Airbnb

AND THE SHARING ECONOMY PUBLIC POLICY REPORT

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01 Introduction

Airbnb

Methodology and Organization

Introduction

In recent years, several new and innovative companies—Airbnb, Uber, and Lyft, for example—have brought into play a new kind of business model. The digital sharing economy is a business model with a socio-economic concept that includes the shared creation, production, distribution, trade and consumption of goods and services by different people and organizations (Matofska, n.d.). Today, there are millions of people around the world that use these online platforms to exchange information and utilize services offered by these startup companies. Airbnb provides an interchangeable online marketplace for people to list and book housing accommodations all over the world. Uber and Lyft provide an interchangeable online platform for people to connect and request for a taxi, private car service, or rideshare from a mobile phone.

Many of these startup companies have contributed positively and successfully to our economy by creating jobs and additional income for people around the world (Singer, 2014). However, as these companies flourish in size and revenue, concerns regarding their negative impacts upon local businesses and communities have arisen. One such concern relates to the impacts that Airbnb is having on the affordable housing market and the hotel industry (New York State Office of Attorney General, 2014). Housing advocates are worried that Airbnb, by making it possible for property owners to remove residential units from the housing market, is contributing to the already substantial affordable housing crisis in metropolitan areas such as New York, San Francisco, and Portland.

My senior project researches Airbnb and its potential impacts on communities and cities. Along with providing background information on the debates around Airbnb taking place in popular and academic literature, I use two case studies on public policy and regulations specific to short-term rentals (San Francisco, California and Portland, Oregon) to illustrate the concerns and responses to Airbnb. Finally, I provide recommendations and suggestions for public policy addressing the sharing economy and Airbnb.

Methodology & Organization

A variety of sources were used to complete this senior project, as follows:

- Chapter 2—Background. Information used to develop Chapter 2 includes newspaper articles, popular publications, and blogs. Because they are still a relatively new phenomenon, relatively few objective analyses of the benefits and negative impacts of Airbnbs have been produced. The benefits of Airbnbs are touted by the Airbnb policy blog, and the negative impacts are primarily claims that remain anecdotal and unsubstantiated made by local governments and communities. The background section is meant to reflect the multiple sides of the debate on Airbnbs. Two sources of note include:

  - Airbnb's Public Policy blog. Due to the fact that the sharing economy is new, there is relatively little academic scholarship on the impacts of Airbnb.
  - The New York State Attorney General Office's Airbnb in the City report provides quantitative data on how Airbnb is being utilized in New York City and informs the on-going debate about how Airbnb is disrupting and worsening housing problems (New York State Office of Attorney General, 2014). The report is based on data,provided by Airbnb. of transactions that took place in New York during January 1, 2010 to June 2, 2014.

- Chapter 3—San Francisco Case Study. For this case study, I used information from newspaper articles (San Francisco Chronicle), blogs, and government documents (The City of San Francisco Housing Element (2009), City Commissioner David Chiu's policy documents on Airbnb (2014), and City of San Francisco Planning Department staff reports (2014)) on the current debate and development of regulations for short-term rentals in San Francisco). The San Francisco Chronicle article, "Window into Airbnb's Hidden Impact on S.F." by Carolyn Said (2014) was the primary source of information for information on Airbnb rentals in San Francisco. The data in this article was commissioned by the Chronicle and produced by a web extraction firm, Connotate.

- Chapter 4—Portland Case Study. For this case study, I used information from newspaper articles, publications, blogs and government documents (U.S Census Bureau (2013), City of Portland adopted ordinance on short-term rentals (2014), and Bureau of Planning & Sustainability presentation from the public hearing during which the ordinance was adopted (2014)). The adopted Regulatory Improvement Code Amendment Package 6 (RICAP 6) and Bureau of Planning & Sustainability presentation from the July 4, 2014 public hearing were the primary resources that were used to develop the Portland Case Study.

- Chapter 5—Recommendations. Recommendations were developed based on information provided in Chapters 2 through 5 and from the research paper, Like Uber, But for local Government Policy: The Future of Local Regulation of the "Sharing Economy", by Daniel E. Rauch and David Schleicher (2015), from the George Mason University Law and Economics Research Paper Series. In the document it is explained that tools of agglomeration economics and public choice were applied to develop their recommendations for local government policy regarding the sharing economy.

