90 days, Philadelphia 90 days without a permit and 180 days with a permit, and Santa Fe 17 times per year and no more than once per week.

Given that Accessory Short Term Rental is resident- or owner-occupied, there is no need to place a time limitation on the Type A Short Term Rental. Principal Residential Short Term Rentals require conditional use approval and do not place a limit on short term rental days per year. If the review process determines that a time limit is required, a proviso could be imposed limiting the number of short term rental days. Since Commercial Short Term Rentals are located in non-residential districts where more intense commercial activities are permitted, a time limitation should not be required for that category.

Temporary Short Term Rentals are by definition limited to thirty (30) nights per year. This caps allows for a permanent resident to rent out his or her home while they are out of town and/or

during special events. Since the primary use of the unit is as a long-term residence, thirty (30) days is more than enough to allow for limited short term rental use of the unit. If the applicant wants more than thirty (30) days per year, conditional use approval of a Principal Short Term Rental would be required. Each unit should be limited to up to four (4) temporary use permits per year. Each permit shall be issued for a consecutive period. The length of each permit can be determined by the applicant until the thirty (30) day maximum is reached. This time limit will be enforced by allowing short term rental use for every day issued by the permit and prohibited every day when no permit has been issued. This is easier to track and enforce because if the owner is renting the unit on a short term basis without a permit for that date, it is a violation.

- No time limitations are required for Accessory, Principal Residential, and Commercial Short Term Rentals.
- Temporary Short Term Rentals shall be limited to up to four (4) temporary use permits for a total of thirty (30) days per year.

### *Permitted & Conditional Locations*

With the four proposed types of short term rentals, it is best to look at each type individually to determine the appropriate location where each type should be permitted. First, the Accessory Short Term Rental is an accessory use in a primary residential structure or in a structure where there is also a primary residential use. Since the short term rental use is accessory to the main use, the Type A Short Term Rental should be permitted in any district where the primary residential use is permitted. This would include almost any zoning district, except for certain industrial districts. Similarly, the Temporary Short Term Rental is a temporary rental of a primary residential unit that should be allowed in any district where the residential use is permitted. The Type T Short Term Rental shall be permitted in most zoning districts, except for certain industrial districts.

The Principal Residential Short Term Rental is by definition located in residential zoning districts. This type of short term rental would allow for whole unit rentals, with no limitation on time, and no owner or resident present onsite during the time of the rental. Since there is no permanent resident present, this use may be more impactful than a bed and breakfast. If allowed as a permitted use, the Principal Residential Short Term Rental could proliferate in some areas, which would increase the impact and further reduce long-term rentals in some neighborhoods. As a result, the Principal Residential Short Term Rental should be a conditional use in all residential districts. As a conditional use, short term rentals can be contained, allowed in areas where they would benefit the neighborhood, and provisos could restrict potential negative impacts.

Unfortunately, it is difficult to determine if the operator will be a good operator at the time of the application. It is only after the short term rental is in operation for some time that it is apparent whether the operator is a good or a bad actor. As a result, the City does not want to vest a right to a short term rental at the time of the original application. For this purpose, the Conditional Use approval should only be valid for three (3) years at which point the owner will have to reapply for conditional use approval of the Type P Short Term Rental. At each subsequent approval period, the City Planning Commission and City Council can determine if they want to renew the



conditional use for three (3) years (or more) or make the approval permanent. The prescription period shall restart with each conditional use approval so that the owner does not vest property rights outside of what was approved by the City Council.

The Commercial Short Term Rental is by definition in a dwelling unit that is located in a non-residential zoning district. Therefore, Commercial Short Term Rentals should be located in those non-residential zoning districts that allow for residential units.<sup>52</sup> Short term rentals should be considered a dwelling unit for density calculations in two-family, multi-family, and non-residential districts. Short term rentals should be allowed in the non-residential districts where similar uses and residential dwellings are permitted.

Since Accessory and Temporary Short Term Rentals are governed by the standards in Articles 20 and 21, they will not be included in the use tables in Articles 7 to 17. Principal Residential Short Term Rentals shall be a conditional use in every residential district. Commercial Short Term Rentals shall be a permitted use in every non-residential district where residential uses are permitted.<sup>53</sup>

- Accessory and Temporary Short Term Rentals should be permitted in all districts that allow residential uses.
- Principal Residential Short Term Rentals should be a conditional use in all residential districts. Conditional use approval shall only be valid for three (3) years at which point the owner shall reapply for a conditional use.
- The prescription period shall reset with each conditional use approval.
- Commercial Short Term Rentals should be permitted in most non-residential districts that allow residential uses and similar commercial uses (hotels, bed and breakfasts, etc).
- Short Term Rentals should be considered dwelling units for a zoning district's density calculations.

### *Parking Requirements (Article 22)*

Parking is an important issue for many residential neighborhoods, especially in the communities that have the highest concentration of short term rentals. In the Historic Core neighborhoods (including French Quarter, Marigny, Tremé, and Bywater), there is no parking required in most zoning districts.<sup>54</sup> This exception from the parking requirement would be in place for any short term rental in these zoning districts.

The most comparable use to a short term rental is the bed and breakfast use. Where parking is required, a bed and breakfast is required to provide one space plus one space per two guestrooms. This parking requirement can be difficult to meet especially in dense urban neighborhoods where parking is often not provided. A partial unit Accessory Short Term Rental

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<sup>52</sup> Because of the similarity in construction type of a short term rental and a multiple-family dwelling unit, the staff does not want to encourage the creation of units that could only be used as short term rental and could not be converted to long-term rental.

<sup>53</sup> This would include all non-residential districts, except for the following: VCP, S-LP, MS, LI, HI, and BIP Districts.

<sup>54</sup> The only districts that require parking in the Historic Core neighborhoods are the HMC-2 and HM-MU Districts.

is limited to two (2) guestrooms and should not have much of an increased demand for parking. Partial unit Accessory Short Term Rentals shall be required to provide one (1) parking space, the same as a residential dwelling. A Temporary Short Term Rental is temporary in its nature and should not require any additional parking beyond what would be required for a residential dwelling (1 parking space).

The Principal Residential Short Term Rental's primary use is as a short term residence. It should meet the same parking requirement as for the guest portion of the bed and breakfast, since there will not be a fulltime resident staying there at the same time. This is the same for whole unit Accessory and Commercial Short Term Rentals. The whole unit Accessory, Principal Residential, and Commercial Short Term Rentals should provide (1) one space per two (2) guestrooms. The Commercial Short Term Rental should also provide bicycle parking at the same rate as a bed and breakfast.

- Partial unit Accessory and Temporary Short Term Rentals should not be required to provide any additional parking beyond that required for the residential dwelling unit (1 parking space in districts where parking is required).
- The whole unit Accessory, Principal Residential, and Commercial Short Term Rentals shall provide one (1) parking space per two (2) guestrooms.

### *Use & Temporary Use Standards*

Most of the requirements addressed above should be codified as Use Standards in Article 20 and Accessory and Temporary Use Standards in Article 21. The standards that apply to all short term rentals should be included as general standards and there should be specific standards that apply to the specific types. For example, all short term rentals should be required to comply with all other regulations of other city departments. All short term rentals should require a license. In addition, no short term rentals should be allowed in an accessory structure, because it would encourage the conversion of accessory structures into living space. Many of the use standards for bed and breakfasts should be included as uses standards for short term rentals.

For the individual short term rental types, there should be use standards that outline limitations on the number of guestrooms, maximum guest occupancy, number per blockface and square, limits on the host being present during the guest's stay, ownership limitations, prohibitions on special events, building design standards, sign limitations, and other applicable requirements.

- The limitations described in the sections above should be codified as Use Standards in Article 20 and Accessory and Temporary Use Standards in Article 21.
- Applicable bed and breakfast standards should also be use standards for short term rentals.

### *Bed and Breakfast Modifications*

For the bed and breakfast regulations to be consistent with the proposed short term rental regulations, the staff recommends the following changes. The definition of bed and breakfasts should be modified to allow for rentals of up to 30 nights and not limit rentals to up to 14 nights.

In addition, the Principal Bed and Breakfast definition should be revised to only allow up to eight guest rooms because according to building code, nine and more guest rooms are classified as a hotel.

The square and blockface density limitation for Principal Residential Short Term Rentals will also include both types of Bed and Breakfasts, so the bed and breakfast regulation needs to change for consistency purposes. Bed and Breakfasts (both Accessory and Principal) and Principal Residential Short Term Rentals should be limited to four (4) per square in Historic Core Neighborhoods, three (3) per square in Historic Urban Neighborhoods, and two (2) per square in Suburban Neighborhoods and not more than two (2) per blockface. The prohibition on bed and breakfasts in the French Quarter, Garden District, and Lower Garden District should be eliminated. Since short term rentals would be allowed in all of these neighborhoods, there is no reason why bed and breakfasts should be prohibited.

In addition, there should be modifications made to use tables to allow Accessory Bed and Breakfasts in more districts. Currently, an Accessory Bed and Breakfast is a conditional use in most residential districts. The proposed short term rental regulations would allow for an Accessory Short Term Rental to be a permitted accessory use of a residential structure in all residential districts. Therefore, the districts where an Accessory Bed and Breakfast should be a permitted use should be expanded to include most Vieux Carré Districts, most Historic Urban residential districts, and more suburban residential districts. Also, the Principal Bed and Breakfasts which are now prohibited in the CBD-4 and CBD-7 Districts, should be treated similarly to other CBD Districts.

The parking requirements for bed and breakfasts shall be modified to be consistent with the proposed short term rental requirements. The Accessory Short Term Rental will be required to provide one (1) parking space for the resident and up to two guest rooms. To be consistent with this requirement, bed and breakfasts shall provide one parking space for the resident and first two guest rooms and one (1) parking space per two (2) guest rooms beyond that. Therefore, the bed and breakfast parking requirement shall be one (1) space plus one (1) space per two (2) guest rooms for three (3) or more guestrooms.

- Bed and breakfast definitions should be modified to allow for rentals of up to 30 nights.
- Principal Bed and Breakfast should allow no more than eight (8) guest rooms.
- The blockface limitation should be changed to match the proposed limitation of Principal Residential Short Term Rentals. Principal Residential Short Term Rentals and Bed and Breakfasts (both Accessory and Principal) should be limited to four (4) per square in Historic Core Neighborhoods, three (3) per square in Historic Urban Neighborhoods, and two (2) per square in Suburban Neighborhoods and not more than two (2) per blockface.
- The prohibition on bed and breakfasts in the Lower Garden District, Garden District, and Vieux Carré should be eliminated.
- An Accessory Bed and Breakfast should be allowed as a permitted use in most residential zoning districts.
- A Principal Bed and Breakfast should be a permitted use in the CBD-4 and CBD-7 Districts.

- The parking requirement shall be one (1) space plus one (1) space per two (2) guest rooms for three (3) or more guestrooms.

## **Master Plan Consistency Analysis**

This section analyzes the proposed types of short term rentals in terms of their consistency with the *Plan for the 21<sup>st</sup> Century: New Orleans 2030*, commonly known as the Master Plan. For reference, the proposed definition of each short term rental type is provided.

**Short Term Rental, Accessory.** Either (i) an owner- or permanent resident-occupied dwelling with a principal use as a permanent residential dwelling unit and which rents no more than two (2) guest rooms and three (3) total guests for overnight paid occupancy as an accessory use, or (ii) an owner-occupied two-family dwelling in which one half of the two-family dwelling is occupied by the owner with a principal use as the owner's permanent residential dwelling unit and which the other half of the two-family dwelling is rented with no more than three (3) guest rooms and six (6) total guests as an accessory use. Only one accessory short term rental shall be permitted in any two-family dwelling. For either type of accessory short term rental, the owner/permanent resident shall occupy the unit and be present during the guest's stay.

*Consistency with the Plan for the 21<sup>st</sup> Century: New Orleans 2030:* As a principal use permanent residence; the partial unit Accessory Short Term Rental is consistent with the Master Plan's Future Land Use categories that allow residential uses within the range of uses. The whole unit Accessory Short Term Rental is a dwelling. As a dwelling, the unit is used for sleeping, cooking, eating, and living. The unit may be considered a residential dwelling regardless of whether its renters are primarily short term or long term or whether it is vacant most of the time. Granted, short term rentals also have commercial characteristics in terms of providing lodging for a fee and may tend to have impacts similar to commercial uses. Short term renters most always will have a permanent residence elsewhere. This is similar to a vacation home, where the owner has a permanent residence elsewhere and spends only short periods of time in New Orleans. As a residential use, the whole unit Accessory Short Term Rental is consistent with the Master Plan's Future Land Use categories that allow residential uses within the range of uses.

**Short Term Rental, Temporary.** An owner- or permanent resident-occupied dwelling with a principal use as a permanent residential dwelling unit and which rents the entire unit with no more than five (5) guest rooms for overnight paid occupancy as a temporary use not to exceed thirty (30) days per year. The permanent resident is not required to be present during the guest's stay.

*Consistency with the Plan for the 21<sup>st</sup> Century: New Orleans 2030:* As a principal permanent residential use, the Temporary Short Term Rental is consistent with the Master Plan's Future Land Use categories that allow residential uses within the range of uses.

**Short Term Rental, Principal Residential.** An entire dwelling unit in a residential district that rents no more than five (5) guest rooms for overnight paid occupancy.

*Consistency with the Plan for the 21<sup>st</sup> Century: New Orleans 2030:* As the definition states, a Principal Residential Short Term Rental is a dwelling. As a dwelling, the unit is used for sleeping, cooking, eating, and living. The unit may be considered a residential dwelling regardless of whether its renters are primarily short term or long term or whether it is vacant most of the time. Granted, short term rentals also have commercial characteristics in terms of providing lodging for a fee and may tend to have impacts similar to commercial uses. Short term renters most always will have a permanent residence elsewhere. This is similar to a vacation home, where the owner has a permanent residence elsewhere and spends only short periods of time in New Orleans. As a residential use, the Principal Residential Short Term Rental is consistent with the Master Plan's Future Land Use categories that allow residential uses within the range of uses. In the residential districts, this type of use warrants review and approval through the conditional use process with limitations intended to mitigate the cumulative impacts of multiple short term rentals.

**Short Term Rental, Commercial.** An entire dwelling unit in a non-residential district that rents no more than eight (8) guest rooms for overnight paid occupancy.

*Consistency with the Plan for the 21<sup>st</sup> Century: New Orleans 2030:* As a principal commercial use, the Commercial Short Term Rental is consistent with the Master Plan's Future Land Use categories that allow commercial uses.

The proposed short term rental definitions and the proposed zoning district permissions are **consistent** with the *Plan for the 21<sup>st</sup> Century: New Orleans 2030*.

## **Affordable Housing Analysis**

*What Impacts are STRs having on affordable housing?*

This study attempts to address the impact short term rentals have on the City of New Orleans housing affordability. As mentioned previously in this report, it is estimated that there are between 2,400 and 4,000 short term rentals operating in New Orleans of which more than 1,800 are whole unit rentals. As rents have become higher and housing is less affordable in New Orleans, many have speculated that it is because of the proliferation of short term rentals. New Orleans joins several other cities currently experiencing a housing crisis in which housing prices are escalating at a faster rate than affordable housing units are being made available. Adding to problem is the fact that wages in the city have remained stagnant over the past several years.<sup>55</sup> As a result, residents are being displaced from their residences and out of the neighborhood they have resided in, sometimes for decades, to areas farther away from their place of employment, schools, transportation centers, and services.

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<sup>55</sup> 1999 Median Household Income was \$37,933 while 2013 Median Household Income dipped slightly to \$36,631, <http://www.datacenterresearch.org/data-resources/who-lives-in-new-orleans-now/>, accessed 12/3/15.

The staff is concerned that taking long-term rental units off the market to create short term rentals will cause rental prices to escalate even higher, especially in certain neighborhoods. The table below considers the rent of a one-bedroom unit in the neighborhoods with the most short term rental listings. As the table shows, all of the top destination neighborhoods are currently experiencing higher rents than New Orleans' average contract rent.<sup>56</sup>

**Table 24:** Top short term rental listing neighborhoods average one-bedroom rents compared to the average rent of a one-bedroom unit in New Orleans

Neighborhood	Airbnb Listings	Airbnb Full Rental Units	Average Rent (1 bedroom)	Difference between Fair Market Rent (\$767/mo for 1 bedroom in New Orleans) <sup>57</sup>	% Rent is Higher than Fair Market Rent in New Orleans
Audubon	66	44	\$1,596	\$831	108%
Bayou St. John	102	64	\$1,014	\$249	32%
Bywater	149	110	\$939	\$174	22%
Central Business District	108	96	\$1,066	\$301	39%
Central City	132	92	\$772	\$7	1%
Fairgrounds	91	63	\$1,047	\$282	37%
French Quarter	210	196	\$1,151	\$386	50%
Leonidas	75	45	\$947	\$182	24%
Lower Garden District	135	96	\$1,158	\$393	51%
Marigny	174	119	\$902	\$140	18%
Mid-City	171	103	\$949	\$184	24%
Seventh Ward	163	103	\$891	\$126	16%
St. Claude	113	69	\$949	\$184	24%
St. Roch	73	35	\$801	\$36	5%
Tremé - Lafitte	171	107	\$838	\$73	10%

Source: <http://insideairbnb.com/new-orleans/index.html>, Inside Airbnb, September 2, 2015 data scrape. The Data Center analysis of data from 2008-2012 American Community Survey

As defined by this report, short term rentals fall into four rental types:

- An **Accessory Short Term Rental** is a rental where the resident is present during the time of the rental, and the short term rental is an accessory use. There are two types, (1) a partial unit rental that allows for up to two (2) guestrooms and 25% of the unit for short term rental purposes, and (2) a whole unit rental where the property owner lives in one

<sup>56</sup> Data limitations do not allow for same year comparisons. As such, the Inside Airbnb data scrape is from 9/2015 while the contract rental rates are based on the U.S. Census American Community Survey in the years 2008-2012.

<sup>57</sup> 2015 fair market rent in New Orleans, HousingNOLA Report, 12/10/2015.

half or a two-family residence and the other half is used as a short term rental with up to three (3) guestrooms.

- A **Temporary Short Term Rental** is a dwelling unit that is used a permanent primary residence for most of the year. The temporary short term rental provisions would allow the owner to rent out the whole unit for up to thirty (30) days per year.
- A **Principal Residential Short Term Rental** is a whole dwelling used primarily for short term rental that is located in a residential district. Because these short term rentals are located in residential zoning districts, they should require conditional use approval and their activity should be significantly regulated and their density limited.
- A **Commercial Short Term Rental** is a dwelling unit whose principal purpose is as a short term rental with limited restrictions because it is located in a non-residential district.

