

SHORT-TERM RENTAL REGULATION CONSIDERATIONS

Overview

Cities across the USA experienced disruptions to their communities due to the rapid increase in unlicensed short-term rental of homes in the past decade. This increase was caused by a societal change in how people travel and book travel. The disruptions were mainly caused by the technology and sharing economy waves that put this societal change into hyperdrive, including a message that people could rent out a home or rooms within their home without following any “rules.” This has been a wide-spread and technology-driven disruption which has been difficult for many cities to effectively address.

An increasing number of cities have gained stabilization within their community and host code compliance through the introduction of reasonable STR regulations specific to the unique municipality, accredited education, permitting STRs to fill the demand for STRs through lawful businesses, and consistent code enforcement directed at unlawful practices.

Through this proposed set of components that would be included within STR regulations and procedures, STRs will be authorized by the Municipality to lawfully run an STR business under a registration process rather than a License or Special Use Permit. The municipality will establish an online registration portal where registrants can apply and submit the necessary materials. All registrants must meet strict requirements. This proposal is intended to adopt the best elements from Short-Term Rental (STR) ordinances across the USA that have been found to increase code compliance, save staff time and resource expense, and provide greater revenue to the community through the collection of fees and taxes.

Components

The components with the STR Registration requirements and application process include core elements, such as:

---Application and Renewal. The application process needs to be **clear, straight-forward, and expeditious for all involved.** The **fees** need to be reasonable (such as a \$50 application fee and a \$300 annual STR registration fee or a tiered-fee system based on size and type of STR). A **step-by-step online application process** is simple-to-follow, fair, and saves the applicant and municipal staff time. It may be wise to initially limit the number of applications available (based upon current and projected STR demand). **The goal is to get STRs to be registered and code compliant.** If there are enough licensed STR businesses to meet STR demand, it will be difficult for unlawful businesses to continue to profit. **The application is processed within two weeks of submission.** If the application includes **faulty or missing information**, an additional \$50 fee and resubmission would be required (they must start over if the application is missing any information). **If a physical inspection rather than a notarized self-inspection is required,** it simply checks that the information presented in the application is accurate and that there are no major concerns with the property (and the inspection is completed within the two-week application window). To renew the license, the renewal process simply involves payment of the registration fee if there are no code violations or changes to the original application details.

---Accuracy of Information within the STR Registration Application. The regulations clearly state that incorrect information that is submitted as part of the application or code enforcement process may result in fines, STR Registration denial or revocation, and other penalties. Information provided within

the application must conform with records applicable to the property and the applicant (such as the County Assessor's records, tax records, etc.)

--Zoning. The municipality designates which zones are allowed for STRs and clearly defines STR registration zones on an interactive map. Reasonable zone allowance supports code compliance (and eliminates the opportunity for unlawful operators). If there are STRs already hosting within a zone that is prohibited from STR registration, it may be difficult to prohibit the unlawful short-term rental of a home. **The goal is code compliance.** If a property is located within an **HOA** community, the registrant must provide a letter from the HOA or a copy of the CC&Rs with highlighted sections that show allowance of STRs within the community. The City is not responsible for enforcement of HOA CC&Rs, but homeowners/homes within the HOA prohibiting STRs will be restricted from STR registration and operation of an STR. **An STR registration from the City does not supersede any private agreements.**

--Multi-Unit Dwellings. Unless mapped for individual ownership, multi-family dwelling units shall not be utilized as STRs. Within multi-unit dwellings or mixed-use development structures within allowable zones, the number of allowable short-term rental registrations is limited to 1 unit or 25 percent of the total number of units within the structure, whichever is greater. Registration applications are evaluated on a first-come basis (unless there are existing licensed STR-approved units with no code violations which would receive first priority).

--Multiple dwelling units within a single residential parcel. For properties with multiple units on a single residential parcel (and where the individual units on a parcel are allowed), registration will be evaluated on a case-by-case basis. If multiple units are allowed for STR registration, each unit will need a separate registration permit application and, if approved, a separate registration number, separate listing address, and separate payment of fees and tax remittance. There is a limit of four (4) potential individual units per residential parcel. Each unit, including Accessory Dwelling Units, must be permanent structures.

--Allowable STRs. Mobile homes, RVs, trailers, tents, vehicles, and other non-permanent structures may not operate as STRs.