02 Background

History of Airbnb
Airbnb Today
Benifits of Airbnb
Negative Impacts of Airbnb
Regulating Airbnb
Conclusion

Nathan Blecharczyk
CTO & Co-Founder

Brian Chesky
CEO & Co-Founder

Joe Gebbia
CPO & Co-Founder

Source: Airbnb

2011, founder and CEO of Airbnb, Brian Chesky, explained in an interview his vision, strategy, and growth of Airbnb (Shatterbox, 2011). "We connect people who have space to spare with those who are looking for a place to stay. Guests can build real connections with their hosts, gain access to distinctive spaces, and immerse themselves in the culture of their destinations" (Shatterbox, 2011). With launching this new social experiment, Airbnb further emphasizes the importance of social cohesion by connecting people around the world via Airbnb.

Benefits for Travelers/Guests

Guests get to choose the experience that they want depending on how much they are willing to pay a night. Airbnb offers a wide array of housing accommodations-from a single cozy room to a chic apartment to a charismatic loft to an island-at various prices, ranging from as low as $10 to more than $1000 in 34,000 cities and 190 countries around the world, which allows for endless possibilities (Airbnb, 2014). According to Airbnb (2014), hosts have welcomed more than 25 million travelers who wanted to experience cities not as tourists, but as locals. The majority of the listings cost less than the average rate per night at a hotel, which allows for more frequent travels and longer stays. This equates to people saving money.

At the click of a button, you can view numerous photographs of the living quarter uploaded by the host. As you can imagine, each room/apartment/house/loft has its own unique style resembling the homeowner's personal style. Guests enjoy and appreciate the cultural experience that they gain from staying in a unique living quarter while submerged in the city surrounded by locals and local businesses. Based on Airbnb's economic impact study, 76% of travelers want to explore a specific neighborhood, 89% want to "live like a local", and 76% of Airbnb properties are outside the main hotel districts (Airbnb, 2014).

On an average, Airbnb's guests stay longer. Airbnb guests are estimated to stay an average of 5 nights while a typical tourist is estimated to stay 2.8 nights (Airbnb, 2014). The flexibility that Airbnb offers is another reason offered for why tourists and frequent travelers choose Airbnb over traditional hotels.

Airbnb's website also offers a variety of helpful services and tools through their website and blog for its users. Unlike traditional hotels, Airbnb hosts have the ability to accommodate their guest/s with personal needs and desires, providing excellent customer service. Airbnb presents a resourceful messaging tool, which enables the host and guest(s) to privately exchange questions, concerns, and request for personal needs such as a fan, DVD player, extra pillows, restaurant recommendations, and other useful travel information. The website displays countless heartfelt testimonies of unforgettable Airbnb experiences from previous hosts and guests.

Benefits for Hosts

Airbnb has evolved into an outlet for homeowners and renters to earn extra income. Airbnb claims that 550,000 homes have been shared by hosts in cities all over the world and 82% share only the house in which they live (Airbnb, 2014). Many Airbnb hosts claim that through Airbnb, they are able

The Negative Impacts of Airbnb

While Airbnb continues to grow in size, revenue, and popularity, there are those who have expressed growing opposition to the sharing-economy business model, such as the hotel industry, housing advocates, local elected officials, and local residents (Cohen, 2014). When Airbnb first launched, people lauded the new and affordable way to travel, and newspapers, tech magazines, and business magazines were glorifying Airbnb's newly introduced sharing-economy business model. However, criticisms of the impacts of Airbnb quickly arose. Local communities began to claim that Airbnbs were causing neighborhoods to be unsafe, violating state laws, and eliminating scarce affordable housing supply off the market. Tensions between neighbors and Airbnb hosts started to escalate.

Criticism from the Hotel Industry

The explosive growth of Airbnb highlights the potential threat that the startup might pose for the traditional hotel industry (Carr, 2014). In January, Airbnb CEO Brian Chesky learned that Marriott International planned to add 30,000 rooms to its property portfolio in the coming year, and he confidently tweeted in response, "We will add that in the next 2 weeks" (Carr, 2014). This demonstrates how rapidly Airbnb is growing in comparison to the traditional hotel business. Not too far from now, Airbnb will surpass the InterContinental Hotels Group and Hilton Worldwide as the world's largest hotel chain (Carr, 2014).