Different types of short-term rentals should have different effects on housing availability. A person may rent out their home or apartment while they are out of town or away from their home temporarily. This type of rental does not remove units from the housing stock that would be available to potential homeowners or renters since a resident is already living in the space. Another reason someone may rent a whole unit is because they have purchased a second home or vacation rental but do not permanently reside in New Orleans and they rent the unit out to other vacationers when not staying in the unit. This type of rental also does not necessarily remove a unit from the housing stock since it would not be available if purchased as a second home for someone who only stays there occasionally. However, operators who rent out entire units for the sole purpose of providing short term rentals could potentially be removing housing stock that would otherwise be available to homeowners and renters. According to Inside Airbnb’s data, the whole unit rental makes up the majority of Airbnb listings: 69% or 1,822 units as of September 2, 2015.<sup>58</sup> The proliferation of short term rentals in high demand neighborhoods may inflate the market and keep rents higher than the market would otherwise support. In addition, the income that can be generated from short term rentals could encourage investors to pay more for a unit knowing that they could reap a larger return on their investment. It should also be noted that the demand by permanent residents for housing in the top short-term rental listing neighborhoods is also a contributing factor to higher rental rates. Thus, the staff has found a correlation, but cannot state the extent to which short-term rentals inflate housing costs.

**Table 25: Difference in Number of Listings and Percent between July 2014 and September 2015**

Neighborhood	July 2014		September 2015		Difference	% Increase/Decrease
	Number of Listings	% of Total Listings	Number of Listings	% of Total Listings		
Bayou St. John	52	4%	102	4%	50	96
Broadmoor	25	2%	46	2%	21	84
Bywater/Marigny	219	15%	323	13%	104	47

<sup>58</sup> As of 9/02/15, Inside Airbnb claims Airbnb has 2,646 listings of which 1,822 are entire homes/apartments, <http://insideairbnb.com/new-orleans/index.html?neighbourhood=&filterEntireHomes=false&filterHighlyAvailable=false&filterRecentReviews=false&filterMultiListings=false>

**Table 25: Difference in Number of Listings and Percent between July 2014 and September 2015**

Neighborhood	July 2014		September 2015		Difference	%
	Number	Percent	Number	Percent		
Central Business District	64	4%	108	5%	44	69
Central City	72	5%	132	6%	60	83
City Park	39	3%	52	2%	13	33
Dillard	2	0%	7	0%	5	250
East Carrollton	18	1%	32	1%	14	77
East and West Riverside	57	4%	89	4%	32	56
Fairgrounds	61	4%	91	4%	30	49
Fillmore	12	1%	21	1%	9	75
French Quarter	98	7%	210	9%	112	114
Freret	13	1%	17	1%	4	31
Garden District	13	1%	15	1%	2	15
Gentilly Terrace	6	0%	19	1%	13	216
Gert Town	1	0%	2	0%	1	100
Hollygrove/ Dixon	3	0%	4	0%	1	33
Irish Channel	35	2%	47	2%	12	34
Lake Terrace & Oaks	6	0%	2	0%	-4	-66
Lakeview	6	0%	15	1%	9	150
Lower Garden District	108	8%	135	6%	27	25
Marlyville - Fontainebleau	21	1%	39	2%	18	86
Mid-City	85	6%	171	7%	86	101
Milan	17	1%	49	2%	32	188
Milneburg	2	0%	3	0%	1	50
Navarre	7	0%	7	0%	0	0
Seventh Ward	85	6%	163	7%	78	92
St. Anthony	3	0%	7	0%	4	133
St. Bernard Area	3	0%	4	0%	1	33
St. Claude/ St. Roch	78	5%	186	8%	108	138
Touro	17	1%	37	2%	20	117
Tremé - Lafitte	84	6%	171	7%	87	104
Tulane - Gravier	30	2%	30	1%	0	0
Uptown	80	6%	53	2%	-33	-34
West End	3	0%	10	0%	7	233

Methodology: Utilizing the Tulane University Policy Research Shop's data gathered for a report written for the Department of Safety and Permits in July, 2014 and Inside Airbnb's data scrape from September 2, 2015, short term rentals in New Orleans neighborhoods were compared to show how the short term rental market is trending in New Orleans. Both data sources utilize Airbnb's data found on its website and considers all types of short term rentals.



The Tulane Policy Shop sampled 1,499 properties listed within Orleans Parish as of July 23, 2014 while Inside Airbnb conducted a data scrape on September 2, 2015 determining that at that point in time there were 2,646 short term rentals offered by Airbnb in the city of New Orleans. Admittedly, there are limitations to the data including the neighborhood comparisons which do not correspond completely. For example, the Tulane study combines the Bywater and Marigny neighborhoods into one neighborhood and also combines the St. Claude and St. Roch neighborhoods, while the Inside Airbnb data scrape lists these neighborhoods individually. In an attempt to gather similar data, the neighborhoods have been combined in order to compare the two data sets.

- Highlighted neighborhoods comprise 30% of all short term rentals in the City.
- The neighborhoods with the most short term rental listings include Bywater/Marigny, French Quarter, and St. Claude/St. Roch.
- The top short term rental listing neighborhoods have seen increases of 47% to 138% in whole unit short term rentals.
- There has been an increase of 1,147 (130% increase) Airbnb short term rental listings throughout the city from July, 2014 to September, 2015.

The number of short term rental listings is increasing in New Orleans and in other cities as well. The aforementioned HousingNOLA report, which was released in December 2015, was developed over the course of one year in conjunction with the City, the State of Louisiana, residents, private developers, and numerous non-profit affordable housing advocates through the support of several national foundations. The report addresses New Orleans current housing conditions, including the increased demand for housing, decreased affordability, and changing demographics. The report provides a plan of action for the City over the next ten years and prioritizes maintaining existing housing stock and expanding the total supply of affordable rental and ownership units in order to keep up with demand and avoid resident displacement. The housing demand for new units over the next ten years is approximately 33,000 units for residents whose income levels are both above and below the New Orleans Area Medium Income (AMI) level.<sup>59</sup> This includes 16,672 rental units and 16,921 homeownership units.

The City Council recently adopted a new Comprehensive Zoning Ordinance (CZO), which went into effect on August 12, 2015. The CZO incorporates density bonuses as an incentive to encourage developers to include affordable housing units in developments located in areas specified by the provision.<sup>60</sup> Since implementing the CZO, the Council voted to amend the ordinance to include the voluntary density bonuses in all districts in which multi-family housing is allowed.

Given the current demand for affordable housing of all types and the need for additional housing for all income levels, any reduction in available housing units should be considered carefully and an active approach to limiting short term rentals, particularly non-owner occupied rentals, is

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<sup>59</sup> New Orleans AMI is \$37, 146. The US Department of Housing and Urban Development (HUD) estimates the median family income for an area each year and adjusts that amount for family size so that family incomes may be expressed as a percentage of the AMI.. <http://quickfacts.census.gov/qfd/states/22/22071.html>

<sup>60</sup> Article 5, Section 5.6.C., Article 17, Section 17.5.H.1., and Article 18, Section 18.13.G of the Comprehensive Zoning Ordinance.

necessary based on the City’s priority of preserving existing and establishing new housing. Vacancy rates provide information about the demand for housing and low vacancies point to whether the supply of housing is keeping up with the demand. However, it should be noted that vacancy rates can be deceiving since not all vacancies are available to someone seeking housing. For instance, a short-term rental might be listed as vacant if there is no permanent resident, but may not be available as a primary residence because it is utilized as a vacation or second home. The table below considers the vacancy rates in the top 15 Airbnb listing neighborhoods in order to analyze whether or not neighborhoods with a high number of short term rentals also have low vacancy rates.<sup>61</sup>

**Table 26: Top 15 Airbnb Listing Neighborhoods Vacancy Rates and Average Rents Comparison**<sup>62</sup>

Neighborhood	Airbnb Listings 2015	Airbnb Full Rental Units 2015	Residential Vacant Units (2010 Census Data)	% Residential Vacant Units (2010 Census Data)	Average Rent (1 bedroom)
Audubon	66	44	621	10%	\$1,596
Bayou St. John	102	64	565	25%	\$1,014
Bywater	149	110	735	29%	\$939
Central Business District	108	96	522	29%	\$1,066
Central City	132	92	3,449	40%	\$772
Fairgrounds	91	63	707	22%	\$1,047
French Quarter	210	196	1984	43%	\$1,151
Leonidas	75	45	1049	26%	\$947
Lower Garden District	135	96	1052	21%	\$1,158
Marigny	174	119	478	20%	\$902
Mid-City	171	103	1821	26%	\$949
Seventh Ward	163	103	2641	38%	\$891
St. Claude	113	69	1733	39%	\$949
St. Roch	73	35	1574	38%	\$801
Tremé - Lafitte	171	107	124	37%	\$838

It is important to note that the City of New Orleans housing stock was severely damaged in Hurricane Katrina, which resulted in a large amount of vacant housing, particularly in the hardest hit neighborhoods. In 2010, the vacancy rate for the City stood at 25%.<sup>63</sup> As noted in the table

<sup>61</sup> The Data Center analysis data from 2008 – 2012 American Community Survey was used in this table in order to compare it with 2010 US Census Data.

<sup>62</sup> Limitations in the data do not allow for comparisons of same year Airbnb and US Census data. This report assumes given the recent trends and conclusions of the HousingNOLA Report, vacancies have decreased since the US Census data was collected.

<sup>63</sup> [http://www.datacenterresearch.org/reports\\_analysis/population-loss-and-vacant-housing](http://www.datacenterresearch.org/reports_analysis/population-loss-and-vacant-housing), accessed 12/30/2015.

above, the neighborhoods with the most short-term whole unit rental units (French Quarter, Bywater, Marigny, Mid-City, and Tremé – Lafitte) had vacancy rates that range from 20% to 40%. Based on this information, it is difficult to discern whether or not neighborhoods with low vacancies are experiencing higher rental costs due to short-term rentals. Each of the neighborhoods, however, is experiencing rents at higher rates than New Orleans average rent. Though it is true there are other reasons for increasing rents and housing shortages other than the proliferation of whole unit short term rentals throughout New Orleans neighborhoods, there is reason for regulating short term rentals as a means of preserving affordable housing stock and ensuring neighborhoods do not become unaffordable to residents.

- To preserve existing residential housing stock, primary whole unit short term rentals without an owner occupant onsite should require Conditional Use approval in residentially zoned neighborhoods.
- Short-term rentals are increasing in high-demand neighborhoods located close to the City's core. In order to prevent a proliferation of short term rentals in any given neighborhood, they should be limited in density.

## **Building Code & Life Safety Code Analysis**

Compliance with the International Residential Code, International Building Code, and Life Safety Code are essential to ensure the safety of visitors. Under the Life Safety Code, which is enforced by the State Fire Marshal, requirements for residences occupied by a single-family with one or two guestrooms for rent are the same as one- and two- family dwellings and therefore minimal upgrades would be required to existing residential structures. Although it is not explicit in the City Code, the Department of Safety and Permits has been allowing owner-occupied single-family residences with two or fewer guestrooms to be reviewed under the International Residential Code. The City Code should be modified to include this policy in order to be consistent with the requirements of the State Fire Marshal. Short term rentals that do not have a permanent residential component or rentals with more than two guestrooms trigger commercial code requirements which vary based on the layout of the structure, type of construction and number of occupants. These structures will likely require more extensive modifications. No matter the type of short term rental, inspections are crucial in order to verify compliance with the applicable codes.

- The City Code should be amended to allow residences occupied by a single-family with one or two guestrooms for rent to be reviewed under the International Residential Code.

## **Permitting & Licensing Analysis**

In order to ensure compliance with the applicable zoning and building codes, any conversion of a structure into a short term rental should be initiated by applying for and obtaining a Change of Use permit. If construction or renovation of the structure is required, then the short term rental would require a Building Permit. If the proposal is for a Temporary Short Term Rental, a Temporary Use Permit would be required.

Depending on the extent of the work, these permits can be approved the same day if all required documents are submitted at the time of application. More extensive projects that require full plan review may take up to a month to be approved. The application includes information regarding the property, building, applicant, professionals of record, scope of work, value of proposed work, and existing and proposed use. Architectural plans are required to be submitted with the application, depending on the scope of work, the Department of Safety and Permits may determine that plans need to be completed by a professional of record (Architect or Engineer). Permit fees are assessed based on the estimated cost of work. Projects that do not require full plan review have a \$60 base fee plus \$5 per \$1,000 of proposed work. If full plan review is required there is an additional \$1 per \$1,000 of proposed work assessed. Additional fees may be collected by the Vieux Carré Commission, Historic Districts Landmarks Commission, and City Planning Commission if the project requires reviews by those departments. Final inspections should be performed by applicable agencies prior to a Certificate of Completion or Occupancy being issued.

Once a Certificate of Completion or Occupancy is granted, a short term rental operator should be required to obtain a license which will allow them to operate as a short term rental. Any applicable fee and tax based revenue would be collected through the license. In order to ensure that operators continue abide by applicable regulations, the license type needs to have an annual review before being renewed. The current license types that are described in the City Code are not structured to have this type of review; therefore, staff recommends a new license type be created specifically for short term rentals.

- All short term rentals should be required to obtain a change of use, building, and/or temporary use permit in order to ensure that all applicable zoning and building codes are met. A final inspection should be performed by applicable agencies prior to a Certificate of Completion or Occupancy being issued.
- The creation of a new license type specifically for short term rentals is recommended.

## **City Code Standards Analysis**

In addition to all of the definition requirements, use tables, use standards, temporary use standards, and parking requirements in the Comprehensive Zoning Ordinance, it is important that there be standards that govern the operation, permitting, licensing, and enforcement of short term rentals for the regulatory system to work. All of the standards that relate to the location, density, and design of the short term rental should be part of the Comprehensive Zoning Ordinance, while all of the following license, operation, and enforcement standards should be part of City Code.

### *Permit & License Requirements*

As previously mentioned, a new license type is recommended specifically for short term rentals. Prior to the City issuing a Short Term Rental License, the Department of Safety and Permits should make sure that the applicant has met the requirements for permits, liability insurance, in-town property management, providing notice, and an affidavit attesting to certain guest safety

requirements. A Short Term Rental License is a privilege and not a right. The City has the authority to consider the license holder's compliance with the short term rental requirements when issuing or renewing a license. A Short Term Rental License should be required for every short term rental, and it should not be permitted to rent a unit for less than 30 day without a license. In order to receive a Short Term Rental License, the operator must apply for a Change of Use Permit (if no building modifications are required), a Building Permit to build or covert the structure from its current use to it use as a short term rental, or a Temporary Use Permit for a Temporary Short Term Rental.

In order to receive a Short Term Rental License, the staff recommends that an operator must provide the following items: floor and/or site plans that have been approved by the Department of Safety and Permits, proof of liability insurance, the name and contact information of the in-town property manager for when the owner/operator is out of town, and an affidavit attesting that the short term rental meets minimum guest safety standards for smoke detectors, fire extinguishers, and fire safety information. When a Short Term Rental License is up for renewal, the operator must provide the City with the log of the previous year's rental activity. The operator must meet the following to receive a Short Term Rental License:

- A Short Term Rental License is a privilege and not a right. A Short Term Rental License can be revoked or not renewed based on non-compliance with the Comprehensive Zoning Ordinance and Short Term Rental Permit and License Requirements.
- A Short Term Rental License is required for every short term rental: a Type A License for an Accessory Short Term Rental, a Type T License for a Temporary Short Term Rental, a Type P License for a Principal Short Term Rental, and a Type C License for a Commercial Short Term Rental.
- A Short Term Rental License requires a Temporary Use Permit or a Certificate of Occupancy for a Building or Change of Use Permit ensuring that the short term rental complies with the applicable Building Code and Life Safety Code requirements.
- The applicant shall submit the floor and/or site plans for approval by the Department of Safety and Permits.
- The owner or operator must provide proof of a current and valid liability insurance of at least \$500,000.
- Any owner or operator shall provide contact information such that they can be contacted at any time regarding problems at the unit. If the owner or operator lives out of town or is out of town during the time of the rental, the owner/operator shall provide the name and contact information a local property manager that is able to respond at any time to any problems at the unit.
- The Short Term Rental operator shall sign an affidavit attesting to the following safety measures: smoke detectors in every bedroom, outside each sleeping area, and on every habitable story, a properly maintained and charged fire extinguisher shall be provided in every short term rental unit, and the emergency contact information and a floor plan that shows fire exits and escape routes is posted in a prominent location.
- The Short Term Rental operator shall attest that they have notified the every unit on and within 150 feet of the subject property and the registered neighborhood organization(s).

- Upon renewal of a Short Term Rental Permit or License, the operator shall provide the log of rental activity to the Department of Safety and Permits for inspection as well as proof that all taxes and fees have been paid.

### *Operational Standards*

The operational quality of a short term rental unit is the most important factor in its impact on surrounding properties. Well managed short term rentals should have minimal impacts on the neighbors, while a poorly operated establishment can be a problem for the community. Some basic operational standards should be put in place to ensure a baseline of good management.

The short term rental operator shall keep a log of short term rental activity which includes date the unit was rented on a short term basis and fees for the rental. This log shall be maintained up to date and is subject to inspection by the City upon request and during the license renewal. In addition, the operator shall pay all applicable taxes and fees.

A major concern of many neighbors is noise associated with parties and outdoor activities at short term rentals. As a result, guests not authorized to stay at the short term rental or beyond the occupancy limit of the unit and outdoor activities between the hours of midnight and 6 a.m. should be prohibited. In every short term rental unit, the host needs to provide some basic information to the guest about the unit, property manager, safety information, and code requirements. This information will inform the guest of their rights and responsibilities. The operator needs to post the following information in a prominent location that is easily visible to the guest: permit number, operator/owner and his/her contact information, property manager and his/her contact information, safety information (see more below), occupancy limit, trash and recycle collection rules and dates, short term rental rules, and the City's Short Term Rental website.

To ensure that neighbors are informed of short term rental activity in the area, the operator shall provide notice to registered neighborhood organizations and nearby residents. The operator should send a notification letter to residents on the subject property and within 150 feet of the boundary of the subject property. In addition, the operator should notify any neighborhood organization that is registered with the City. The operator shall post the Short Term Rental License visible from the street, which provides all of the relevant information on the short term rental. The notification should include the following information: the address and unit number of the short term rental, the license number, the license dates, the license holder's name, the property manager and his/her contact information (phone and email), bedroom limit, guest occupancy limit, and the City's Short Term Rental website.

All short term rentals need to have someone in the New Orleans metropolitan area to be able to respond to any issues or emergencies at the unit. If the short term rental owner or operator does not live within 50 miles of the City of New Orleans or will be out of town during the time of the rental, then they must hire a local property manager that can respond to any problems. The owner or operator needs to have the proper commercial liability insurance that would cover any damage done by the guest. Most residential insurance policies do not cover renting the unit on a short term basis, so insurance would have to be for that specific purpose.