--Affordable Housing Concerns. The registrant must verify that the STR property does not receive affordable housing incentives and is not located in any subsidized housing, public housing, or any other unit subject to income restrictions.

--Timeshare units or commercial lodging properties. Timeshare units, fractional/shared ownership agreements, condohotels, resort suites, hostels, apartment complexes, bartered or "shared" lodging, corporate housing, hotel rooms, or other forms of lodging should not be listed on STR hosting platforms, OTA's, or advertised for short-term stays outside of the company's primary form of business licensure unless the host company receives an STR registration permit or another form of license for each unit from the municipality. (Many municipalities are preventing unlicensed operators from getting around STR regulations by prohibiting timeshare, shared ownership, barter agreements, corporate stays, and even hotels from listing advertising on STR platforms for short-term rental stays rather than timeshare or hotel stays. This is also another of the 'no rules' platform's creativity. It is a trend/scheme that needs to be addressed).

--Homeowner Responsibility and Applicant Qualification. The **homeowner of legal record** (which would apply to an individual homeowner, or the authorized/designated principal owner within any form

of joint ownership or business entity) is the allowable applicant for an STR registration. If the owner does not reside within a reasonable distance of the STR, the owner applicant would need to designate a **local contact** in addition to the owner's contact information (otherwise, the owner applicant may be designated as the local contact). Within code enforcement, it should be clear that the owner of record is the responsible party for compliance with STR regulations for their business. **The designated local contact person is responsible for responding to complaints, noise alerts, and disturbances twenty-four (24) hours a day.** The applicant must be at least 18 years of age. The individual (or business entity the owner applicant represents) must have legal authorization to do business within the State. A change of ownership of a registered STR requires a new registration in the name of the new owner (the registration of the previous registration is void within thirty (30) days of the change in property ownership). **If an STR registration has been revoked by the municipality,** the property will not be allowed for registration approval for at least two (2) years. Furthermore, the registrant may not be granted an STR for another STR registration within the City for at least two (2) years.

--Definition of STR. Due to the differences between the short-term rental and long-term rental of a home (or rooms within an owner-occupied home), short-term rental (STR) **definitions are usually based upon the current definitions within tax code or transient occupancy code for a particular location.** With Airbnb announcing plans to list “longer-term stays” on their platform, it is important for municipalities to better protect neighborhoods from disruption and predatory guests from over-staying their reservations, using LTR protections. The standard definition has “a permanent residential dwelling unit or any portion of such dwelling unit rented for occupancy for less than thirty-one (31) consecutive days regardless of whether a permanent resident is also present during the period of occupancy.” (Since a reservation for a short-term stay may not start on the first day of a month and the laws regarding host/guest reserved stays are significantly different from landlord/tenant laws, concerns about calendars and “month-to-month rentals” do not apply in the same manner to short-term stays as they do within other real estate or property management transactions/contracts).

Now, we strongly recommend that the definition of short-term rental be increased to ninety (90) days. Transient room tax regulations may need to be updated to match the longer stay definition. Some municipalities impose a minimum-day stay requirement for STR reservations (Two-three days for a minimum stay is acceptable in most municipalities. There are some, however, that may not want to set a minimum stay requirement).

--Terminology. Some municipalities refer to short-term stays for guests within a homelike setting as ‘short-term rental.’ Other terms may be ‘vacation home rental’ or ‘vacation rental,’ short-term vacation rental, transient lodging rental, flexible furnished housing, homestay rentals, and homeshare (a different category of STR). Now a platform has added “longer-term stay.” And some terms differentiate the type of short-term rental the host wishes to offer, such as homeshare rental, ADU, multi-unit rental, or whole home rental. Most are abbreviated to acronyms (such as STR, STVR, VR). The types of rentals allowed (or not allowed) should be defined and consistently used.