Airbnb currently has more than half a million listings on their website from 192 countries. It is explained in the article, "What Hotel Operators Really Think of Airbnb" by Austin Carr (2014), that Airbnb is especially appealing to investors because of its low overhead. Because Airbnb exercises the sharing-economy business model, they don't have to worry about high turnover rates or franchise partnerships like hotels do.

Not all hoteliers see Airbnb as a threat. Marriott and Four Seasons chains said that Airbnb does not compete for the core market of accommodating high-end and business travellers (Economist, 2014). Although at the moment Airbnb is only nibbling at the hotel industry, a team at Boston University examined hotel revenues in Texas and found that in places where Airbnb has established a presence, it cut the revenues of budget hotels by 5% in the two years prior to December 2013. The study predicts that if Airbnbs continue to grow at the current rate, there will be a 10% cut in revenues of hotels by 2016 (Economist, 2014). It would be no surprise to see Airbnb catering to business travelers in the next couple of years as they plan to dominate the hotel industry.

Not only may much of the traditional hotel industry view Airbnb as a threat, but they are also enraged about how tax regulations are not being properly enforced.. Unlike hotels, in some places Airbnb does not have to pay transit/occupancy taxes for providing the same services as hotels do. On the other hand, in some places, Airbnb and city officials have came to an agreement that Airbnb must pay the appropriate transient and lodging taxes for the services provided by their hosts, like hotels do, in order to stay in business.

rental units nationwide (HUD, 2013). "The level of unmet demand varies regionally, with long waiting lists and extremely low vacancy rates in expensive markets such as New York City and San Francisco and high vacancy rates and more affordable housing in weaker markets such as Flint, Michigan and Youngstown, Ohio" (HUD, 2013). The national median rent is reaching $1,000 and more, which generally is not affordable to low-income (and even some moderate-income) renters (HUD, 2013).

The National Low Income Housing Coalition (NLIHC) (2014) found "for every 100 extremely low income renter households, there are just 31 affordable and available units" (p.4). It is extremely difficult challenge for all renters to find a decent and affordable home, but most difficult for extremely low and low-income households because they have the fewer options (NLIHC, 2014). A full-time worker who is getting paid at the federal minimum wage is not able to afford a two-bedroom rental home at HUD-estimated Fair Market Rent (FMR) while spending no more than 30% of income on housing costs (NLIHC, 2014). There is a substantial gap between the living wage and cost of living nationwide, which makes affordable rental housing out of reach for many low-income families and individuals.

According the U.S. Department of Housing and Urban Development (2013): 1) The nation's supply of affordable rental housing is shrinking, even as demand increases; 2) The demand for affordable rentals is expected to increase over the course of this decade, and 3) It is crucial to preserve and protect the existing supply of affordable rental housing and to construct more subsidized housing units. Airbnbs may be worsening this crisis. With the already scarce supply of affordable housing, Airbnb hosts are removing precious housing supply off the housing market and flipping dozens of apartments to rent them out to tourists, which ultimately decreases the amount of affordable apartments and houses left for those who need them (Rosario, 2014).

Sarah Desmond, the executive director of Housing Conservation Coordinators explained, "if you remove units that should have been rented to residential tenants and rent them to tourists, then you're decreasing the supply of affordable housing overall and therefore it increases the cost of residential units" (Rosario, 2014). A growing number of Airbnb studies are revealing data that prove Airbnbs are removing dwellings from the pool of available rental housing, citing multiple properties that are being leased to guests by single owners via Airbnb (Cohen, 2014). The rise of short-term rentals without regulations could reduce the number of units on the rental market, leading to evictions and cause rent hikes across the board (Cohen, 2014).

Although there is no hard data available on the average occupancy rate of Airbnb guests, it is likely that Airbnbs are removing housing units from availability. For instance, if the average occupancy rate of an "Airbnb unit" is 60 days per year, the housing unit may remain vacant, an "empty nester" unit (Cohen, 2014). While this housing unit could serve a home for a low-income family or individual, it will remain vacant and only occupied for a small segment of the year. Moreover, the Airbnb host may be making substantial income from the unit and not paying any hotel tax, making him/her more reluctant to list their housing unit as rental unit. In some occasions, landlords could evict or refuse to renew the leases of market rate tenants in favor of short-term guests (Cohen, 2014).