To ensure the safety of guests, the short term rental unit should be required to meet some minimum safety standards. The unit should be required to meet the applicable building code and life safety code requirements. Guest rooms for short term rentals shall be in a habitable living space. Conversion of an accessory structure to a short term rental is not permitted. In addition, there should be smoke detectors in all bedrooms and in the means of egress to allow for safe exit from the building in the case of a fire. There should also be a fire extinguisher located in the unit in case of any small fires. In addition, the operator should prominently post emergency contact information (911, police department, nearby hospitals, etc.) as well as a floor plan of the unit and structure showing emergency exits and escape routes.

The short term rental operator needs to do the following to ensure that the operator runs the short term rental in a responsible manner and that the guests stay does not negatively impact the neighbors:

- The operator shall keep a log of short term rental dates and fees that is subject to inspection by the City at any time and during the license renewal.
- The operator shall pay all applicable taxes and fees.
- Guests above the occupancy limit and outdoor activities in the yard, deck, porches, patios, and balconies shall be prohibited between midnight and 6 a.m. (does not apply to Commercial Short Term Rentals).
- The operator shall to post the following information in a prominent location that is easily visible to the guest:
  - license number,
  - operator and his/her contact information,
  - property manager and his/her contact information,
  - safety information (see more below),
  - occupancy limit,
  - trash and recycling collection rules and dates,
  - short term rental rules, and
  - the City's Short Term Rental website.
- The short term rental operator shall send a notification letter to every unit on and within 150 feet of the subject property and the registered neighborhood organization(s). The operator shall post a copy of the license that is visible from the street. The letter and the license shall include the following information:
  - The address and unit number of the short term rental,
  - the license number,
  - the license type and limitations,
  - the license valid and/or expiration dates,
  - the license holder's name,
  - the property manager and his/her contact information (phone and email),
  - bedroom limit and guest occupancy limit, and
  - the City's Short Term Rental website.
- Any owner or operator that lives out of town or will be out of town during the time of the rental shall have a local property manager that is able to respond to any problems at the unit at any time.

- The owner or operator shall have current and valid commercial liability insurance of at least \$500,000.
- The short term rental shall comply with all applicable Building Code and Life Safety Code requirements.
- Accessory structures and other non-habitable spaces shall not be used as space for a short term rental.
- The short term rental shall provide smoke detectors in every bedroom, outside each sleeping area, and on every habitable story.
- A properly maintained and charged fire extinguisher shall be provided in every short term rental unit.
- The operator shall post in a prominent location emergency contact information and a floor plan that shows fire exits and escape routes.

### *Enforcement of Regulations*

The City Code needs to specifically state the violations of the Short Term Rental License requirements. Any violation shall be subject to fines, non-renewal of license, and/or revocation of the license. The regulations need to address the criteria for suspending, not renewing, and revoking the Short Term Rental License. The violations include renting a unit as a short term rental without a Short Term Rental License, operating a short term rental outside of the scope of the CZO or City Code, and not following the restrictions of the Short Term Rental License.

It is important that rules are put in place to make it illegal to advertise a short term rental without a license. Making it illegal to advertise without a license makes it easier to enforce the short term rental regulations, because otherwise you would have to catch someone in the act of illegally renting a unit on the short term basis. In addition, the short term rental operator should be required to list the address and the license number in the short term rental listing, which will make it easier to find those who do not have a license. Finally, it should be illegal to advertise a short term rental outside of the scope of the permit. It is possible that bad actors will get a permit for an Accessory Short Term Rental and then rent the entire unit, rent unit beyond their allowed occupancy, or rent the unit for dates outside of what the Short Term Rental License allows.

- It shall be a violation to rent a unit for less than 30 days without a Short Term Rental License.
- It shall be a violation to operate outside of the scope of the Short Term Rental regulations in the Comprehensive Zoning Ordinance, City Code, and outside of the scope of the Short Term Rental License.
- It shall be a violation to advertise a short term rental without a license.
- It shall be a violation to not include the license number or property address of the short term rental unit in any advertisement.
- It shall be a violation to advertise a short term rental outside of the scope of the short term rental license.



## Platform Regulations Analysis

One common refrain from short term rental opponents is the need to make the short term rental platforms comply with our regulations or the City must shut them down, fine them, force them to hand over their data, and/or take them to court. This is a very difficult prospect. Some jurisdictions (State of New York) have been successful in getting some data for Airbnb, but the law in these jurisdictions may permit greater investigatory actions beyond those of the State of Louisiana.

In order to successfully regulate short term rentals in the City of New Orleans, cooperation from the major platform providers is ideal, but ultimate responsibility for compliance with land use regulations is borne by the property owner. Representatives from Airbnb and HomeAway, the two largest platforms, have met with the City Planning Commission staff, and Airbnb indicated a willingness to work with the City. However, there are a myriad of platforms beyond Airbnb and HomeAway, thus the regulations are most appropriately geared to the property owners, rather than the platforms.

Even though the City cannot feasibly regulate the platforms, the City should work with the platforms on areas where there is common interest. Many short term rental opponents have called on the platforms to share their data. This is something that the platforms are unwilling to do because of their terms of services. This is not an area where the City should dedicate efforts and resources; rather, the City should focus on issues that the platforms are willing to address. First, is collecting and remitting taxes, which Airbnb does in many municipalities already. The City should work with Airbnb and FlipKey to reach agreements on collecting and remitting taxes on behalf of their hosts. Other platforms, like HomeAway, are advertising websites and do not facilitate transactions. These platforms should inform their users of the responsibility to pay their Hotel-Motel Sales Tax or the Hotel Occupancy Privilege Tax.

In addition to collecting and remitting taxes, the City should work with the platforms to get their cooperation on certain aspects of short term rental enforcement. One thing the platforms could do is to require their users to post their license number in their listing or advertising on their site. In addition, if there are any listings that have been found to not have a license or have a violation judgement against them, the City can request that the platforms remove or modify those listings. Finally, there should be a process by which the City can request data on a specific listing with substantial evidence of a violation.<sup>64</sup> Cooperation from the platforms on these particular issues will ensure these short term rental regulations will work for all parties involved. The City should negotiate agreements with one or more of the platforms on the following items:

- Work cooperatively with platforms that are willing to collect and remit all applicable taxes or inform their user of their responsibility to pay the appropriate taxes.
- Provide a license number to post a listing.
- Upon notification from the City that a listing is in violation of a City Ordinance, remove the listing or modify the listing to come into compliance.

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<sup>64</sup> Airbnb stated that they are currently working with some cities on this specific agreement.

- Upon receipt of sufficient evidence of a violation, establish a process where the City can request specific data on a particular listing.

## Revenue Analysis

### *Short Term Rental Administrative Costs*

At a minimum, the revenue generated from short term rental should cover the cost to administer and enforce the new short term rental regulations. In San Francisco, the City created a six person office with a \$900,000 annual budget to administer their short term rental program. Santa Monica plans to dedicate three staff members and spend \$410,000 in the first year to enforce their short term rental regulations.

In New Orleans, it would likely take three to four dedicated staff members to administer and regulate short term rentals. The Director of the Department of Safety and Permits recommends there be one program manager, one license processor, and one or two field inspectors. Given what other cities spend and adjusting the cost to New Orleans,<sup>65</sup> it would likely cost between \$175,000 and \$300,000 to administer and enforce the new short term rental regulations. The Director of the Department of Safety and Permits estimated that it would cost his Department approximately \$200,000 to add three staff members to manage and enforce the Short Term Rental license program.<sup>66</sup>

- It will take a staff of three or four and a budget between \$175,000 and \$300,000 for the Department of Safety and Permits to administer and enforce the new short term rental regulations.

### *Taxes*

The City currently does not have any authority to change the current taxing structure. As a result, the financial benefit of legalizing short term rentals is very limited. According to Airbnb data, 92% of their trips are booked at a listing with one or two bedrooms. Short term rentals with one or two bedrooms do not pay hotel sales tax or hotel occupancy privilege tax, so only 8% of the trips using a short term rental can be taxed. Short term rentals with three to five bedrooms are only subject to a \$0.50 per room per night occupancy privilege tax, so those units only pay a very minimal fee.

Short term rentals should be subject to taxes at a similar rate to hotels, bed and breakfasts, and other overnight rental accommodations. The current structure of the hotel sales tax is not an equitable structure as only 1.5% of the 13% tax goes to the City of New Orleans. Extending that tax structure to short term rentals would not give the City the resources that it needs to effectively regulate the short term rental industry nor pay for the services used by the guest to the

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<sup>65</sup> \$150,000 per employee in San Francisco adjusts to about \$97,000 per employee in New Orleans and about \$135,000 per employee in Santa Monica adjusts to about \$87,000 in New Orleans.

<sup>66</sup> This figure is based on initial estimates and not an exact budget calculation.

City. Therefore, we would recommend creating a Short Term Rental Tax that would have an overall rate of 13%. If possible, all 13% should go to the City. At a minimum, at least 5% of that tax rate should go to the City, which would be on par with other cities. This tax should apply to all short term rentals (and bed and breakfasts) that are less than six (6) bedrooms and not subject to the hotel sales tax. If it is not political possible to create a new Short Term Rental Tax, then the City should expand the current Hotel-Motel Sales Tax to apply to all short term rentals (and other lodgings) with less than six (6) bedrooms. In order to make either of these changes, the City would need State legislation to enable such a tax.

Without concrete data on the number of bedrooms per listing and the nights rented for each listing, it is difficult to estimate how much the City would collect in hotel sales and hotel occupancy privilege taxes. Under the current structure, it would likely be in the range of \$100,000 to \$200,000 per year. Given limited potential of taxes short term rentals, there is little financial benefit in further legalizing the use under the current structure; therefore, the City should prioritize changing the tax structure before allowing short term rentals.

- There is currently limited financial benefit from legalizing and taxing short term rentals under the current structure.
- The City should lobby the Louisiana Legislature to be able to create a Short Term Rental tax that would affect rentals with 5 or less bedrooms that are currently not subject to the hotel sales tax.
- If a new Short Term Rental Tax is not possible, then the City should lobby to expand the Hotel-Motel Sales Tax to apply to lodgings with less than six (6) bedrooms.
- Taxes for short term rentals with five bedrooms or less shall be put in place prior to allowing short term rentals.

### *Fees*

The fee structure for short term rentals needs to be high enough to pay for regulation and enforcement, but not so high that it discourages people from applying for licenses. Given the lack of potential taxes under the current structure, it is even more important to have a fair license fee structure. There is also the question of fairness in the fee structure because short term rentals can vary widely in their intensity of use and earning potential. Given the proposed multiple types of short term rental license, there is an opportunity to create a customized and fair fee structure.

Currently the annual fees for bed and breakfasts are \$200 for a 1-2 bedroom bed and breakfast and \$500 for a 3-5 bedroom bed and breakfast. In other cities, short term rent permit fees range from \$50 to \$285, but are mostly between \$100 and \$150 per year. For short term rentals in New Orleans, the lowest fee should be for Temporary Short Term Rentals which could operate up to 30 days per year. That fee should be no more than \$50 per year to facilitate compliance. In the middle range is the Accessory Short Term Rental, which is limited to partial unit rentals, where the fee should be no more than \$200 per year. The highest fee should be for Principal Residential and Commercial Short Term Rentals where the entire unit can be rented for the entire year. That license fee should be \$500.

- The license fee should be \$50/year for Temporary Short Term Rentals, \$200/year for Accessory Short Term Rentals, and \$500/year for Principal Residential and Commercial Short Term Rentals.

### *Fines*

According to State law, the maximum fine amount that can be levied on property owners who have been found in violation of City Code is \$500 per offense. This fine amount can be a deterrent for some, such as small short term rental operators. For short term rental operators who charge high rental rates or do this as a full time business, a \$500 fine may just be the cost of doing business. Therefore, the City should consider a progressive fine amount for multiple offenses that increase to \$1,000, \$1,500, and/or \$2,000 on the second, third, and subsequent offenses. This would require an Amendment to State law.

- Fines should be amended to allow for a progressive fine structure that increases after multiple offenses that would punish repeat offenders.

### *Revenue Generation Potential*

Given the complexities of the current tax and fee structure, the uncertainty of any reforms to the tax and fee structure, and the lack of available data, it is difficult to estimate how much tax and fee revenue could be generated from short term rentals. One possible estimate is looking at 2,400 Airbnb listings, where the average listing generates \$10,900 per year.<sup>67</sup> Assuming this income is generated from short term rentals, over \$26 million is earned per year in Airbnb listings. If the City could levee the Hotel-Motel Sales Tax on all of these short term rental listings, the City would generate approximately \$400,000 per year from its 1.5%.<sup>68</sup>

If all of these 2,400 Airbnb listings were to become licensed, the City would be able to charge the license fee as described in the section above. Depending on the exact breakdown on the type of each of these listings, the City would generate approximately \$500,000 to \$600,000 in license fees per year for the Airbnb listings.<sup>69</sup> While these figures do not account for levels of non-compliance, listings on other platforms, and a number of other factors, the City could earn approximately \$1 million per year for short term rental taxes and fees.<sup>70</sup> This revenue generation is dependent on changes to State law. To ensure that the City can earn this potential revenue, the changes to State law to tax short term rental should be completed prior to changing the Comprehensive Zoning Ordinance and City Code to allow short term rentals.

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<sup>67</sup> *Overview of the Airbnb Community in New Orleans, Louisiana*. November 2015.

<sup>68</sup> This assumes that State law is changed to enable the City to levee the Hotel-Motel Sales Tax on rentals with five (5) and fewer bedrooms.

<sup>69</sup> Approximately 30% of the listings are partial unit rentals, and would likely be Accessory Short Term Rentals, which would generate approximately \$145,000 per year. Assuming 50% of the listings would be Temporary Short Term Rentals, these license fees would generate approximately \$50,000 per year. If the remaining are Principal Residential and Commercial Short Term Rental, these listings would generate approximately \$360,000 in license fees per year.

<sup>70</sup> This amount would generate enough income to administer and enforce the new Short Term Rental License, but is well short of a financial windfall for the City. \$1 million is less than 0.2% of the City's Annual Operating Budget.

## **Enforcement Analysis**

Existing enforcement is primarily complaint driven. In order for this method to be effective, the City should provide as much accurate information to the public as possible, and also make submitting complaints as easy as possible. This could be achieved by creating a City of New Orleans Short Term Rental website that includes an up-to-date list of licensed short term rentals with operator contact information, rules and regulations that apply to short term rentals, and information regarding how to file complaints.

There are four types of complaints that need to be addressed:

- unlicensed short term rentals that are not causing a nuisance;
- unlicensed short term rentals that are causing a nuisance;
- licensed short term rentals that are causing a nuisance; and
- licensed short term rentals operating outside of the scope of their permit.

Even if an unlicensed short term rental is not causing a nuisance, it is still important that it is properly permitted and licensed so the City can ensure the safety of visitors. If a visitor or neighbor discovers an unlicensed short term rental, there should be an easy way to report it 24 hours a day through an online form. However, if a short term rental is not causing a nuisance, it is unlikely that someone from the public will report it. The City should be proactive about enforcement of these types of short term rentals and possibly incentivize operators to get a permit and a license.

Citations could include operating a short term rental without a license or violating any of the use standards that apply to short term rentals. Violations of the Comprehensive Zoning Ordinance should be handled through an administrative adjudication process, and violations of City Code should be handled through a civil citation. Citing a short term rental for operating without a license can be difficult without a sufficient amount of evidence to prove there was a transaction.

Easier to enforce rules should be put in place in order to maximize enforcement efforts. If a use standard was put in place that would require a valid license number to be posted on any short term rental advertisement, it would allow for enforcement staff to monitor listings online and cite violators without having to prove a transaction took place. In addition to easier to enforce rules, higher fines for violators are necessary to have an effective enforcement process. Currently, if a violator is found guilty by an adjudication hearing officer, a maximum fine of \$500 can be imposed per State law. The fine needs to be substantially more than the cost of permits and licenses in order to incentivize operators to come into compliance.

In addition to enforcing unlicensed short term rentals, enforcement processes need to be put in place to evaluate if permitted and licensed operators are adhering to the applicable use standards. This is necessary in order to ensure that short term rentals will not have negative impacts on adjacent properties. Annual renewal of licenses should be subject to review and reinspection to ensure that the structure remains compliant with all applicable building and zoning codes. A log of complaints should be maintained by enforcement officers and if a property has received more

than three (3) complaints on separate occasions throughout the year, a public hearing shall be held to determine whether or not that license should be renewed.

Currently, the enforcement of short term rentals is one of many tasks handled by the Zoning Division of the Department of Safety and Permits. Effective enforcement is crucial to mitigate the potential negative impacts of short term rentals. Given the scope of work required to license and enforce regulations of the 2,400 to 4,000 short term rentals suspected to currently exist, it would be appropriate for the Department of Safety and Permits to add several positions to specifically handle short term rentals.

- Develop an administrative adjudication process for zoning-related short term rental violations;
- Develop a civil citation mechanism for City Code-related short term rental violations;
- Develop a website with listings of licensed short term rentals for visitors and neighbors;
- Allow for complaints to be filed online;
- Incentivize operators to get a permit and license
- Hire and schedule enforcement officers;
- Include a use standard requiring a permit number to be included in any advertisement;
- Increase violation fines to be higher than permit and license fees;
- Have an annual renewal subject to review and reinspection;
- Develop standards for when short term rental licenses shall be revoked and/or not renewed (number and/or type of violations); and

## **Analysis Summary**

Based on this analysis, the City Planning Commission recommends a number of changes to the City's short term rental regulations.

### *Comprehensive Zoning Ordinance*

The Short Term Rentals definition shall be changed and include four different types. The definition should distinguish between short term rentals that are all or a part of dwelling units and more or less than 30 days per year. The four types of short term rentals are as follows:

- An **Accessory Short Term Rental** is a rental where the resident is present during the time of the rental, and the short term rental is an accessory use. There are two types, (i) a partial unit rental that allows for up to two (2) guestrooms and 25% of the unit for short term rental purposes, and (ii) a whole unit rental where the property owner lives in one half or a two-family residence and the other half is used as a short term rental with up to three (3) guestrooms.
- A **Temporary Short Term Rental** is a dwelling unit that is used a permanent primary residence for most of the year. The temporary short term rental provisions would allow the owner to rent out the whole unit for up to thirty (30) days per year.

- A **Principal Residential Short Term Rental** is a whole dwelling used primarily for short term rental that is located in a residential district. Because these short term rentals are located in residential zoning districts, they should require conditional use approval and their activity should be significantly regulated and their density limited.
- A **Commercial Short Term Rental** is a dwelling unit whose principal purpose is as a short term rental with limited restrictions because it is located in a non-residential district.