--Occupancy. Occupancy is usually determined by square footage (total square footage for the private or shared use of guests), by the number of bedrooms, by the bed capacity, and fire safety/egress concerns. A standard formula for **nighttime occupancy limits for single-unit properties under 6000 square feet** allows for four (4) persons for the first bedroom plus two (2) persons allowed for each additional bedroom. This usually refers to adults and minors; however, some municipal code will exclude minors under twelve (12) years of age or seventeen (17) years of age from the occupancy totals

as long as the total number of individuals does not exceed building or fire code limitations. **Nighttime occupancy limits for properties 6000 square feet and more** may allow for four (4) persons for the first bedroom plus three (3) persons for each additional bedroom. Again, this may include or exclude minors, within the building or fire code limits. **Nighttime occupancy limits for Casitas / Guest Houses** located within the same parcel as the main property would be two (2) persons for a studio unit or four (4) persons for the first bedroom, plus two (2) persons for each additional bedroom (again including or excluding minors within the building or fire code limitations). Maximum daytime occupancy (between 9 am and 8 pm) will be fifty percent higher than the allowable nighttime occupancy levels described above. **The number of bedrooms in a property allowed within the STR must be the same as listed within County Assessor records.** Other than crib units for children under the age of five years, **the use of temporary beds, cots, or inflatable beds is prohibited.**

--**Reservation limits.** Only one short-term rental reservation or booking stay is allowed per registered unit or property at any given time.

--**Allowable Use within the STR.** A registered STR may only be used for overnight accommodations and shall not be used for a cultural event, special or sales event, party, wedding, wedding reception, bachelor or bachelorette party or other similar events.

--**Registration Permit Number.** The registration permit number shall be listed within the property description on any form of advertisement for the STR, and posted inside the property in a conspicuous location.

--**Neighbor Notification of STR Registration.** The STR registration local contact must notify all property residents located within a 200-foot radius of the STR parcel within ten (10) days of registration approval. Information shall be mailed to each address and to each owner of the property as listed with the County Assessor's office and to the municipality's registered homeowner associations within the 200-foot radius. Proof of mailing and a copy of the information sent to residents and homeowners associations shall be provided to the municipality within ten (10) days of mailing. Where applicable (such as multi-unit structures), emailing of notices may be allowed.

--**Education.** Hosts and managers who understand the laws and the benefits of best practices for this industry are more likely to run code-compliant and community-friendly STRs. Prior to application submittal, STR registration applicants will complete a 2-day STR training program using a certification exam (or the online version of such course) that is offered through an accredited higher education institution and that has been approved by the municipality. This program should teach about the need to follow regulations and how to apply industry best practices, including how to screen guests, how to minimize STR impact on a neighborhood, and how to properly manage an STR business. The course certificate documents will be required within the STR application and may be confirmed through the accredited higher education institution. Such a course is currently offered through The College of Southern Nevada (CSN) as an e-course and through CSN and other colleges and universities as a 2-day live course. The applicant and the designated local contact, if applicable, should be required to complete the course. Since the Real Estate Divisions have approved this course for Property Management CE, **it is reasonable to require all owners and local contacts to complete the City's approved course.** If the registered local contact changes after issuance of registration, the new registered local contact must complete and submit proof of course completion within ten (10) days of notice to the municipality of the change.

--Safety Requirements. Minimum safety requirements include proper postings and **the installation and maintenance of a fire safety equipment**, including a functional smoke alarm in each bedroom, a functional carbon monoxide detector on each floor of the registered property, and one functional fire extinguisher available per floor (for example, two fire extinguishers in a two-story home, one available on each floor level and a functional extinguisher will have a current service tag by the State Fire Marshall). There will be a **posting placed inside the home near the primary entry of the home** (or a city-approved conspicuous location within the home) that will contain an **evacuation map** with the location of fire extinguishers; the **maximum number of occupants** permitted per the registration for nighttime and daytime hours; the **emergency contact numbers** for the owner or local contact; emergency numbers for local fire and law enforcement agencies; **house rules; quiet time hours;** the STR **registration permit number**, issue date and expiration date of the STR registration. **The street number on the exterior of the home must be illuminated and visible from the street.**

--24/7 Security Response. Considering the unique tourism environment or market mix within some areas, registrants may be required to retain access to the services of a licensed private investigations firm available twenty-four hours a day, seven days a week (24/7) to respond to disturbances on behalf of the owner, as needed. This allows for registrants to have a back-up system/agent for responding to concerns who will work well with the owner, along with coordination, when applicable, with code enforcement and law enforcement efforts. The STR owner, local contact, or guest is not expected to act as a peace officer and shall not place himself, herself, or others in harm's way in order to address a complaint, violence, or disturbance.

--Complaint Response. **The designated local contact person is responsible for responding to complaints, noise alerts, and disturbances twenty-four (24) hours a day.** In the case of a disturbance, complaint, or noise alert at an STR, the designated contact is required to address the issue within sixty (60) minutes or less. Whenever a disturbance or complaint occurs, the registrant/owner will submit a detailed report within ten (10) days of the incident describing the concern and the response to the designated City official (i.e. business licensing or code enforcement).