In the past couple of years, several housing coalitions, which are generally made up of concerned community activists, housing advocates, and elected officials, have been working towards informing

said they would find beer bottles in the street, people fighting on the sidewalks, and parking was clogged (Levine, 2014). A New York City official said that complaints about short-term rental services soared in the past year (Gartland, 2015). In 2014, the New York Mayor's Office of Special Enforcement received a total of 1,150 complaints about "illegal hotels" to the city's 311 hot line (Gartland, 2015).

In case of Silver Lake, California, residents were enraged at the numer of people staying in Airbnbs in their neighborhood, and they petitioned the Neighborhood Council's Urban Design & Preservation Advisory Committee to pass a resolution banning Airbnb rentals in Silver Lake (Broverman, 2013). Residents "despise" the fact that Airbnbs brings transients, traffic, create potential safety issues and could negatively impact surrounding property values in their neighborhoods (Broverman, 2013).

Regulating Airbnbs

There are a number of cities currently under pressure from local communities to examine and control the rise of short-term rentals, including Barcelona, Berlin, Amsterdam, Paris, New York, New Orleans, San Francisco, and Portland, (Airbnb, 2014). Depending on the jurisdiction, housing laws and regulations and taxes vary. Generally speaking, most housing laws and regulations regarding short-term rentals are unclear, outdated, or do not exist. As a result, legal tensions and conflict have been brewing between Airbnb, city authorities, housing advocates, and neighbors. These conflicts occur in the U.S. and internationally and have resulted in regulations that attempt to support the development of Airbnb, inhibit them, and/or address their negative consequences.

U.S. Examples of Regulation—Grand Rapids and New York City

In 2013, Grand Rapids, Michigan, city leaders suggested that Grand Rapids' homeowners of short-term rentals obtain a $2,000 license from the city to advertise via Airbnb and other short-term rental websites and to rent out their units (Bunte, 2013). Unsurprisingly, this resulted in commotion and distress for Airbnb hosts and homeowners in Grand Rapids. As a result of this controversy, Grand Rapids city officials began negotiating alternative methods of regulation for short-term rentals.

In August of 2014, city leaders approved regulations that permit short-term rental homeowners to advertise only one-room rentals via Airbnb and two adults maximum a room. According to a local Michigan news website, the article, *Airbnb Verdict in Grand Rapids: 1 Room and 2 Adults, With a Possible Exception by Matt Vande Bunte* (2013), the new regulation includes the following:

- Any residence being used as an Airbnb short-term rental must be owner-occupied
- Only one room can be rented
- No more than two adults may rent a room (children permitted)
- No more than 200 permits will be given out
- Neighbors within 300 feet would be notified when a property is permitted to rent a room

In New York, New York State Attorney General, Eric Schneiderman, commissioned and published a report to demonstrate the high number of illegal activities occurring via Airbnb and how the

As popular as Airbnbs are in Amsterdam, there were some, including the hotel industry,Amsterdam city authorities, and a local judge, who believed it is illegal to exploit their residence as a business. As tensions grew stronger between Airbnb hosts and the opposing parties, the City of Amsterdam felt pressure to address the issue of short-term rentals. To address the issue, the City revised their housing laws and regulations to allow for 'private vacation rentals' (AIrbnb, 2014).

In February 2014, Amsterdam became the first city to pass an "Airbnb-Friendly Law". According to Dutch Amsterdam (2014), the terms of the new law state the following:

- Hosts may rent out their homes up to two months a year, to up to four people at a time.
- A home-owner who wishes to make his home available as a vacation rental, must be registered as living at the address. The home may not be exploited as a business.
- The home-owner will be required to pay all applicable taxes, including income- and tourist tax.
- People who rent instead of own their homes may also rent out their residence, but only if they obtain permission from the landlord or housing corporation, and then only if their base rent is more than 699,48 euro a month.
- The homes must meet all fire- and safety rules.
- If renters act in ways that generate noise- or nuisance complaints from neighbors, authorities may prohibit the owners from further rentals.
- People who violate the rules may risk a fine, a bill for back-taxes, or the loss of their home.