The impacts of an Accessory Short Term Rental are limited due to their limited size and that they are owner or long-term resident occupied at the time of the rental. A Temporary Short Term Rental also has limited impacts because they are limited to thirty (30) days per year. A Commercial Short Term Rental will have more impacts, but they are located in non-residential districts where there are other uses of higher intensity.

- Accessory and Temporary Short Term Rentals should be permitted in all residential dwelling units, and they require an owner- or permanent resident occupant.
- Commercial Short Term Rentals should be a permitted use in most commercial and mixed-use districts.
- Temporary Short Term Rentals are limited to up to thirty (30) days per year and up to four (4) temporary use permits per year. The unit can be rented as a short term rental every day it has a temporary use permit and would be prohibited every day it does not have a permit.

The Principal Residential Short Term Rental would have more significant impacts because they are not occupied by a permanent resident and they are located in residential districts. As a result, the following limitations specific to Principal Residential Short Term Rentals should be put in place:

- Principal Residential Short Term Rentals should be a conditional use in all residential districts. Conditional Use approval shall only be valid for three (3) years at which point the owner must reapply for a conditional use. The prescription period shall reset with each conditional use approval.
- Principal Residential Short Term Rentals and Bed and Breakfasts (both Accessory and Principal) should be limited to four (4) per square in Historic Core Neighborhoods, three (3) per square in Historic Urban Neighborhoods, and two (2) per square in Suburban Neighborhoods and not more than two (2) per blockface.

There are some general standards that should be put into place to regulate the location, size, occupancy, ownership, and parking of all short term rentals:

- **Location:** There should be no prohibition of short term rentals in any neighborhoods and the density of Principal Residential Short Term Rental shall be limited as described above.
- **Size:** Accessory partial unit two (2) bedrooms, Accessory whole unit three (3) bedrooms, Temporary and Principal Residential five (5) bedrooms, and Commercial eight (8) bedrooms. The guest rooms in partial unit Accessory Short Term Rentals should be limited to 25% of the gross floor area of the unit.

- Occupancy: Two (2) guests per bedroom with a maximum of three (3) guests in a partial unit Accessory and six (6) guests in a whole unit Accessory, ten (10) guests in Temporary and Principal Residential, and sixteen (16) in Commercial Short Term Rentals.
- Parking: When required by the base zoning district, partial unit Accessory and Temporary Short Term Rentals require the same parking as the dwelling unit (1 parking space) and whole unit Accessory, Principal Residential, and Commercial Short Term Rentals require one (1) space per two (2) guest rooms.

Since short term rentals and bed and breakfasts are similar uses, some changes to the bed and breakfast regulations should be made to be consistent with the proposed short term rental regulations.

- Bed and breakfast definitions should be modified to allow for rentals of up to 30 nights.
- Principal Bed and Breakfast should allow no more than eight (8) guest rooms.
- Modify the blockface limitation to be consistent and combined with the proposed requirement for Principal Residential Short Term Rentals.
- The prohibition on bed and breakfasts in the Lower Garden District, Garden District, and Vieux Carré should be eliminated.
- An Accessory Bed and Breakfast should be allowed as a permitted use in most residential zoning districts.
- The parking requirement should be changed to 1 space + 1 space per 2 guestrooms for 3 guestrooms and above.

### *Master Plan Consistency*

The proposed short term rental definitions and the proposed zoning district permissions are **consistent** with the *Plan for the 21<sup>st</sup> Century: New Orleans 2030*.

### *Affordable Housing*

If completely unregulated and regulations unenforced, short term rentals could have a negative impact on the availability of affordable housing for long-term renters, especially in high-demand neighborhoods. To mitigate the potential affordable housing impacts, the following limitations should be put in place:

- To preserve existing residential housing stock, non-owner occupied short term rentals should require Conditional Use approval in residentially zoned neighborhoods.
- Short term rentals are increasing in high-demand neighborhoods located close to the City's core. In order to prevent a proliferation of short term rentals in any given neighborhood, they should be limited by density and owner occupancy requirements.

### *Building & Fire Safety Code*

Compliance with the International Residential & Building Codes and the Life Safety Code are essential to ensure the safety of visitors. The City Code should be modified to allow for owner-



occupied single-family residences with two or fewer guestrooms to be reviewed under the International Residential Code to be consistent State Fire Marshal requirements and codify and existing Department of Safety and Permit policy.

- Amend City Code to allow owner-occupied single-family partial unit Accessory Short Term Rentals (one or two guestrooms) to be review under the International Residential Code.

### *Permitting & Licensing*

In order to operate a short term rental, the owner would be required to get a permit to change the use of the structure from a residence to a short term rental (or a temporary use permit, if a Temporary Short Term Rental). The operator would also need a license to operate the short term rental.

- All short term rentals should be required to obtain a change of use, building, and/or temporary use permit in order to ensure that all applicable zoning and building codes are met. A final inspection should be performed by applicable agencies prior to a Certificate of Completion or Occupancy being issued.
- A license is required to operate a short term rental. A new license type should be created that is specifically for short term rentals.

### *City Code Requirements*

Many of the problems associated with short term rentals are due to poor management and a lack of clear operational standards for the use. The City Planning Commission staff recommends the following requirements be included in the City Code:

- A Short Term Rental License is required for every short term rental: a Type A License for an Accessory Short Term Rental, a Type T License for a Temporary Short Term Rental, a Type P License for a Principal Short Term Rental, and a Type C License for a Commercial Short Term Rental.
- A Short Term Rental License requires approval of a Temporary, Building, or Change of Use Permit.
- The applicant shall submit the floor and/or site plans for approval.
- The owner or operator shall provide proof of commercial liability insurance of at least \$500,000.
- Any owner or operator that lives out of town or is out of town during the time of the rental shall have a local property manager.
- The operator shall keep a log of short term rental activity available to the City upon request.
- A Short Term Rental License is a privilege and not a right.
- Guests above the occupancy limit and outdoor activities in the yard, deck, porches, patios, and balconies shall be prohibited between Midnight and 6am.

- The operator shall post the following information for the guest: license number, operator and his/her contact information, property manager and his/her contact information, safety information, occupancy limit, trash and recycling collection rules and dates, short term rental rules, and the City's Short Term Rental website.
- The short term rental operator shall send a notification letter to every unit within 150 feet of the subject property and the neighborhood organizations which includes the following information: the address and unit number of the short term rental, the license number, the license type, the license dates, the license holder's name, the property manager and his/her contact information (phone and email), bedroom limit and guest occupancy limit, and the City's Short Term Rental website.
- The short term rental shall comply with the Building Code and Life Safety Code.
- Accessory structures and non-habitable spaces shall not be used as a short term rental.
- The short term rental shall provide smoke detectors in every bedroom, outside each sleeping area, and on every habitable story.
- A fire extinguisher shall be provided in every short term rental unit.
- The operator shall post emergency contact information and fire exits and escape routes.
- It shall be a violation to rent a unit for less than 30 days without a Short Term Rental License.
- It shall be a violation to operate outside of the scope of the Short Term Rental regulations in the Comprehensive Zoning Ordinance, City Code, and outside of the scope of the Short Term Rental License.
- It shall be a violation to advertise a short term rental without a license.
- It shall be a violation to not include the license number or address in the advertisement.
- It shall be a violation to advertise a short term rental outside of the scope of the short term rental license.

### *Platform Agreements*

It is the property owner's responsibility to comply with the short term rental regulations. Some of the platforms have expressed willingness to work with the City on areas where there is common interest; therefore, the City should consider negotiating agreements with the platforms on the following items:

- Work cooperatively with platforms that are willing to collect and remit all applicable taxes or inform their user of their responsibility to pay the appropriate taxes.
- Require users to provide a license number to post a listing.
- Upon notification from the City that a listing is in violation of a City Ordinance, remove the listing or modify the listing to come into compliance.
- Upon receipt of sufficient evidence of a violation, establish a process where the City can request specific data on a particular listing.

### *Revenue*

Under the current tax structure, most short term rentals would pay little to no taxes. Under this structure, there is limited financial benefit to the City from licensing and taxing short term

rentals, likely in the range of a couple of hundred thousand dollars per year. It will likely cost around that much to administer and enforce whatever regulator system that the City puts into place. Therefore, it is critical that the City work with the State to enable taxation of short term rentals with five (5) or fewer bedrooms if the City is to license the use.

- The City should lobby the Louisiana Legislature to create a new Short Term Rental Tax or apply the Hotel-Motel Sales Tax to tax rentals with five (5) or fewer bedrooms, which should be done prior to allowing short term rentals.

In addition to correcting a loophole where small rentals pay little to no tax, the City needs to develop a fee and fine structure. Permit and license costs should be low enough to encourage people to obtain them. The fine structure should be sufficient to ensure compliance.

- License Fees: \$50/year for Temporary Short Term Rentals, \$200/year for Accessory Short Term Rentals, and \$500/year for Principal Residential and Commercial Short Term Rentals.
- Fines should be amended to allow for a progressive fine structure that increases the maximum fine above \$500 for multiple offenses that would punish repeat offenders.

### *Enforcement*

Enforcement needs to be prioritized in order for short term rental regulations to be successful. Enforcement is important to ensure those short term rentals are properly permitted and licensed, are safe for visitors, and pay appropriate taxes and fees. Most importantly, enforcement is essential to address nuisance properties. To ensure robust enforcement of the proposed short term rental regulations, the following items are recommended:

- Develop an administrative adjudication process for zoning-related short term rental violations;
- Develop a civil citation mechanism for City Code-related short term rental violations;
- Develop a website with listings of licensed short term rentals for visitors and neighbors;
- Allow for complaints to be filed online;
- Incentivize operators to get a permit and license;
- Hire and schedule enforcement officers;
- Include a use standard requiring a permit number to be included in any advertisement;
- Increase violation fine to be higher than permit and license fees;
- Have an annual renewal subject to review and reinspection;
- Develop standards for when short term rental licenses shall be revoked and/or not renewed (number and/or type of violations); and
- It will take a staff of three or four and a budget between \$175,000 and \$300,000 for the Department of Safety and Permits to administer and enforce the new short term rental regulations.

## ***G. Short Term Rental Recommendations (Staff)***

### **Comprehensive Zoning Ordinance**

#### *Definition Amendments (Article 26)*

Based on the analysis, the staff recommends changing the short term rental definition to further describe the use and to define the four different types of short term rentals. Therefore, the staff recommends the following changes to the short term rentals definition:

#### **Current Definition:**

~~**Short Term Rentals.** Rentals of a premises or any portion thereof for dwelling, lodging or sleeping purposes with duration of occupancy of less than sixty (60) consecutive days in the Vieux Carré and less than thirty (30) consecutive days outside the Vieux Carré. Hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated in this ordinance separately from short term rentals are not considered to be short term rentals.~~

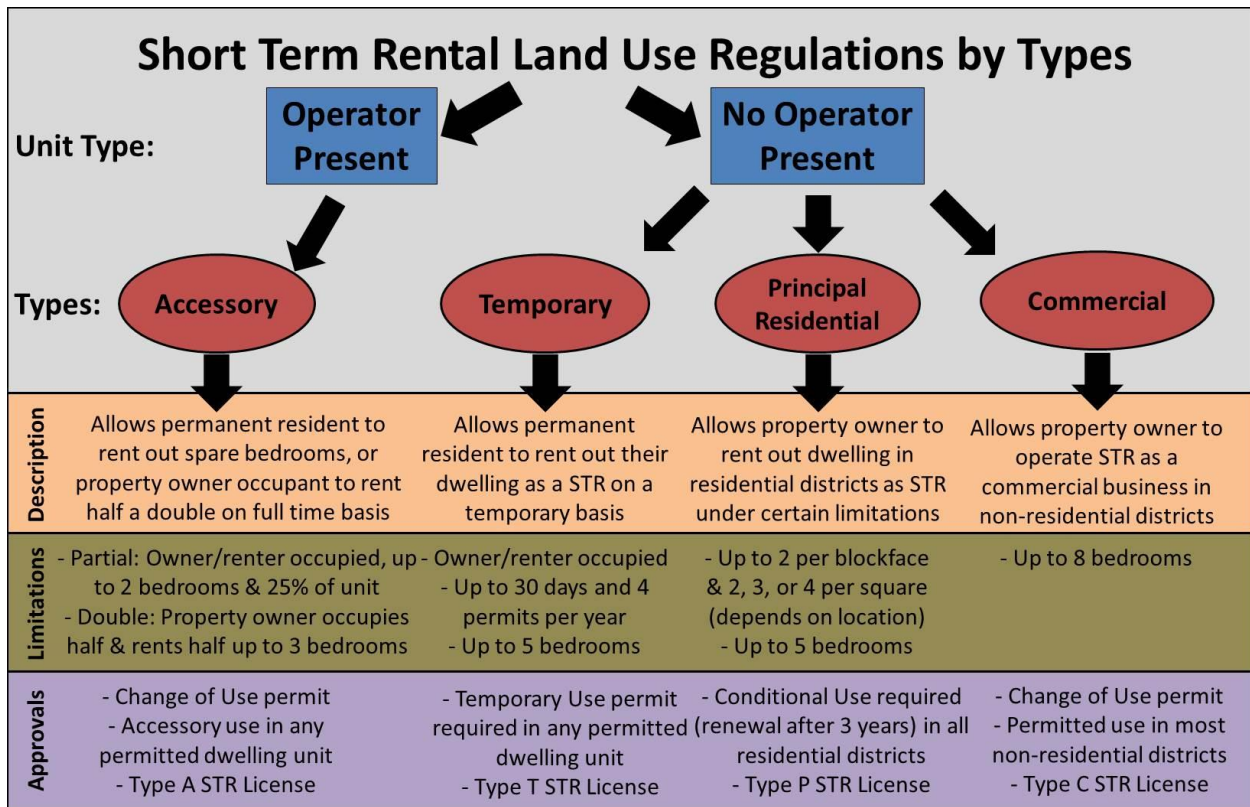
#### **Revised Definition:**

**Short Term Rental.** Rental of all or any portion thereof of a residential dwelling unit for dwelling, lodging or sleeping purposes to one party with duration of occupancy of less than thirty (30) consecutive days. Hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated in this ordinance separately from short term rentals are not considered to be short term rentals. Common bathroom facilities may be provided rather than private baths for each room. A short term rental is further defined as follows:

- A. Short Term Rental, Accessory.** Either (i) an owner- or permanent resident-occupied dwelling with a principal use as a permanent residential dwelling unit and which rents no more than two (2) guest rooms and three (3) total guests for overnight paid occupancy as an accessory use, or (ii) an owner-occupied two-family dwelling in which one half of the two-family dwelling is occupied by the owner with a principal use as the owner's permanent residential dwelling unit and which the other half of the two-family dwelling is rented with no more than three (3) guest rooms and six (6) total guests as an accessory use. Only one accessory short term rental shall be permitted in any two-family dwelling. For either type of accessory short term rental, the owner/permanent resident shall occupy the unit and be present during the guest's stay.
- B. Short Term Rental, Temporary.** An owner- or permanent resident-occupied dwelling with a principal use as a permanent residential dwelling unit and which rents the entire unit with no more than five (5) guest rooms for overnight paid occupancy as a temporary use not to exceed thirty (30) days per year. The permanent resident is not required to be present during the guest's stay.
- C. Short Term Rental, Principal Residential.** An entire dwelling unit in a residential district that rents no more than five (5) guest rooms for overnight paid occupancy.
- D. Short Term Rental, Commercial.** An entire dwelling unit in a non-residential district that rents no more than eight (8) guest rooms for overnight paid occupancy.

## Short Term Rental Types

The four short term rental types are defined to allow the least impactful short term rentals in most instances (Accessory and Temporary). Use standards are put into place to ensure that the Accessory and Temporary Short Term Rentals operate as they should. The potentially most impactful type, Principal Residential Short Rentals, have a number of standards to mitigate their impacts. Commercial Short Term Rentals are limited to non-residential districts where their impact is consistent with surrounding uses and allowed.



**Figure 9:** Short Term Rental Types

### Short Term Rental, Accessory

- Allowed as an accessory use to the primary use of a residential dwelling.
- Either a portion of the unit (up to 25%) shall be used as bedrooms for guest rental, or one-half of a double may be used for guest rental where the other half of the two-family dwelling is the property owner's principal residence.
- Rental limited to when the full-time resident is present.
- Maximum of two (2) bedrooms and three (3) total guests for partial unit accessory use or three (3) bedrooms and six (6) total guests where the accessory use occupies one half of a two-family dwelling.

**Short Term Rental, Temporary**

- To allow for the temporary rental of a whole dwelling unit.
- Allow up to four (4) temporary use permits for a maximum of thirty (30) days per year.
- Maximum of five (5) bedrooms and ten (10) total guests.

**Short Term Rental, Principal Residential**

- Allow for an entire unit to be a short term rental in residential zoning districts.
- Requires Conditional Use approval that shall be limited to three (3) years
- Limited to two (2) per blockface and two (2), three (3), or four (4) per square.
- Maximum of five (5) bedrooms and ten (10) total guests.

**Short Term Rental, Commercial**

- Allow for short term rentals as a permitted use in most non-residential districts.
- Maximum of eight (8) bedrooms and sixteen (16) total guests.

*Short Term Rental Land Use Regulations by Types*

The following table outlines the land use regulations for each Short Term Rental type:

**Table 25: Short Term Rentals Land Use Regulations by Type**

	<b>Short Term Rental, Accessory</b>	<b>Short Term Rental, Temporary</b>	<b>Short Term Rental, Principal Residential</b>	<b>Short Term Rental, Commercial</b>
Description of Short Term Rental Type	STR accessory to a primary residential use (full time)	Temporary STR use (30 day/year) in a unit that is primarily a residence	Main use as STR in residential districts	Main use is as a STR permitted in most non-residential districts
Use Type (Permitted, Accessory, or Temporary) and Locations	Accessory Use of a residential dwelling	Temporary Use in a residential dwelling	Conditional Use in residential districts (3 year limit)	Permitted Use in non-residential districts
Occupancy Requirement	Owner: Yes Resident: Yes (has to be present at time of rental)	Owner: Yes Resident: Yes (does not have to be present at time of rental)	None	None
Limitation on Bedrooms and occupants	1 or 2 bedrooms and up to 3 non-resident occupants (partial unit); up to three (3) bedrooms and up to six (6) non-resident occupants (double).	5 bedrooms max. 2 occupants per bedroom (10 occupants max)	5 bedrooms max. 2 occupants per bedroom (10 occupants max)	8 bedrooms max. 2 occupants per bedroom (16 occupants max)

**Table 25: Short Term Rentals Land Use Regulations by Type**

	<b>Short Term Rental, Accessory</b>	<b>Short Term Rental, Temporary</b>	<b>Short Term Rental, Principal Residential</b>	<b>Short Term Rental, Commercial</b>
Size Limitation	Yes: 25% of unit or ½ of a double	Whole Unit	Whole Unit	Whole Unit
Neighborhood Cap	None	None	None	None
Density Limits (per blockface & square)	None	None	Yes, up to 2 per blockface and 2, 3, or 4 per square.	None
Time limitations (per year)	None	Up to 4 permits, for a total of 30 days/year	None	None
Limit on STR per owner and/or operator	None	None	None	None

### *Short Term Rental Use Standards (Article 20)*

The following Use Standards should be added to Article 20 to ensure that Principal Residential and Commercial Short Term Rentals comply with the basic short term rental requirements, are consistent with the residential density requirements in the zoning district, and are limited in size and guest capacity.