-- Noise Prevention Plan. Each registrant completes a Noise Prevention Plan which is submitted as part of the application process. This plan includes the installation and use of at least one (1) decibel monitoring device that alerts the homeowner of potential noise-related concerns and that is functional during the entire guest stay. The plan also includes procedures to prevent noise from disturbing the neighborhood, such as host/guest communication and postings, owner/local contact response, and record retention/reporting. The owner may be required to install multiple devices for indoor or outdoor locations, depending upon the STR size, type, or other variables. Lack of appropriate response to noise concerns may result in code violation fines and may be used within STR registration revocation proceedings.

--Exterior Signs. Exterior signs identifying the property as a short-term rental are prohibited.

--House Rules. Registration applicants must submit House Rules that owners require guests to agree to abide by during their reserved stay at the STR. These rules should include references/links to applicable local laws (such as the STR regulations, Nuisance/Noise/Quiet Hours Ordinances, Public Disturbance/Indecency Ordinances, Odor Ordinances, Traffic Ordinances, Fire Code, and any other ordinances or information that the City may require for guest notification). Compliance with the referenced STR regulations should be specifically noted as a line item within house rules.

--STR Good Neighbor Policy. The STR owner will ensure that the Good Neighbor Policy developed by the municipality is available to all guests. This pamphlet describes the expectations for good guest behavior within the municipality.

--Insurance. The applicant must supply a certificate of insurance with \$500,000 minimum liability coverage, specifying the property will be used for short-term rental. This insurance coverage shall be maintained during the registration period. The applicant must further agree to indemnify and defend the City against any third-party claims.

--Parking and Traffic. An STR shall not generate more traffic or different types of vehicle traffic than a home occupied by a permanent resident.

--Trash Removal. The registrant shall include a trash management plan in the STR registration application and communicate trash policies to guests. The plan will identify the procedures to ensure that guest trash is collected, stored, and disposed of in a proper manner. Trash will be removed from the property or trash will be contained within closed receptacles that will be stored off of the street and public walkways between trash services collection days.

--Notarized Confirmation of Code Compliance. The STR registration process includes a requirement to complete a checklist confirming that the above-listed requirements have been completed and certifying that the property is fully compliant with all applicable laws (which may be listed among the checklist boxes the applicant must check) and that the applicant has no delinquent room tax liabilities or liens regarding the property. The completed checklist must be notarized and submitted as part of the STR registration application. If any boxes on the checklist are not completed or the form is not properly signed and notarized, the registration application is denied. Any code compliance violations relating to incorrect information within the owner's registration application or non-compliance with applicable laws may result in fines, STR registration revocation, and other penalties.

--Transient Room Taxes. STRs are considered "transient lodging." Registrants must collect applicable transient rooms taxes from guests and remit the taxes according to the applicable tax code and schedule. STR registrants cannot be required by a reservation hosting platform or a contractor to remit the taxes on the registrant's behalf. The registrant is responsible for tax collection and remittance.

--Code Enforcement. Fair and consistent enforcement of STR regulations is critical to achieving code compliance. Successful STR code includes the definition of regulations; definitions of code violations; consequences for code violation; review or dispute terms and procedures; fines; the ability to impose and collect fines in an expeditious manner; determination of registration denial or revocation; inspections; consequences for registration revocation to the property and the owner; and other details. Research into applicable related laws and regulations is an important consideration to avoid loopholes and challenges within code enforcement.

The Goal

Statistics and trends show that short-term rental of lodging within a home-like setting is the fastest-growing lodging segment and will continue to increase in demand. In areas where there are no regulations and in areas where the regulations are extremely prohibitive, unlawful STR listings grow at a more rapid rate than in areas where there are reasonable regulations in place. There are new waves of STR growth being developed that communities may want to prevent. Passage of reasonable regulations, educating hosts/managers about laws and best practices as well as educating the community about the

availability of licensed STRs, collection of appropriate fees and taxes, consistent code enforcement, and having sufficient licensed operators who fill the demand for STRs are the best methods of stabilizing the community during this societal change in how people travel and book lodging. Education and enforcement are vital elements within sound, proactive STR governance that will promote code compliance.

If you have questions about these recommendations, please contact Julie Davies at (702) 755-6881.