On December 18, 2014, the City of Amsterdam and Airbnb came to agreement that a property rental service will be collecting tourist tax from hosts and remitting it to the city on their behalf. The agreement took effect on January 1, 2015 and Airbnb started to collect tourist tax from Airbnb hosts in February 2015. The agreement between the City of Amsterdam and Airbnb includes the following:

- to join forces in tackling illegal hotels,
- to jointly continue developing the service's Dutch-language help center that provides general information and links to rules that may affect people renting their homes in Amsterdam,
- that Airbnb will prominently display a summary of these rules on their website. Hosts will be re-quired to actively declare that they understand the rules and agree to comply with them before they can post their listings, and
- that the service will send email updates twice a year to remind local hosts of the rules and regulations in Amsterdam.

Conclusion

Room sharing/short term rental housing remains controversial in many cities and countries around the world. City governments are working towards new local housing laws and regulations to mitigate the potential of negative housing impacts and public safety issues that are occurring in their communities due to the abrupt rise of short-term rentals. Although these new housing laws and regulations cannot entirely satisfy everyone's needs and concerns, community leaders are working towards a

03 San Francisco, California Case Study

San Francisco Case Study

The diversity of people, architecture, food, and art are only some of the many unique attractions that bring people from all over the world to live in San Francisco. San Francisco has now surpassed New York City as the most expensive place to rent a one-bedroom apartment in the U.S. where the median rent for a one bedroom is $3,410 (O'Brien, 2015). A handful of San Franciscans are using Airbnbs to address the high cost of living. A data analysis, commissioned by The San Francisco Chronicle, found almost 5,000 San Francisco homes, apartments, and private or shared rooms are for rent via Airbnb (Said, 2014). With a tight rental market and scarce affordable housing supply, it is difficult to find a decent and affordable home for San Franciscans. This case study provides insight into San Francisco's housing market, the impacts Airbnbs have had on the city, and the regulatory response to those impacts.

San Francisco's Housing Market

In 2000, the US Census (2000) reported that the total population of San Francisco was 776,733. Since then, the total population has increased by 28,502 people, totaling 805,235 (U.S. Census, 2010). Currently, 13.5% of people who live in San Francisco have incomes that fall below the poverty level (Census, 2013). The 2010 Census also reported that 64.2% of households in San Francisco are renters, which is double the national average of 31% (City of San Francisco, 2009). The South Central district of San Francisco, one of the least expensive places in the City to live has the lowest median asking price for a rental ($1,725) for a two bedroom. This price is barely affordable for people with and income from 51%-80% of San Francisco's median income) (City of San Francisco, 2009, p. 36). Figure 3.1 shows the trend of increasing rent prices from 2000 to 2008 in San Francisco. As noted previously, the median asking price for a rental unit in the City is $3,410 per month (O'Brien, 2015). According to the U.S. Department of Housing and Urban Development (HUD), a household should not be spending more than 30% of their monthly income on housing related costs. This means that, hypothetically speaking, to afford the median asking price for a one-bedroom apartment in San Francisco, a renter would need to be making an estimated monthly income of $11,367 and an annual income of $136,400. The average median income in San Francisco is $75, 604 (see Table 3.1 for median incomes for different household types in San Francisco). For many long-term residents in San Francisco, housing is not affordable.

Income Category	RHNA 2007-2014	Production 2007-2008	Estimated Immediate Development Pipeline (to 2014) **			Con-structed plus Limited Pipeline Total	Estimated Shortfall (Surplus)	Acquisitions & Rehab (will not count towards RHNA)	
	No. of Units	No. of Units	Under Con-struc-tion	Entitled Projects	Other Pipeline			Acquisitions & Rehab 2007-2009	Estimated Acquisitions & Rehab (2010-2014)
Extremely Low (< 30% AMI)	3,294	396*	555 †	1,405 †	1,548 †	3,904	(610)	240	1,500
Very Low (31-49% AMI)	3,295	395*	556 †	1,406 †	1,548 †	3,905	(610)	239	1,500
Low (50-79% AMI)	5,535	309	149 †	0	27 †	485	5,050	108	500
Moderate (80-120% AMI)	6,754	569	833 ‡	573 ‡	1,193 ‡	3,168	3,586	5	0
Market (over 120% AMI)	12,315	4,349	4,723	3,250	6,759	19,081	(6,766)	0	0
TOTALS	**31,193**	**6,483**	**6,816**	**6,634**	**11,075**	**31,543**		**592**	**3,500**

* Units affordable to Extremely Low and Very Low Income Households do not include those units that have been acquired and/or rehabbed as permitted by Housing Element Law.