#### **General Standards**

- In addition to the regulations below, all short term rentals shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.
- All short term rentals require a license.
- Short term rentals shall not be operated outdoors, in an accessory structure, or in a recreational vehicle.
- Only one party of guests shall be permitted per short term rental unit.
- There shall be an in town property manager if the owner or operator is out of town during the time of the rental.
- Short term rentals shall be considered dwelling units for density purposes and subject to the minimum lot area per dwelling unit requirement of the zoning district.

#### **Short Term Rental, Commercial Standards**

- A Type C Short Term Rental License shall be required.
- Up to eight (8) bedrooms may be rented to guests and occupancy is limited to two (2) guests per bedroom with a maximum sixteen (16) guests.

#### **Short Term Rental, Principal Residential Standards**

- Conditional Use approval is required for a Principal Residential Short Term Rental. The initial approval shall only be valid for three (3) years at which point the property requires another Conditional Use.

- When a Conditional Use is up for renewal, the City Planning Commission and City Council shall determine the length of time for the renewal (at least 3 years) or if the conditional use shall be permanent.
- The prescription period for vesting property rights shall reset with each conditional use approval.
- In any residential district, only two (2) Short Term Rentals, Principal Residential and Bed and Breakfasts are permitted per blockface and a total of four (4) per square in Historic Core Neighborhoods, three (3) per square in Historic Urban Neighborhoods, and two (2) per square in Suburban Neighborhoods.
- A Type P Short Term Rental License shall be required.
- Up to five (5) bedrooms may be rented to guests.
- Occupancy is limited to two (2) guests per bedroom or ten (10) guests, whichever is less.
- The entire dwelling can be rented and the permanent resident is not required to be present during the guest's stay.
- Use of the short term rentals for commercial or social events is prohibited.
- Sign Requirements/Limitations: The short term rental may have one (1) attached wall or projecting sign not to exceed four (4) square feet in area. The sign shall complement the architecture of the structure.
- The short term rental shall not adversely affect the residential character of the neighborhood.
- The short term rental should not generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her residence.

### *Short Term Rental Accessory and Temporary Use Standards (Article 21)*

Since Accessory and Temporary Short Term Rentals are classified as either an accessory or a temporary use, the use standards should be included in Article 21 of the Comprehensive Zoning Ordinance. These standards are in place to ensure that the short term rental operates according to its particular type or to mitigate the potential impacts of the use.

#### **General Standards**

- In addition to the use standards below, all short term rentals shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.
- All short term rentals require a license.
- Short term rentals may not be operated outdoors, in an accessory structure, or in a recreational vehicle.
- Only one party of guests shall be permitted per short term rental unit.
- The short term rental shall appear outwardly to be a residential dwelling.
- For temporary short term rentals, there shall be an in town property manager available at all times if the owner or operator is out of town during the time of the rental.
- Use of the short term rentals for commercial or social events shall be prohibited.
- The short term rental should not adversely affect the residential character of the neighborhood.



- The short term rental should not generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her residence.
- Proof of permanent occupancy shall be required with a Louisiana State issued ID to that address or a homestead exemption.
- If renter occupied and operated, proof of the property owner's consent and signature on the license application shall be required.
- If renter occupied, the operator shall provide a current rental lease.

### **Short Term Rental, Accessory Standards**

- A Type A Short Term Rental License shall be required.
- For partial unit accessory short term rentals, only a portion of the dwelling shall be rented, which is limited to two (2) guest bedrooms that occupy no more than 25% of the gross floor area of the dwelling. There must be at least one bedroom for the fulltime occupant.
- For partial unit accessory short term rentals, occupancy shall be limited to two (2) guests per bedroom or three (3) total guests, whichever is less.
- For partial unit accessory short term rentals, the permanent resident shall occupy the unit and be present during the party's stay.
- Where the accessory short term rental occupies one-half of a two-family dwelling, proof of owner occupancy shall be required with a homestead exemption.
- Where the accessory short term rental occupies one-half of a two-family dwelling, rentals are limited to three (3) bedrooms.
- Where the accessory short term rental occupies one-half of a two-family dwelling, occupancy shall be limited to two (2) guests per bedroom for a total of up to six (6) guests.
- Sign Requirements/Limitations: The short term rental may have one (1) attached wall or projecting sign not to exceed four (4) square feet in area. The sign shall complement the architecture of the structure.

### **Short Term Rental, Temporary Standards**

- A Type T Short Term Rental License shall be required.
- Rental shall be limited to a maximum of four (4) temporary use permits for a total of no more than thirty (30) days per year.
- Up to five (5) bedrooms may be rented to guests.
- Occupancy is limited to two (2) guests per bedroom or ten (10) guests, whichever is less.
- The entire dwelling can be rented and the permanent resident is not required to be present during the party's stay.
- No signs are allowed for a Temporary Short Term Rental.

### *Parking Requirements (Article 22)*

If parking is required in the base zoning district, the following changes shall be made to the existing bed and breakfast parking requirements and are proposed for the short term rental parking requirements.

**Bed & Breakfast, Accessory and Principal:** 1 space + 1 per 2 guestrooms (for 3 guestrooms and above) (car)

**Short Term Rental, partial unit Accessory:** no additional parking (1 per dwelling unit) (car)

**Short Term Rental, whole unit Accessory:** 1 per 2 guestrooms (car)

**Short Term Rental, Temporary:** no additional parking (1 per dwelling unit) (car)

**Short Term Rental, Principal Residential:** 1 per 2 guestrooms (car)

1 per 5 rooms (25% long term) (bike)

**Short Term Rental, Commercial:** 1 per 2 guestrooms (car)

1 per 5 rooms (25% long term) (bike)

### *Bed and Breakfast Code Revisions*

To ensure consistency between the proposed Short Term Rental regulations and the Bed and Breakfast regulations, the following changes to the bed and breakfast definition and use standards are proposed:

**26.6 Bed and Breakfast.** A residential structure that provides sleeping rooms for overnight paid occupancy. Bed and breakfast is further defined as follows:

- A. Bed and Breakfast, Accessory.** An owner-occupied building designed as either a single-family or a two-family dwelling that has been converted to a single-family dwelling, which provides no more than four (4) guest rooms for overnight paid occupancy of up to ~~fourteen (14)~~ **thirty (30)** nights. Common bathroom facilities may be provided rather than private baths for each room.
- B. Bed and Breakfast, Principal.** An owner- or operator-occupied residential structure that provides no more than ~~nine (9)~~ **eight (8)** guest rooms for overnight paid occupancy of up to ~~fourteen (14)~~ **thirty (30)** nights. Common bathroom facilities may be provided rather than private baths for each room.

### **20.3.I Bed and Breakfast**

In addition to the regulations below, all bed and breakfasts shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.

#### **20.3.I.1 Bed and Breakfast General Standards (Accessory or Principal)**

- a. In any residential district, ~~only one (1) bed and breakfast, whether accessory or principal, is permitted per blockface.~~ **only two (2) Short Term Rentals, Principal Residential and Bed and Breakfasts are permitted per blockface and a total of four (4) per square in Historic Core Neighborhoods, three (3) per square in Historic Urban Neighborhoods, and two (2) per square in Suburban Neighborhoods.**
- b. ~~Bed and breakfasts are prohibited within the following areas:~~
  - i. ~~The area bounded by the centerlines of Prytania Street, Pontchartrain Expressway, Magazine Street, and the downside street of Felicity Street from Coliseum Street to Prytania Street.~~
  - ii. ~~The area referred to as the Garden District, bounded by the centerline of St. Charles Avenue, the downtown side of Jackson Avenue, the centerline of Magazine Street, and the downtown side of Louisiana Avenue, with the exception of those bed and breakfasts grandfathered pursuant to Ordinance No. 14,168~~

- ~~M.C.S., November 12, 1990, subject to confirmation of continuous use and legal non-conforming status.~~
- ~~iii. In all Vieux Carré Districts.~~

### **20.3.I.2 Bed and Breakfast Accessory Standards**

- a. Proof of owner occupancy shall be established by submission of proof of a homestead exemption submitted to the Department of Safety and Permits. The owner-occupant's ownership interest must be at least fifty percent (50%).
- b. If more than one (1) principal building exists on a lot, or two (2) or more contiguous lots have been historically acquired together and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.
- c. The bed and breakfast shall appear outwardly to be a single-family dwelling, giving no appearance of a business use other than a permitted sign.
- d. The bed and breakfast may have one (1) attached projecting sign not to exceed four (4) square feet in area. The sign shall complement the architecture of the structure.
- e. The bed and breakfast is limited to a maximum of four (4) units for overnight accommodation.
- f. Bedroom rental units are limited to no more than twenty-five percent (25%) of the total habitable space of the gross floor area of the structure.
- g. Cooking facilities are prohibited in individual guest rooms.
- h. If meals are provided, only registered guests may be served.
- i. Leasing of a common dining area for social events is prohibited.

### **20.3.I.3 Bed and Breakfast Principal Standards**

- a. Proof of owner or operator occupancy shall be established by submission of proof of a homestead exemption (owner) or legal leasing agreement (operator) submitted to the Department of Safety and Permits.
- b. If more than one (1) principal building exists on a lot, or two (2) or more contiguous lots have been historically used together and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, for at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.
- c. All signs shall comply with applicable sign regulations for the zoning district.
- d. The bed and breakfast is limited to a maximum of ~~nine (9)~~ **eight (8)** units for overnight accommodation.
- e. Cooking facilities are prohibited in individual guest rooms.
- f. If the zoning district allows restaurants, meals may be served to guests other than those registered with the bed and breakfast, provided the facility meets all other applicable city and state codes for food service.
- g. Leasing of common areas for social events is allowed, provided the facility meets all applicable off-street parking requirements and complies with the noise ordinance and all other provisions of the City Code.

*Permitted and Conditional Uses (Articles 7-17)*

Below are the use tables that show the zoning districts where short term rentals and similar uses are permitted, conditional, prohibited, and accessory/temporary uses. Permitted uses are shown with a ‘P,’ conditional uses with a ‘C,’ prohibited uses are blank, and accessory or temporary uses with an ‘A.’ Deletions are shown as ~~strike throughs~~ and additions are shown in **bold italics**.

**Table 26: Open Space Districts Use Table (Article 7)**

Uses	District				
	OS-N	OS-G	OS-R	NA	GPD
Bed and Breakfast – Accessory					
Bed and Breakfast – Principal					
Short Term Rental, Accessory					
Short Term Rental, Temporary					
Short Term Rental, Principal Residential					
Short Term Rental, Commercial					

**Table 27: Rural Development Districts Use Table (Article 8)**

Uses	District	
	R-RE	M-MU
Bed and Breakfast – Accessory	<del>P</del>	P
Bed and Breakfast – Principal		P
Short Term Rental, Accessory	A	A
Short Term Rental, Temporary	A	A
Short Term Rental, Principal Residential	C	
Short Term Rental, Commercial		P

**Table 28: Historic Core Neighborhoods Residential Districts Use Table (Article 9)**

Uses	District				
	VCR-1	VCR-2	HMR-1	HMR-2	HMR-3
Bed and Breakfast – Accessory	P	P	P	P	P
Bed and Breakfast – Principal			C	C	C
Short Term Rental, Accessory	A	A	A	A	A
Short Term Rental, Temporary	A	A	A	A	A
Short Term Rental, Principal Residential	C	C	C	C	C
Short Term Rental, Commercial					

**Table 29: Historic Core Neighborhoods Non-Residential Districts Use Table (Article 10)**

Uses	District									
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU
Bed and Breakfast – Accessory	P	P	P	P	P	P		P	P	P
Bed and Breakfast –	C	C	P	P	P	P		P	P	P

**Table 29: Historic Core Neighborhoods Non-Residential Districts Use Table (Article 10)**

Uses	District									
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU
Principal										
Short Term Rental, Accessory	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>		<b>A</b>	<b>A</b>	<b>A</b>
Short Term Rental, Temporary	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>		<b>A</b>	<b>A</b>	<b>A</b>
Short Term Rental, Principal Residential										
Short Term Rental, Commercial	<b>C<sup>1</sup></b>	<b>C<sup>1</sup></b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>		<b>P</b>	<b>P</b>	<b>P</b>

<sup>1</sup> Conditional Use approval shall only be valid for three (3) years at which point the owner requires another Conditional Use.

**Table 30: Historic Urban Neighborhoods Residential Districts Use Table (Article 11)**

Uses	District				
	HU-RS	HU-RD1	HU-RD2	HU-RM1	HU-RM2
Bed and Breakfast – Accessory	<b>CP</b>	<b>CP</b>	<b>CP</b>	<b>CP</b>	<b>CP</b>
Bed and Breakfast – Principal				<b>C</b>	<b>C</b>
Short Term Rental, Accessory	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
Short Term Rental, Temporary	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
Short Term Rental, Principal Residential	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>
Short Term Rental, Commercial					

**Table 31: Historic Urban Neighborhoods Non-Residential Districts Use Table (Article 12)**

Uses	District		
	HU-B1A	HU-B1	HU-MU
Bed and Breakfast – Accessory	<b>P</b>	<b>P</b>	<b>P</b>
Bed and Breakfast – Principal	<b>P</b>	<b>P</b>	<b>P</b>
Short Term Rental, Accessory	<b>A</b>	<b>A</b>	<b>A</b>
Short Term Rental, Temporary	<b>A</b>	<b>A</b>	<b>A</b>
Short Term Rental, Principal Residential			
Short Term Rental, Commercial	<b>P</b>	<b>P</b>	<b>P</b>

**Table 32: Suburban Neighborhoods Residential Districts Use Table (Article 13)**

Uses	District										
	S-RS	S-RD	S-RM1	S-RM2	S-LRS1	S-LRS2	S-LRS2	S-LRD1	S-LRD2	S-LRM1	S-LRM2
Bed and Breakfast – Accessory	<b>P</b>	<b>CP</b>	<b>CP</b>	<b>CP</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>CP</b>	<b>CP</b>	<b>CP</b>
Bed and Breakfast											

**Table 32: Suburban Neighborhoods Residential Districts Use Table (Article 13)**

Uses	District										
	S-RS	S-RD	S-RM1	S-RM2	S-LRS 1	S-LRS 2	S-LRS 2	S-LRD 1	S-LRD2	S-LRM1	S-LRM2
– Principal											
Short Term Rental, Accessory	A	A	A	A	A	A	A	A	A	A	A
Short Term Rental, Temporary	A	A	A	A	A	A	A	A	A	A	A
Short Term Rental, Principal Residential	C	C	C	C	C	C	C	C	C	C	C
Short Term Rental, Commercial											

**Table 33: Suburban Neighborhoods Non-Residential Districts Use Table (Article 14)**

Uses	District						
	S-B1	S-B2	S-LB1	S-LB2	S-LC	S-LP	S-LM
Short Term Rental					P		
Bed and Breakfast – Accessory			P	P	P		
Bed and Breakfast – Principal			P	P	P		
Short Term Rental, Accessory	A	A	A	A	A		A
Short Term Rental, Temporary	A	A	A	A	A		A
Short Term Rental, Principal Residential							
Short Term Rental, Commercial	C <sup>1</sup>	C <sup>1</sup>	P	P	P		P

<sup>1</sup> Conditional Use approval shall only be valid for three (3) years at which point the owner requires another Conditional Use.

**Table 34: Commercial Center & Institutional Campus Districts Use Table (Article 15)**

Uses	District								
	C-1	C-2	C-3	MU-1	MU-2	EC	MC	MS	LS
Short Term Rental		C		C			C	C	C
Bed and Breakfast – Accessory				P	P	P			
Bed and Breakfast – Principal				P	P				
Short Term Rental, Accessory	A	A	A	A	A	A	A		A
Short Term Rental, Temporary	A	A	A	A	A	A	A		A
Short Term Rental, Principal Residential									
Short Term Rental, Commercial	C	C	C	P	P	P	P		P

**Table 35: Centers for Industry Use Table (Article 16)**

Uses	District			
	LI	HI	MI	BIP
Short Term Rental			P <sup>1</sup>	
Bed and Breakfast – Accessory				
Bed and Breakfast - Principal				
Short Term Rental, Accessory				
Short Term Rental, Temporary				
Short Term Rental, Principal Residential				
Short Term Rental, Commercial			P <sup>1</sup>	

<sup>1</sup> Short term rentals are a permitted use in the MI District Commercial and Recreational Sub-District subject to the design standards of **Article 16, Section 16.4.C**.

**Table 36: Central Business Districts Use Table (Article 17)**

Uses	District						
	CBD-1	CBD-2	CBD-3	CBD-4	CBD-5	CBD-6	CBD-7
Short Term Rental	€	€	€	€			P
Bed and Breakfast – Accessory	P	P	P		P	P	
Bed and Breakfast – Principal	P	P	P	P	P	P	P
Short Term Rental, Accessory	A	A	A	A	A	A	A
Short Term Rental, Temporary	A	A	A	A	A	A	A
Short Term Rental, Principal Residential							
Short Term Rental, Commercial	P	P	P	P	P	P	P

## City Code Recommendations

### Short Term Rental City Code Requirements by Types

**Table 37: Short Term Rental City Code Requirements by Type**

	Short Term Rental, Accessory	Short Term Rental, Temporary	Short Term Rental, Principal Residential	Short Term Rental, Commercial
Description of Short Term Rental Type	STR accessory to a primary residential use (full time)	Temporary STR use (30 days) in a unit that is primarily a residence	Limited use as STR in residential districts	Main use is as a STR allowed in in most non-residential districts.
Permit Type	Change of Use or Building Permit	Special Events Permit	Change of Use or Building Permit	Change of Use or Building Permit

**Table 37: Short Term Rental City Code Requirements by Type**

	<b>Short Term Rental, Accessory</b>	<b>Short Term Rental, Temporary</b>	<b>Short Term Rental, Principal Residential</b>	<b>Short Term Rental, Commercial</b>
License Type	Type A STR License	Type T STR License	Type P STR License	Type C STR License
License Fee	\$200/year	\$50/year	\$500/year	\$500/year
Tax Rate	Short Term Rental Tax or Hotel Sale Tax	Hotel Occupancy Tax & Short Term Rental Tax or Hotel Sale Tax	Hotel Occupancy Tax & Short Term Rental Tax or Hotel Sale Tax	Hotel Occupancy Tax & Short Term Rental Tax or Hotel Sale Tax
Operational Standards	Same for every type	Same for every type	Same for every type	Same for every type
Platform Requirements	Same for every type	Same for every type	Same for every type	Same for every type
Inspection Requirements	Yes	Yes	Yes	Yes

### *Short Term Rental Regulations*

The following regulations shall be included in the City Code to regulate the licensing, operation, use, and advertising of a dwelling as a short term rental.

#### **Permit and License Requirements**

- A Short Term Rental License is a privilege and not a right. A Short Term Rental License can be revoked or not renewed based on non-compliance with the Comprehensive Zoning Ordinance and Short Term Rental Permit and License Requirements.
- A Short Term Rental License is required for every short term rental: a Type A License for an Accessory Short Term Rental, a Type T License for a Temporary Short Term Rental, a Type P License for a Principal Short Term Rental, and a Type C License for a Commercial Short Term Rental.
- A Short Term Rental License requires a Temporary Use Permit or a Certificate of Occupancy for a Building or Change of Use Permit ensuring that the short term rental complies with the applicable Building Code and Life Safety Code requirements.
- The applicant shall submit the floor and/or site plans for approval by the Department of Safety and Permits.
- The owner or operator must provide proof of a current and valid liability insurance of at least \$500,000.
- Any owner or operator shall provide contact information such that they can be contacted at any time regarding problems at the unit. If the owner or operator lives out of town or is out of town during the time of the rental, the owner/operator shall provide the name and contact information a local property manager that is able to respond at any time to any problems at the unit.
- The Short Term Rental operator shall sign an affidavit attesting to the following safety measures: smoke detectors in every bedroom, outside sleeping areas, and on habitable floors, a properly maintained and charged fire extinguisher shall be provided in every



short term rental unit, and the emergency contact information and a floor plan that shows fire exits and escape routes is posted in a prominent location.

- The Short Term Rental operator shall attest that they have notified the every unit on and within 150 feet of the subject property and the registered neighborhood organization(s).
- Upon renewal of a Short Term Rental Permit or License, the operator shall provide the log of rental activity to the Department of Safety and Permits for inspection as well as proof that all taxes and fees have been paid.

### **Operational Standards**

- The operator shall keep a log of short term rental dates and fees that is subject to inspection by the City at any time and during the license renewal.
- The operator shall pay all applicable taxes and fees.
- Guests above the occupancy limit and outdoor activities in the yard, deck, porches, patios, and balconies shall be prohibited between midnight and 6 a.m. (does not apply to Commercial Short Term Rentals).
- The operator shall to post the following information in a prominent location that is easily visible to the guest:
  - license number,
  - operator and his/her contact information,
  - property manager and his/her contact information,
  - safety information (see more below),
  - occupancy limit,
  - trash and recycling collection rules and dates,
  - short term rental rules, and
  - the City's Short Term Rental website.
- The short term rental operator shall send a notification letter to every unit on and within 150 feet of the subject property and the registered neighborhood organization(s). The operator shall post a copy of the license that is visible from the street. The letter and the license shall include the following information:
  - The address and unit number of the short term rental,
  - the license number,
  - the license type and limitations,
  - the license valid and/or expiration dates,
  - the license holder's name,
  - the property manager and his/her contact information (phone and email),
  - bedroom limit and guest occupancy limit, and
  - the City's Short Term Rental website.
- Any owner or operator that lives out of town or will be out of town during the time of the rental shall have a local property manager that is able to respond to any problems at the unit at any time.
- The owner or operator shall have a current and valid commercial liability insurance of at least \$500,000.
- The short term rental shall comply with all applicable Building Code and Life Safety Code requirements.
- Accessory structures and other non-habitable spaces shall not be used as space for a short term rental.

- The short term rental shall provide smoke detectors in every bedroom, outside each sleeping area, and on every habitable story.
- A properly maintained and charged fire extinguisher shall be provided in every short term rental unit.
- The operator shall post in a prominent location emergency contact information and a floor plan that shows fire exits and escape routes.

### **Enforcement of Regulations**

- It shall be a violation to rent a unit for less than 30 days without a Short Term Rental License.
- It shall be a violation to operate outside of the scope of the Short Term Rental regulations in the Comprehensive Zoning Ordinance, City Code, and outside of the scope of the Short Term Rental License.
- It shall be a violation to advertise a short term rental without a license.
- It shall be a violation to not include the license number or property address of the short term rental unit in any advertisement.
- It shall be a violation to advertise a short term rental outside of the scope of the short term rental license.

### **Short Term Rental Platform Recommendations**

There are no recommendations for requirements to be placed on the short term rental platforms. If possible, the City should work with the platforms to reach agreements on the following:

- Work cooperatively with platforms that are willing to collect and remit all applicable taxes or inform their user of their responsibility to pay the appropriate taxes.
- Provide a license number to post a listing.
- Upon notification from the City that a listing is in violation of a City Ordinance, remove the listing or modify the listing to come into compliance.
- Upon receipt of sufficient evidence of a violation, establish a process where the City can request specific data on a particular listing.

### **Department of Safety and Permits Recommendations**

In order to administer and regulate short term rentals, the Department of Safety and Permits will need the following:

- A new Short Term Rental License should be created.
- The Department of Safety and Permits will need an additional three or four staff members and a budget between \$175,000 and \$300,000 to administer and enforce the new short term rental regulations.

## *Permitting Requirements*

The following steps and information will be required in order to get a short term rentals permit from the City of New Orleans:

### **Permit Requirements**

- A permit is required from the Department of Safety and Permits.
- A Change of Use Permit or a Building Permit (if renovations are required) is required for all Accessory, Principal Residential, and Commercial Short Term Rentals.
- A Temporary Use Permit is required for all Temporary Short Term Rentals.
- An inspection shall be required prior to the issuance of a Certification of Completion or Occupancy
- Permits are a privilege and not a right. The Department of Safety and Permits shall have discretion in issuing permits.

### **License Requirements**

- In addition to a permit, the applicant is required to get a license from the Department of Safety and Permits.
- Licenses shall be renewed every year. The Department of Safety and Permits shall review log of previous year rentals, payment of applicable fees and taxes, complaints, and reinspection when determining if a license shall be renewed.

## *Fee, Tax, and Fine Structure*

In order to pay for the administration and enforcement of short term rentals, the following financing structure should be put into place.

### **Recommended Fees**

The yearly license fees should be as follows:

**Short Term Rentals, Accessory:** \$200/year

**Short Term Rentals, Temporary:** \$50/year

**Short Term Rentals, Principal Residential:** \$500/year

**Short Term Rentals, Commercial:** \$500/year

### **Recommended Taxes**

The current tax structure cannot be changed simply by the City of New Orleans. Changes to State law are required to enable tax structure reforms to tax short term rentals with less than six rooms. This is addressed in the Advocacy Recommendations section below.

## Recommended Fines

The current fine structure cannot be changed simply by the City of New Orleans. Changes to State law are required to modify the fine structure for any violations. This is addressed in the Advocacy Recommendations section below.

### *Enforcement Recommendations*

In order to effectively regulate short term rentals, the Department of Safety and Permits may follow these recommendations:

- Develop an administrative adjudication process for zoning-related short term rental violations;
- Develop a civil citation mechanism for City Code-related short term rental violations;
- Receive complaints 24/7 by allowing complaints to be filed online; and
- Develop standards for when short term rental licenses shall be revoked and/or not renewed (number and/or type of violations).
- Dedicate staff and sufficient funding to license, regulate, and enforce the short term rental regulations.

## Building Code Recommendations

### *Short Term Rental Building Regulations by Types*

**Table 38: Short Term Rental Building Regulations by Type**

	<b>Short Term Rental, Accessory</b>	<b>Short Term Rental, Temporary</b>	<b>Short Term Rental, Principal Residential</b>	<b>Short Term Rental, Commercial</b>
Description of Short Term Rental Type	STR accessory to a primary residential use (full time)	Temporary STR use (30 days) in a unit that is primarily a residence	Main use as STR in residential districts	Main use is as a STR allowed in in most non-residential districts
Residential or Commercial Code	International Residential Code (IRC) or International Building Code (IBC) <sup>71</sup>	International Building Code (IBC) <sup>72</sup>	International Building Code (IBC)	International Building Code (IBC)
Life Safety Code	One- & Two-Family Dwelling	Lodging or Room House	Lodging or Room House	Lodging or Room House

<sup>71</sup> IRC is applicable if located in a partial unit Accessory Short Term Rental located in a single or two-family dwelling with sprinklers. If not, then it is subject to the relevant classification in the IBC.

<sup>72</sup> Due to their temporary nature under the Temporary Use Permit, discretion may be used in applying the IBC.

## *Building Code Regulations Recommendations*

- Short term rentals shall be subject to the applicable building code requirements.
- Amend City Code to allow owner-occupied single- or two-family Accessory Short Term Rentals (one or two guestrooms) to be reviewed under the International Residential Code.

## **Advocacy Recommendations**

### *Short Term Rental Tax*

- The City should lobby the State to create a Short Term Rental Tax that would tax bed and breakfasts and short term rentals that are five bedrooms or less and not subject to the Hotel-Motel Sales Tax. This tax should be a similar rate as the Hotel-Motel Sales Tax (13%), but a greater percentage of this tax should go to the City (preferably all 13%, but at least 5%).
- If a new Short Term Rental Tax is not possible, then the City should lobby to expand the Hotel-Motel Sales Tax to apply to lodgings with less than six (6) bedrooms.
- The ability to tax short term rentals with five (5) or fewer bedrooms shall be put in place prior to allowing short term rentals.

### *Restructuring Fine Amounts*

- The current fine amount of \$500 is likely not enough to change the behavior of some bad actors. Fines should be amended to allow for a progressive fine structure that increases after multiple offenses that would punish repeat offenders (\$1,000, \$1,500, and/or \$2,000 on the second, third, and subsequent offenses).

## **Other Recommendations**

### *Information, Outreach, & Website Recommendations*

To ensure that the public has information on how to apply for the appropriate short term rental permits and licenses, can find valid short term rental providers, and can report violations, the Office of Information Technology and Innovation (ITI) should assist the Department of Safety and Permits and the City Planning Commission with the following:

- Create webpages with information on short term rentals that includes regulations, host and guest responsibilities, and permit and license applications and requirements.
- ITI should create a webpage with a map that shows all properties with a valid short term rental licenses.
- Create an online form where short term rental violations can be reported.
- Work with 311 and/or the Department of Safety and Permit to allow for violations to be reported by phone during working hours.

- Conduct outreach and education sessions to inform the public and short term rental operators about the new short term rental regulations.

### *Further Study*

Given that short term rental regulations are relatively new and rapidly changing, the best practices in regulations will continue to evolve. In addition, any new regulations will require revisions; therefore, the City Planning Commission should do the following:

- Within one to two years of the effective date for any new short term regulations, the City Planning Commission should study the effectiveness and propose revisions to these regulations.

### **Next Steps**

As stated in this report, this study was conducted at the request of City Council Motion-15-391 to analyze short term rentals and make recommendations for a regulatory scheme to permit, tax, and enforce the requirements of these uses. The City Planning Commission will consider this report and will accept the recommendations of staff, modify these recommendations, or create recommendations that will then be forwarded to the City Council. This Short Term Rental Study marks the beginning, not the end, of short term rental regulations in New Orleans.

The City Planning Commission public hearing is not the final venue for public comment. The City Council will receive this report and may hold its own public meetings to receive public comment prior to action on the recommendations in this report. The City Council could act on this report by directing the creation of an ordinance to implement a regulatory scheme around short term rentals in the City Code. In addition, the City Council could adopt a motion directing the City Planning Commission to consider a text amendment to the Comprehensive Zoning Ordinance based on this study. Should the City Council propose the text amendment, the City Planning Commission staff would generate an additional report outlining those specific recommendations. This would involve additional public hearings on those recommendations, and would again forward those recommendations to City Council for final action. The consideration of short term rental regulation may also be concurrent with advancing needed changes to State law, so that any new regulations can be effective. This is all noted to convey that the public process will not end at the City Planning Commission hearing, and there will be additional opportunities for public input.

## ***H. Short Term Rental Recommendations (Commission)***

### **City Planning Commission Meeting (January 26, 2016)**

The City Planning Commission considered the study at their January 27, 2016 meeting. The City Planning Commission staff summarized the Short Term Rental Study and its recommendations. A public hearing was held and the speakers are listed on the attached public hearing speakers list. The City Planning Commission then considered amendments to the Short Term Rental Study's recommendations. Video of all public testimony, deliberation, and votes by the City Planning Commission can found at the following link:

[http://cityofno.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=2262](http://cityofno.granicus.com/MediaPlayer.php?view_id=2&clip_id=2262)

#### ***Eliminate Principal Residential Short Term Rental Type***

Commission Brown made a preliminary motion to amend the Study's recommendations to eliminate the Principal Residential Short Term Rental type. The preliminary motion was seconded by Commissioner Steeg and was adopted.

#### **Preliminary Motion**

BE IT MOVED BY THE CITY PLANNING COMMISSION TO AMEND THE SHORT TERM RENTAL STUDY'S RECOMMENDATION TO ELEMIMATE THE PRINCIPAL RESIDENTIAL SHORT TERM RENTAL TYPE.

YEAS: Allen, Brown, Marshall, Mora, Steeg

NAYS: Duplessis, Wedberg

ABSENT: Mitchell

The preliminary motion passed.

#### ***Reduce Size of Temporary Short Term Rentals***

Commission Steeg made a preliminary motion to amend the Short Term Rental Study's recommendations to reduce the maximum size of the Temporary Short Term Rental from five (5) bedrooms and ten (10) guests to three (3) bedrooms and six (6) guests. The preliminary motion was seconded by Commissioner Brown.

#### **Preliminary Motion**

BE IT MOVED BY THE CITY PLANNING COMMISSION TO AMEND THE SHORT TERM RENTAL STUDY'S RECOMMENDATION THAT THE MAXIMUM SIZE OF THE TEMPORARY SHORT TERM RENTAL BE REDUCED TO THREE (3) BEDROOMS AND SIX (6) GUESTS.

YEAS: Brown, Steeg

NAYS: Allen, Duplessis, Marshall, Mora, Wedberg

ABSENT: Mitchell

The preliminary motion failed.

*Amendment Parking Requirement for Accessory Short Term Rentals*

Commission Brown made a preliminary motion to amend the Study's recommendations to amend the parking requirement for the whole unit Accessory Short Term Rental from one (1) space per two (2) bedrooms to one (1) off-street parking space. The preliminary motion was seconded by Commissioner Marshall and was adopted.

**Preliminary Motion**

BE IT MOVED BY THE CITY PLANNING COMMISSION TO AMEND THE SHORT TERM RENTAL STUDY'S RECOMMENDATION TO AMEND THE PARKING REQUIREMENT FOR THE WHOLE UNIT ACCESSORY SHORT TERM RENTAL FROM ONE (1) SPACE PER TWO (2) BEDROOMS TO ONE (1) OFF-STREET PARKING SPACE.

YEAS: Allen, Brown, Duplessis, Marshall, Mora, Steeg, Wedberg

NAYS: None

ABSENT: Mitchell

The preliminary motion passed.

*Eliminate Commercial Short Term Rental Type*

Commission Mora made a preliminary motion to amend the Short Term Rental Study's recommendations to eliminate the Commercial Short Term Rental type. The preliminary motion was seconded by Commissioner Brown.

**Preliminary Motion**

BE IT MOVED BY THE CITY PLANNING COMMISSION TO AMEND THE SHORT TERM RENTAL STUDY'S RECOMMENDATION TO ELEMIMATE THE COMMERCIAL SHORT TERM RENTAL TYPE.

YEAS: Mora

NAYS: Allen, Brown, Duplessis, Marshall, Steeg, Wedberg



ABSENT: Mitchell

The preliminary motion failed.

### *Consideration of Short Term Rental Study as Amended*

Finally, the City Planning Commission considered the Short Term Rental Study as amended. Commissioner Marshall made a final motion to recommend approval of the Short Term Rental Study as amended. Commissioner Brown seconded the final motion, which was adopted.

#### **Final Motion**

BE IT MOVED BY THE CITY PLANNING COMMISSION THAT THE SHORT TERM RENTAL STUDY IS HEREBY RECOMMENDED FOR APPROVAL AS AMENDED. BE IT FURTHER MOVED THAT THE EXECUTIVE DIRECTOR IS HEREBY AUTHORIZED TO NOTIFY THE CITY COUNCIL OF SAID ACTION.

YEAS: Allen, Brown, Marshall, Mora, Steeg, Wedberg

NAYS: Duplessis

ABSENT: Mitchell

The final motion passed.

The final recommendations of the City Planning Commission including all amendments are shown below. The City Planning Commission amendments are shown in red, additions are shown in bold and eliminations are shown in strikethrough.

## **Comprehensive Zoning Ordinance**

### *Definition Amendments (Article 26)*

Based on the analysis, the staff recommends changing the short term rental definition to further describe the use and to define the three different types of short term rentals. Therefore, the staff recommends the following changes to the short term rentals definition:

#### **Current Definition:**

~~**Short Term Rentals.** Rentals of a premises or any portion thereof for dwelling, lodging or sleeping purposes with duration of occupancy of less than sixty (60) consecutive days in the Vieux Carré and less than thirty (30) consecutive days outside the Vieux Carré. Hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated in this ordinance separately from short term rentals are not considered to be short term rentals.~~

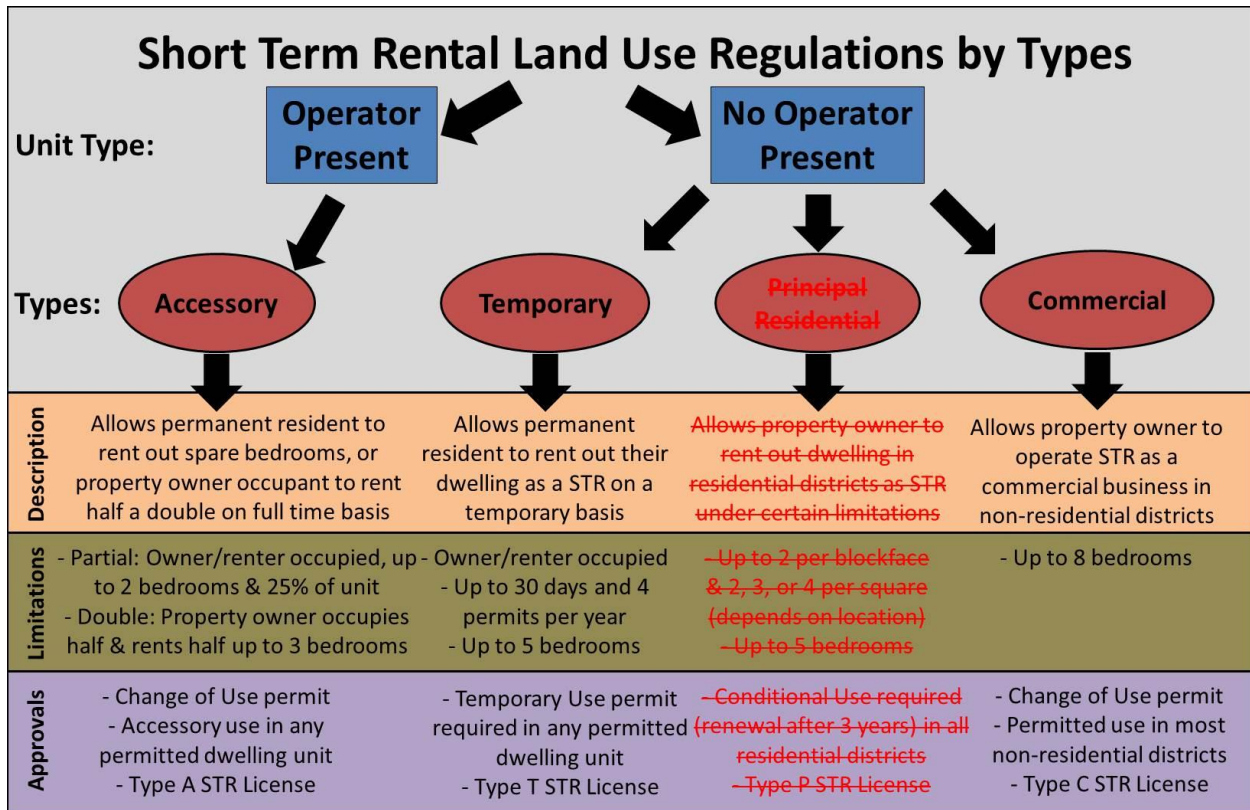
## Revised Definition:

**Short Term Rental.** Rental of all or any portion thereof of a residential dwelling unit for dwelling, lodging or sleeping purposes to one party with duration of occupancy of less than thirty (30) consecutive days. Hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated in this ordinance separately from short term rentals are not considered to be short term rentals. Common bathroom facilities may be provided rather than private baths for each room. A short term rental is further defined as follows:

- A. Short Term Rental, Accessory.** Either (i) an owner- or permanent resident-occupied dwelling with a principal use as a permanent residential dwelling unit and which rents no more than two (2) guest rooms and three (3) total guests for overnight paid occupancy as an accessory use, or (ii) an owner-occupied two-family dwelling in which one half of the two-family dwelling is occupied by the owner with a principal use as the owner's permanent residential dwelling unit and which the other half of the two-family dwelling is rented with no more than three (3) guest rooms and six (6) total guests as an accessory use. Only one accessory short term rental shall be permitted in any two-family dwelling. For either type of accessory short term rental, the owner/permanent resident shall occupy the unit and be present during the guest's stay.
- B. Short Term Rental, Temporary.** An owner- or permanent resident-occupied dwelling with a principal use as a permanent residential dwelling unit and which rents the entire unit with no more than five (5) guest rooms for overnight paid occupancy as a temporary use not to exceed thirty (30) days per year. The permanent resident is not required to be present during the guest's stay.
- ~~**C. Short Term Rental, Principal Residential.** An entire dwelling unit in a residential district that rents no more than five (5) guest rooms for overnight paid occupancy.~~
- D. Short Term Rental, Commercial.** An entire dwelling unit in a non-residential district that rents no more than eight (8) guest rooms for overnight paid occupancy.

### *Short Term Rental Types*

The three short term rental types are defined to allow the least impactful short term rentals in most instances (Accessory and Temporary). Use standards are put into place to ensure that the Accessory and Temporary Short Term Rentals operate as they should. Commercial Short Term Rentals are limited to non-residential districts where their impact is consistent with surrounding uses and allowed.



**Figure 10:** Short Term Rental Types

#### Short Term Rental, Accessory

- Allowed as an accessory use to the primary use of a residential dwelling.
- Either a portion of the unit (up to 25%) shall be used as bedrooms for guest rental, or one-half of a double may be used for guest rental where the other half of the two-family dwelling is the property owner’s principal residence.
- Rental limited to when the full-time resident is present.
- Maximum of two (2) bedrooms and three (3) total guests for partial unit accessory use or three (3) bedrooms and six (6) total guests where the accessory use occupies one half of a two-family dwelling.

#### Short Term Rental, Temporary

- To allow for the temporary rental of a whole dwelling unit.
- Allow up to four (4) temporary use permits for a maximum of thirty (30) days per year.
- Maximum of five (5) bedrooms and ten (10) total guests.

#### ~~Short Term Rental, Principal Residential~~

- ~~• Allow for an entire unit to be a short term rental in residential zoning districts.~~
- ~~• Requires Conditional Use approval that shall be limited to three (3) years~~
- ~~• Limited to two (2) per blockface and two (2), three (3), or four (4) per square.~~
- ~~• Maximum of five (5) bedrooms and ten (10) total guests.~~

### Short Term Rental, Commercial

- Allow for short term rentals as a permitted use in most non-residential districts.
- Maximum of eight (8) bedrooms and sixteen (16) total guests.

### Short Term Rental Land Use Regulations by Types

The following table outlines the land use regulations for each Short Term Rental type:

**Table 39: Short Term Rentals Land Use Regulations by Type**

	<b>Short Term Rental, Accessory</b>	<b>Short Term Rental, Temporary</b>	<b>Short Term Rental, Principal Residential</b>	<b>Short Term Rental, Commercial</b>
Description of Short Term Rental Type	STR accessory to a primary residential use (full time)	Temporary STR use (30 day/year) in a unit that is primarily a residence	<del>Main use as STR in residential districts</del>	Main use is as a STR permitted in most non-residential districts
Use Type (Permitted, Accessory, or Temporary) and Locations	Accessory Use of a residential dwelling	Temporary Use in a residential dwelling	<del>Conditional Use in residential districts (3-year limit)</del>	Permitted Use in non-residential districts
Occupancy Requirement	Owner: Yes Resident: Yes (has to be present at time of rental)	Owner: Yes Resident: Yes (does not have to be present at time of rental)	<del>None</del>	None
Limitation on Bedrooms and occupants	1 or 2 bedrooms and up to 3 non-resident occupants (partial unit); up to three (3) bedrooms and up to six (6) non-resident occupants (double).	5 bedrooms max. 2 occupants per bedroom (10 occupants max)	<del>5 bedrooms max. 2 occupants per bedroom (10 occupants max)</del>	8 bedrooms max. 2 occupants per bedroom (16 occupants max)
Size Limitation	Yes: 25% of unit or ½ of a double	Whole Unit	<del>Whole Unit</del>	Whole Unit
Neighborhood Cap	None	None	<del>None</del>	None
Density Limits (per blockface & square)	None	None	<del>Yes, up to 2 per blockface and 2, 3, or 4 per square.</del>	None
Time limitations (per year)	None	Up to 4 permits, for a total of 30 days/year	<del>None</del>	None
Limit on STR per owner and/or operator	None	None	<del>None</del>	None

## *Short Term Rental Use Standards (Article 20)*

The following Use Standards should be added to Article 20 to ensure that the Commercial Short Term Rental complies with the basic short term rental requirements, and is limited in size and guest capacity.

### **General Standards**

- In addition to the regulations below, all short term rentals shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.
- All short term rentals require a license.
- Short term rentals shall not be operated outdoors, in an accessory structure, or in a recreational vehicle.
- Only one party of guests shall be permitted per short term rental unit.
- There shall be an in town property manager if the owner or operator is out of town during the time of the rental.
- Short term rentals shall be considered dwelling units for density purposes and subject to the minimum lot area per dwelling unit requirement of the zoning district.

### **Short Term Rental, Commercial Standards**

- A Type C Short Term Rental License shall be required.
- Up to eight (8) bedrooms may be rented to guests and occupancy is limited to two (2) guests per bedroom with a maximum sixteen (16) guests.

### **~~Short Term Rental, Principal Residential Standards~~**

- ~~Conditional Use approval is required for a Principal Residential Short Term Rental. The initial approval shall only be valid for three (3) years at which point the property requires another Conditional Use.~~
- ~~When a Conditional Use is up for renewal, the City Planning Commission and City Council shall determine the length of time for the renewal (at least 3 years) or if the conditional use shall be permanent.~~
- ~~The prescription period for vesting property rights shall reset with each conditional use approval.~~
- ~~In any residential district, only two (2) Short Term Rentals, Principal Residential and Bed and Breakfasts are permitted per blockface and a total of four (4) per square in Historic Core Neighborhoods, three (3) per square in Historic Urban Neighborhoods, and two (2) per square in Suburban Neighborhoods.~~
- ~~A Type P Short Term Rental License shall be required.~~
- ~~Up to five (5) bedrooms may be rented to guests.~~
- ~~Occupancy is limited to two (2) guests per bedroom or ten (10) guests, whichever is less.~~
- ~~The entire dwelling can be rented and the permanent resident is not required to be present during the guest's stay.~~
- ~~Use of the short term rentals for commercial or social events is prohibited.~~

- ~~Sign Requirements/Limitations: The short term rental may have one (1) attached wall or projecting sign not to exceed four (4) square feet in area. The sign shall complement the architecture of the structure.~~
- ~~The short term rental shall not adversely affect the residential character of the neighborhood.~~
- ~~The short term rental should not generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her residence.~~

### *Short Term Rental Accessory and Temporary Use Standards (Article 21)*

Since Accessory and Temporary Short Term Rentals are classified as either an accessory or a temporary use, the use standards should be included in Article 21 of the Comprehensive Zoning Ordinance. These standards are in place to ensure that the short term rental operates according to its particular type or to mitigate the potential impacts of the use.

#### **General Standards**

- In addition to the use standards below, all short term rentals shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.
- All short term rentals require a license.
- Short term rentals may not be operated outdoors, in an accessory structure, or in a recreational vehicle.
- Only one party of guests shall be permitted per short term rental unit.
- The short term rental shall appear outwardly to be a residential dwelling.
- For temporary short term rentals, there shall be an in town property manager available at all times if the owner or operator is out of town during the time of the rental.
- Use of the short term rentals for commercial or social events shall be prohibited.
- The short term rental should not adversely affect the residential character of the neighborhood.
- The short term rental should not generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her residence.
- Proof of permanent occupancy shall be required with a Louisiana State issued ID to that address or a homestead exemption.
- If renter occupied and operated, proof of the property owner's consent and signature on the license application shall be required.
- If renter occupied, the operator shall provide a current rental lease.

#### **Short Term Rental, Accessory Standards**

- A Type A Short Term Rental License shall be required.
- For partial unit accessory short term rentals, only a portion of the dwelling shall be rented, which is limited to two (2) guest bedrooms that occupy no more than 25% of the gross floor area of the dwelling. There must be at least one bedroom for the fulltime occupant.
- For partial unit accessory short term rentals, occupancy shall be limited to two (2) guests per bedroom or three (3) total guests, whichever is less.

- For partial unit accessory short term rentals, the permanent resident shall occupy the unit and be present during the party's stay.
- Where the accessory short term rental occupies one-half of a two-family dwelling, proof of owner occupancy shall be required with a homestead exemption.
- Where the accessory short term rental occupies one-half of a two-family dwelling, rentals are limited to three (3) bedrooms.
- Where the accessory short term rental occupies one-half of a two-family dwelling, occupancy shall be limited to two (2) guests per bedroom for a total of up to six (6) guests.
- Sign Requirements/Limitations: The short term rental may have one (1) attached wall or projecting sign not to exceed four (4) square feet in area. The sign shall complement the architecture of the structure.

### **Short Term Rental, Temporary Standards**

- A Type T Short Term Rental License shall be required.
- Rental shall be limited to a maximum of four (4) temporary use permits for a total of no more than thirty (30) days per year.
- Up to five (5) bedrooms may be rented to guests.
- Occupancy is limited to two (2) guests per bedroom or ten (10) guests, whichever is less.
- The entire dwelling can be rented and the permanent resident is not required to be present during the party's stay.
- No signs are allowed for a Temporary Short Term Rental.

### *Parking Requirements (Article 22)*

If parking is required in the base zoning district, the following changes shall be made to the existing bed and breakfast parking requirements and are proposed for the short term rental parking requirements.

**Bed & Breakfast, Accessory and Principal:** 1 space + 1 per 2 guestrooms (for 3 guestrooms and above) (car)

**Short Term Rental, Accessory: no additional parking (1 per dwelling unit) (car)**

**Short Term Rental, whole unit Accessory: ~~1 per 2 guestrooms (car)~~**

**Short Term Rental, Temporary: no additional parking (1 per dwelling unit) (car)**

**Short Term Rental, Principal Residential: ~~1 per 2 guestrooms (car)~~**

**~~1 per 5 rooms (25% long term) (bike)~~**

**Short Term Rental, Commercial: 1 per 2 guestrooms (car)**

**1 per 5 rooms (25% long term) (bike)**

### *Bed and Breakfast Code Revisions*

To ensure consistency between the proposed Short Term Rental regulations and the Bed and Breakfast regulations, the following changes to the bed and breakfast definition and use standards are proposed:



**26.6 Bed and Breakfast.** A residential structure that provides sleeping rooms for overnight paid occupancy. Bed and breakfast is further defined as follows:

- A. Bed and Breakfast, Accessory.** An owner-occupied building designed as either a single-family or a two-family dwelling that has been converted to a single-family dwelling, which provides no more than four (4) guest rooms for overnight paid occupancy of up to ~~fourteen (14)~~ **thirty (30)** nights. Common bathroom facilities may be provided rather than private baths for each room.
- B. Bed and Breakfast, Principal.** An owner- or operator-occupied residential structure that provides no more than ~~nine (9)~~ **eight (8)** guest rooms for overnight paid occupancy of up to ~~fourteen (14)~~ **thirty (30)** nights. Common bathroom facilities may be provided rather than private baths for each room.

### **20.3.I Bed and Breakfast**

In addition to the regulations below, all bed and breakfasts shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.

#### **20.3.I.1 Bed and Breakfast General Standards (Accessory or Principal)**

- a. In any residential district, ~~only one (1) bed and breakfast, whether accessory or principal, is permitted per blockface.~~ **only two (2) *Short Term Rentals, Principal Residential and Bed and Breakfasts are permitted per blockface and a total of four (4) per square in Historic Core Neighborhoods, three (3) per square in Historic Urban Neighborhoods, and two (2) per square in Suburban Neighborhoods.***
- b. ~~Bed and breakfasts are prohibited within the following areas:~~
  - i. ~~The area bounded by the centerlines of Prytania Street, Pontchartrain Expressway, Magazine Street, and the downside street of Felicity Street from Coliseum Street to Prytania Street.~~
  - ii. ~~The area referred to as the Garden District, bounded by the centerline of St. Charles Avenue, the downtown side of Jackson Avenue, the centerline of Magazine Street, and the downtown side of Louisiana Avenue, with the exception of those bed and breakfasts grandfathered pursuant to Ordinance No. 14,168 M.C.S., November 12, 1990, subject to confirmation of continuous use and legal non-conforming status.~~
  - iii. ~~In all Vieux Carré Districts.~~

#### **20.3.I.2 Bed and Breakfast Accessory Standards**

- a. Proof of owner occupancy shall be established by **submitting** ~~submission of~~ proof of a homestead exemption ~~submitted~~ to the Department of Safety and Permits. The owner-occupant's ownership interest must be at least fifty percent (50%).
- b. If more than one (1) principal building exists on a lot, or two (2) or more contiguous lots have been historically acquired together and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.
- c. The bed and breakfast shall appear outwardly to be a single-family dwelling, giving no appearance of a business use other than a permitted sign.



- d. The bed and breakfast may have one (1) attached projecting sign not to exceed four (4) square feet in area. The sign shall complement the architecture of the structure.
- e. The bed and breakfast is limited to a maximum of four (4) units for overnight accommodation.
- f. Bedroom rental units are limited to no more than twenty-five percent (25%) of the total habitable space of the gross floor area of the structure.
- g. Cooking facilities are prohibited in individual guest rooms.
- h. If meals are provided, only registered guests may be served.
- i. Leasing of a common dining area for social events is prohibited.

**20.3.I.3 Bed and Breakfast Principal Standards**

- a. Proof of owner or operator occupancy shall be established by submission of proof of a homestead exemption (owner) or legal leasing agreement (operator) submitted to the Department of Safety and Permits.
- b. If more than one (1) principal building exists on a lot, or two (2) or more contiguous lots have been historically used together and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, for at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.
- c. All signs shall comply with applicable sign regulations for the zoning district.
- d. The bed and breakfast is limited to a maximum of ~~nine (9)~~ **eight (8)** units for overnight accommodation.
- e. Cooking facilities are prohibited in individual guest rooms.
- f. If the zoning district allows restaurants, meals may be served to guests other than those registered with the bed and breakfast, provided the facility meets all other applicable city and state codes for food service.
- g. Leasing of common areas for social events is allowed, provided the facility meets all applicable off-street parking requirements and complies with the noise ordinance and all other provisions of the City Code.

*Permitted and Conditional Uses (Articles 7-17)*

Below are the use tables that show the zoning districts where short term rentals and similar uses are permitted, conditional, prohibited, and accessory/temporary uses. Permitted uses are shown with a ‘P,’ conditional uses with a ‘C,’ prohibited uses are blank, and accessory or temporary uses with an ‘A.’ Deletions are shown as ~~strikethroughs~~ and additions are shown in **bold italics**.

Uses	District				
	OS-N	OS-G	OS-R	NA	GPD
Bed and Breakfast – Accessory					
Bed and Breakfast – Principal					
Short Term Rental, Accessory					
Short Term Rental, Temporary					
<del>Short Term Rental, Principal Residential</del>					
Short Term Rental, Commercial					

**Table 41: Rural Development Districts Use Table (Article 8)**

Uses	District	
	R-RE	M-MU
Bed and Breakfast – Accessory	EP	P
Bed and Breakfast – Principal		P
Short Term Rental, Accessory	A	A
Short Term Rental, Temporary	A	A
<del>Short Term Rental, Principal Residential</del>	€	
Short Term Rental, Commercial		P

**Table 42: Historic Core Neighborhoods Residential Districts Use Table (Article 9)**

Uses	District				
	VCR-1	VCR-2	HMR-1	HMR-2	HMR-3
Bed and Breakfast – Accessory	P	P	P	P	P
Bed and Breakfast – Principal			C	C	C
Short Term Rental, Accessory	A	A	A	A	A
Short Term Rental, Temporary	A	A	A	A	A
<del>Short Term Rental, Principal Residential</del>	€	€	€	€	€
Short Term Rental, Commercial					

**Table 43: Historic Core Neighborhoods Non-Residential Districts Use Table (Article 10)**

Uses	District									
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU
Bed and Breakfast – Accessory	P	P	P	P	P	P		P	P	P
Bed and Breakfast – Principal	C	C	P	P	P	P		P	P	P
Short Term Rental, Accessory	A	A	A	A	A	A		A	A	A
Short Term Rental, Temporary	A	A	A	A	A	A		A	A	A
<del>Short Term Rental, Principal Residential</del>										
Short Term Rental, Commercial	C <sup>1</sup>	C <sup>1</sup>	P	P	P	P		P	P	P

<sup>1</sup> Conditional Use approval shall only be valid for three (3) years at which point the owner requires another Conditional Use.

**Table 44: Historic Urban Neighborhoods Residential Districts Use Table (Article 11)**

Uses	District				
	HU-RS	HU-RD1	HU-RD2	HU-RM1	HU-RM2
Bed and Breakfast – Accessory	EP	EP	EP	EP	EP
Bed and Breakfast – Principal				C	C

**Table 44: Historic Urban Neighborhoods Residential Districts Use Table (Article 11)**

Uses	District				
	HU-RS	HU-RD1	HU-RD2	HU-RM1	HU-RM2
Short Term Rental, Accessory	A	A	A	A	A
Short Term Rental, Temporary	A	A	A	A	A
<del>Short Term Rental, Principal Residential</del>	€	€	€	€	€
Short Term Rental, Commercial					

**Table 45: Historic Urban Neighborhoods Non-Residential Districts Use Table (Article 12)**

Uses	District		
	HU-B1A	HU-B1	HU-MU
Bed and Breakfast – Accessory	P	P	P
Bed and Breakfast – Principal	P	P	P
Short Term Rental, Accessory	A	A	A
Short Term Rental, Temporary	A	A	A
<del>Short Term Rental, Principal Residential</del>			
Short Term Rental, Commercial	P	P	P

**Table 46: Suburban Neighborhoods Residential Districts Use Table (Article 13)**

Uses	District											
	S-RS	S-RD	S-RM1	S-RM2	S-LRS1	S-LRS2	S-LRS2	S-LRD1	S-LRD2	S-LRM1	S-LRM2	
Bed and Breakfast – Accessory	P	CP	CP	CP	P	P	P	P	CP	CP	CP	
Bed and Breakfast – Principal												
Short Term Rental, Accessory	A	A	A	A	A	A	A	A	A	A	A	
Short Term Rental, Temporary	A	A	A	A	A	A	A	A	A	A	A	
<del>Short Term Rental, Principal Residential</del>	€	€	€	€	€	€	€	€	€	€	€	
Short Term Rental, Commercial												

**Table 47: Suburban Neighborhoods Non-Residential Districts Use Table (Article 14)**

Uses	District							
	S-B1	S-B2	S-LB1	S-LB2	S-LC	S-LP	S-LM	
Short Term Rental					P			
Bed and Breakfast – Accessory			P	P	P			
Bed and Breakfast – Principal			P	P	P			
Short Term Rental, Accessory	A	A	A	A	A		A	

**Table 47: Suburban Neighborhoods Non-Residential Districts Use Table (Article 14)**

Uses	District						
	S-B1	S-B2	S-LB1	S-LB2	S-LC	S-LP	S-LM
Short Term Rental, Temporary	A	A	A	A	A		A
<del>Short Term Rental, Principal Residential</del>							
Short Term Rental, Commercial	C <sup>1</sup>	C <sup>1</sup>	P	P	P		P

<sup>1</sup> Conditional Use approval shall only be valid for three (3) years at which point the owner requires another Conditional Use.

**Table 48: Commercial Center & Institutional Campus Districts Use Table (Article 15)**

Uses	District								
	C-1	C-2	C-3	MU-1	MU-2	EC	MC	MS	LS
Short Term Rental		€		€			€	€	€
Bed and Breakfast – Accessory				P	P	P			
Bed and Breakfast – Principal				P	P				
Short Term Rental, Accessory	A	A	A	A	A	A	A		A
Short Term Rental, Temporary	A	A	A	A	A	A	A		A
<del>Short Term Rental, Principal Residential</del>									
Short Term Rental, Commercial	C	C	C	P	P	P	P		P

**Table 49: Centers for Industry Use Table (Article 16)**

Uses	District			
	LI	HI	MI	BIP
Short Term Rental			P <sup>1</sup>	
Bed and Breakfast – Accessory				
Bed and Breakfast – Principal				
Short Term Rental, Accessory				
Short Term Rental, Temporary				
<del>Short Term Rental, Principal Residential</del>				
Short Term Rental, Commercial			P <sup>1</sup>	

<sup>1</sup> Short term rentals are a permitted use in the MI District Commercial and Recreational Sub-District subject to the design standards of **Article 16, Section 16.4.C**.

**Table 50: Central Business Districts Use Table (Article 17)**

Uses	District						
	CBD-1	CBD-2	CBD-3	CBD-4	CBD-5	CBD-6	CBD-7
Short Term Rental	€	€	€	€			P
Bed and Breakfast – Accessory	P	P	P		P	P	
Bed and Breakfast – Principal	P	P	P	P	P	P	P
Short Term Rental,	A	A	A	A	A	A	A

**Table 50: Central Business Districts Use Table (Article 17)**

Uses	District						
	CBD-1	CBD-2	CBD-3	CBD-4	CBD-5	CBD-6	CBD-7
Accessory							
Short Term Rental, Temporary	<i>A</i>	<i>A</i>	<i>A</i>	<i>A</i>	<i>A</i>	<i>A</i>	<i>A</i>
<del>Short Term Rental, Principal Residential</del>							
Short Term Rental, Commercial	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>

## City Code Recommendations

### Short Term Rental City Code Requirements by Types

**Table 51: Short Term Rental City Code Requirements by Type**

	Short Term Rental, Accessory	Short Term Rental, Temporary	<del>Short Term Rental, Principal Residential</del>	Short Term Rental, Commercial
Description of Short Term Rental Type	STR accessory to a primary residential use (full time)	Temporary STR use (30 days) in a unit that is primarily a residence	<del>Limited use as STR in residential districts</del>	Main use is as a STR allowed in in most non-residential districts.
Permit Type	Change of Use or Building Permit	Special Events Permit	<del>Change of Use or Building Permit</del>	Change of Use or Building Permit
License Type	Type A STR License	Type T STR License	<del>Type P STR License</del>	Type C STR License
License Fee	\$200/year	\$50/year	<del>\$500/year</del>	\$500/year
Tax Rate	Short Term Rental Tax or Hotel Sale Tax	Hotel Occupancy Tax & Short Term Rental Tax or Hotel Sale Tax	<del>Hotel Occupancy Tax &amp; Short Term Rental Tax or Hotel Sale Tax</del>	Hotel Occupancy Tax & Short Term Rental Tax or Hotel Sale Tax
Operational Standards	Same for every type	Same for every type	<del>Same for every type</del>	Same for every type
Platform Requirements	Same for every type	Same for every type	<del>Same for every type</del>	Same for every type
Inspection Requirements	Yes	Yes	<del>Yes</del>	Yes

### Short Term Rental Regulations

The following regulations shall be included in the City Code to regulate the licensing, operation, use, and advertising of a dwelling as a short term rental.

## Permit and License Requirements

- A Short Term Rental License is a privilege and not a right. A Short Term Rental License can be revoked or not renewed based on non-compliance with the Comprehensive Zoning Ordinance and Short Term Rental Permit and License Requirements.
- A Short Term Rental License is required for every short term rental: a Type A License for an Accessory Short Term Rental, a Type T License for a Temporary Short Term Rental, ~~a Type P License for a Principal Short Term Rental~~, and a Type C License for a Commercial Short Term Rental.
- A Short Term Rental License requires a Temporary Use Permit, a Certificate of Occupancy for a Building Permit, or a Certificate of Occupancy for a Change of Use Permit ensuring that the short term rental complies with the applicable Building Code and Life Safety Code requirements.
- The applicant shall submit the floor and/or site plans for approval by the Department of Safety and Permits.
- The owner or operator must provide proof of a current and valid liability insurance of at least \$500,000.
- Any owner or operator shall provide contact information such that they can be contacted at any time regarding problems at the unit. If the owner or operator lives out of town or is out of town during the time of the rental, the owner/operator shall provide the name and contact information of a local property manager that is able to respond at any time to any problems at the unit.
- The Short Term Rental operator shall sign an affidavit attesting to the following safety measures: smoke detectors in every bedroom, outside sleeping areas, and on habitable floors, a properly maintained and charged fire extinguisher shall be provided in every short term rental unit, and the emergency contact information and a floor plan that shows fire exits and escape routes is posted in a prominent location.
- The Short Term Rental operator shall attest that they have notified the every unit on and within 150 feet of the subject property and the registered neighborhood organization(s).
- Upon renewal of a Short Term Rental Permit or License, the operator shall provide the log of rental activity to the Department of Safety and Permits for inspection as well as proof that all taxes and fees have been paid.

## Operational Standards

- The operator shall keep a log of short term rental dates and fees that is subject to inspection by the City at any time and during the license renewal.
- The operator shall pay all applicable taxes and fees.
- Guests above the occupancy limit and outdoor activities in the yard, deck, porches, patios, and balconies shall be prohibited between midnight and 6 a.m. (does not apply to Commercial Short Term Rentals).
- The operator shall to post the following information in a prominent location that is easily visible to the guest:
  - license number,
  - operator and his/her contact information,
  - property manager and his/her contact information,
  - safety information (see more below),
  - occupancy limit,

- trash and recycling collection rules and dates,
  - short term rental rules, and
  - the City’s Short Term Rental website.
- The short term rental operator shall send a notification letter to every unit on and within 150 feet of the subject property and the registered neighborhood organization(s). The operator shall post a copy of the license that is visible from the street. The letter and the license shall include the following information:
  - The address and unit number of the short term rental,
  - the license number,
  - the license type and limitations,
  - the license valid and/or expiration dates,
  - the license holder’s name,
  - the property manager and his/her contact information (phone and email),
  - bedroom limit and guest occupancy limit, and
  - the City’s Short Term Rental website.
- Any owner or operator that lives out of town or will be out of town during the time of the rental shall have a local property manager that is able to respond to any problems at the unit at any time.
- The owner or operator shall have a current and valid commercial liability insurance of at least \$500,000.
- The short term rental shall comply with all applicable Building Code and Life Safety Code requirements.
- Accessory structures and other non-habitable spaces shall not be used as space for a short term rental.
- The short term rental shall provide smoke detectors in every bedroom, outside each sleeping area, and on every habitable story.
- A properly maintained and charged fire extinguisher shall be provided in every short term rental unit.
- The operator shall post in a prominent location emergency contact information and a floor plan that shows fire exits and escape routes.

**Enforcement of Regulations**

- It shall be a violation to rent a unit for less than 30 days without a Short Term Rental License.
- It shall be a violation to operate outside of the scope of the Short Term Rental regulations in the Comprehensive Zoning Ordinance, City Code, and outside of the scope of the Short Term Rental License.
- It shall be a violation to advertise a short term rental without a license.
- It shall be a violation to not include the license number or property address of the short term rental unit in any advertisement.
- It shall be a violation to advertise a short term rental outside of the scope of the short term rental license.

## **Short Term Rental Platform Recommendations**

There are no recommendations for requirements to be placed on the short term rental platforms. If possible, the City should work with the platforms to reach agreements on the following:

- Work cooperatively with platforms that are willing to collect and remit all applicable taxes or inform their user of their responsibility to pay the appropriate taxes.
- Provide a license number to post a listing.
- Upon notification from the City that a listing is in violation of a City Ordinance, remove the listing or modify the listing to come into compliance.
- Upon receipt of sufficient evidence of a violation, establish a process where the City can request specific data on a particular listing.

## **Department of Safety and Permits Recommendations**

In order to administer and regulate short term rentals, the Department of Safety and Permits will need the following:

- A new Short Term Rental License should be created.
- The Department of Safety and Permits will need an additional three or four staff members and a budget between \$175,000 and \$300,000 to administer and enforce the new short term rental regulations.

### *Permitting Requirements*

The following steps and information will be required in order to get a short term rentals permit from the City of New Orleans:

#### **Permit Requirements**

- A permit is required from the Department of Safety and Permits.
- A Change of Use Permit or a Building Permit (if renovations are required) is required for all Accessory, ~~Principal Residential~~, and Commercial Short Term Rentals.
- A Temporary Use Permit is required for all Temporary Short Term Rentals.
- An inspection shall be required prior to the issuance of a Certification of Completion or Occupancy
- Permits are a privilege and not a right. The Department of Safety and Permits shall have discretion in issuing permits.

#### **License Requirements**

- In addition to a permit, the applicant is required to get a license from the Department of Safety and Permits.



- Licenses shall be renewed every year. The Department of Safety and Permits shall review log of previous year rentals, payment of applicable fees and taxes, complaints, and reinspection when determining if a license shall be renewed.

### *Fee, Tax, and Fine Structure*

In order to pay for the administration and enforcement of short term rentals, the following financing structure should be put into place.

#### **Recommended Fees**

The yearly license fees should be as follows:

**Short Term Rentals, Accessory:** \$200/year

**Short Term Rentals, Temporary:** \$50/year

**Short Term Rentals, Principal Residential:** \$500/year

**Short Term Rentals, Commercial:** \$500/year

#### **Recommended Taxes**

The current tax structure cannot be changed simply by the City of New Orleans. Changes to State law are required to enable tax structure reforms to tax short term rentals with less than six rooms. This is addressed in the Advocacy Recommendations section below.

#### **Recommended Fines**

The current fine structure cannot be changed simply by the City of New Orleans. Changes to State law are required to modify the fine structure for any violations. This is addressed in the Advocacy Recommendations section below.

### *Enforcement Recommendations*

In order to effectively regulate short term rentals, the Department of Safety and Permits may follow these recommendations:

- Develop an administrative adjudication process for zoning-related short term rental violations;
- Develop a civil citation mechanism for City Code-related short term rental violations;
- Receive complaints 24/7 by allowing complaints to be filed online; and
- Develop standards for when short term rental licenses shall be revoked and/or not renewed (number and/or type of violations).
- Dedicate staff and sufficient funding to license, regulate, and enforce the short term rental regulations.

## Building Code Recommendations

### *Short Term Rental Building Regulations by Types*

**Table 52: Short Term Rental Building Regulations by Type**

	Short Term Rental, Accessory	Short Term Rental, Temporary	<del>Short Term Rental, Principal Residential</del>	Short Term Rental, Commercial
Description of Short Term Rental Type	STR accessory to a primary residential use (full time)	Temporary STR use (30 days) in a unit that is primarily a residence	<del>Main use as STR in residential districts</del>	Main use is as a STR allowed in in most non-residential districts
Residential or Commercial Code	International Residential Code (IRC) or International Building Code (IBC) <sup>73</sup>	International Building Code (IBC) <sup>74</sup>	<del>International Building Code (IBC)</del>	International Building Code (IBC)
Life Safety Code	One- & Two-Family Dwelling	Lodging or Room House	<del>Lodging or Room House</del>	Lodging or Room House

### *Building Code Regulations Recommendations*

- Short term rentals shall be subject to the applicable building code requirements.
- Amend City Code to allow owner-occupied single- or two-family Accessory Short Term Rentals (one or two guestrooms) to be reviewed under the International Residential Code.

## Advocacy Recommendations

### *Short Term Rental Tax*

- The City should lobby the State to create a Short Term Rental Tax that would tax bed and breakfasts and short term rentals that are five bedrooms or less and not subject to the Hotel-Motel Sales Tax. This tax should be a similar rate as the Hotel-Motel Sales Tax (13%), but a greater percentage of this tax should go to the City (preferably all 13%, but at least 5%).
- If a new Short Term Rental Tax is not possible, then the City should lobby to expand the Hotel-Motel Sales Tax to apply to lodgings with less than six (6) bedrooms.
- The ability to tax short term rentals with five (5) or fewer bedrooms shall be put in place prior to allowing short term rentals.

<sup>73</sup> IRC is applicable if located in a partial unit Accessory Short Term Rental located in a single or two-family dwelling with sprinklers. If not, then it is subject to the relevant classification in the IBC.

<sup>74</sup> Due to their temporary nature under the Temporary Use Permit, discretion may be used in applying the IBC.

## *Restructuring Fine Amounts*

- The current fine amount of \$500 is likely not enough to change the behavior of some bad actors. Fines should be amended to allow for a progressive fine structure that increases after multiple offenses that would punish repeat offenders (\$1,000, \$1,500, and/or \$2,000 on the second, third, and subsequent offenses).

## **Other Recommendations**

### *Information, Outreach, & Website Recommendations*

To ensure that the public has information on how to apply for the appropriate short term rental permits and licenses, can find valid short term rental providers, and can report violations, the Office of Information Technology and Innovation (ITI) should assist the Department of Safety and Permits and the City Planning Commission with the following:

- Create webpages with information on short term rentals that includes regulations, host and guest responsibilities, and permit and license applications and requirements.
- ITI should create a webpage with a map that shows all properties with a valid short term rental licenses.
- Create an online form where short term rental violations can be reported.
- Work with 311 and/or the Department of Safety and Permit to allow for violations to be reported by phone during working hours.
- Conduct outreach and education sessions to inform the public and short term rental operators about the new short term rental regulations.

### *Further Study*

Given that short term rental regulations are relatively new and rapidly changing, the best practices in regulations will continue to evolve. In addition, any new regulations will require revisions; therefore, the City Planning Commission should do the following:

- Within one to two years of the effective date for any new short term regulations, the City Planning Commission should study the effectiveness and propose revisions to these regulations.

## **Next Steps**

As stated in this report, this study was conducted at the request of City Council Motion-15-391 to analyze short term rentals and make recommendations for a regulatory scheme to permit, tax, and enforce the requirements of these uses. The City Planning Commission forwards the Short Term Rental Study to the City Council for its consideration. This Short Term Rental Study marks the beginning, not the end, of short term rental regulations in New Orleans.

The City Planning Commission public hearing was not the final venue for public comment. The City Council will receive this report and may hold its own public meetings to receive public comment prior to action on the recommendations in this report. The City Council could act on this report by directing the creation of an ordinance to implement a regulatory scheme around short term rentals in the City Code. In addition, the City Council could adopt a motion directing the City Planning Commission to consider a text amendment to the Comprehensive Zoning Ordinance based on this study. Should the City Council propose the text amendment, the City Planning Commission staff would generate an additional report outlining those specific recommendations. This would involve additional public hearings on those recommendations, and would again forward those recommendations to City Council for final action. The consideration of short term rental regulation may also be concurrent with advancing needed changes to State law, so that any new regulations can be effective. This is all noted to convey that the public process did not end at the City Planning Commission hearing, and there will be additional opportunities for public input.