** This does not include major projects under Planning review including ParkMerced, Treasure Island, or Candlestick Point / Hunters Point Shipyard Phase II which are expected to be completed after the 2014 reporting period. The limited pipeline assumption include projects that are currently under construction, entitled projects (approved by Planning Department and Department of Building Inspection), and projects of 250 units or less currently under Planning Department review that are expected to be completed by 2014; also assumes SF Hope is completed by 2014.

† Based on affordable housing projects sponsored by the Mayor's Office of Housing, the SF Redevelopment Agency and the SF Housing Authority.

‡ Based on estimated inclusionary affordable housing units in projects under construction, entitled and under Planning or DBI review.

SOURCE: ABAG; SF Planning Department

Source: City of San Francisco

Table 3.2 - Housing Production and Estimated Annual Production, San Francisco, 2007-2014.

dents (Said, 2014). Of the 681 units, 389 were homes (Said, 2013). The online article includes an interactive Google Map with layers that are color coded representing the number of Airbnb rentals by neighborhood (see Figure 3.3 for a screen shot of the Google Map, with the "Number of Airbnb Rentals by Neighborhood"). The Google Map allows the user to click on the map to see neighborhood rentals and the average daily asking price for Airbnbs. The darker shade of green represents the average asking price for an Airbnb listing at $301 or greater per night. The lightest shade (yellow) represents the average asking price of $1-100 per night (Said, 2014). The darker green areas are mostly congested near the city center and the lighter green areas are farther away from the city center. The map also includes blue dots that provide the location of hotels in San Francisco (see Figure 3.4 for a screen shot of the Google Map with "Average Prices of Airbnbs"). As would be expected, Airbnbs' prices are higher in more expensive neighborhoods such as Russian Hill and North Beach and lower in less affluent neighborhoods such as the Sunset District and Parkside (Said, 2014).

Groups that oppose Airbnbs often claim that short-term rentals deteriorate the "residential character" of neighborhoods because of the high volume of strangers they bring. It was difficult for Connotate to definitively determine how often properties were being rented out or if they were available on the date the data was harvested (Said, 2014). Based on the number of reviews posted by past guests, Connotate estimated the frequency of use. About two-thirds of listings had 10 reviews and a quarter had 11 to 50 reviews. However, 307 listings had more than 50 reviews, implying heaving or constant visitor traffic (Said, 2014). Figure 3.5 shows the breakdown of Airbnbs reviews.

Figure 3.6 shows the breakdown of hosts with multiple properties. The majority of San Francisco's 3,785 hosts -3,272 or 86.4%- have a single listing, but the remaining 513 hosts control multiple properties. There are a total of 1,526 properties that is controlled by people with two or more listings (Said, 2014). Unlike New York City, the study did not find evidence of large-scale illegal hotels, however, the Chronicle speculated that some hosts with multiple listings could be treating some units as more-lucrative vacation rentals (Said, 2014).

The following are findings from the Chronicle's (2014) report:

- Airbnb had 4,798 properties listed in the city.
- Almost two-thirds -2,984- were houses or apartments. Of the remainder, 1,651 were private rooms and 163 were shared rooms.
- Dozens of shared spaces were in communal "hacker hostels" that offer crash space and "a place to make tech industry connections".
- About two-thirds of listings had fewer than 10 reviews, fitting Airbnb's portrayal of occasional use. A quarter had 11 to 50 reviews. Most properties have been on the site for only a couple of years, meaning that this group hosted up to twice a month.
- There is an estimated number of 3,785 hosts -3,272, or 86.4 percent- had a single listing.
- 307 listings-or 6.4 percent—have more than 50 reviews, implying heavy or constant visitor traffic.
- Entire homes or apartments averaged $226 per night, private rooms averaged $116 per night, and shared rooms averaged $80 per night. Houses typically ranged from $337 a night in Cow Hollow to $125 in Visitacion Valley. The priciest listing was $6,000 a night for a Pacific Heights mansion and the cheapest listing was a shared downtown living room for $18 a night.

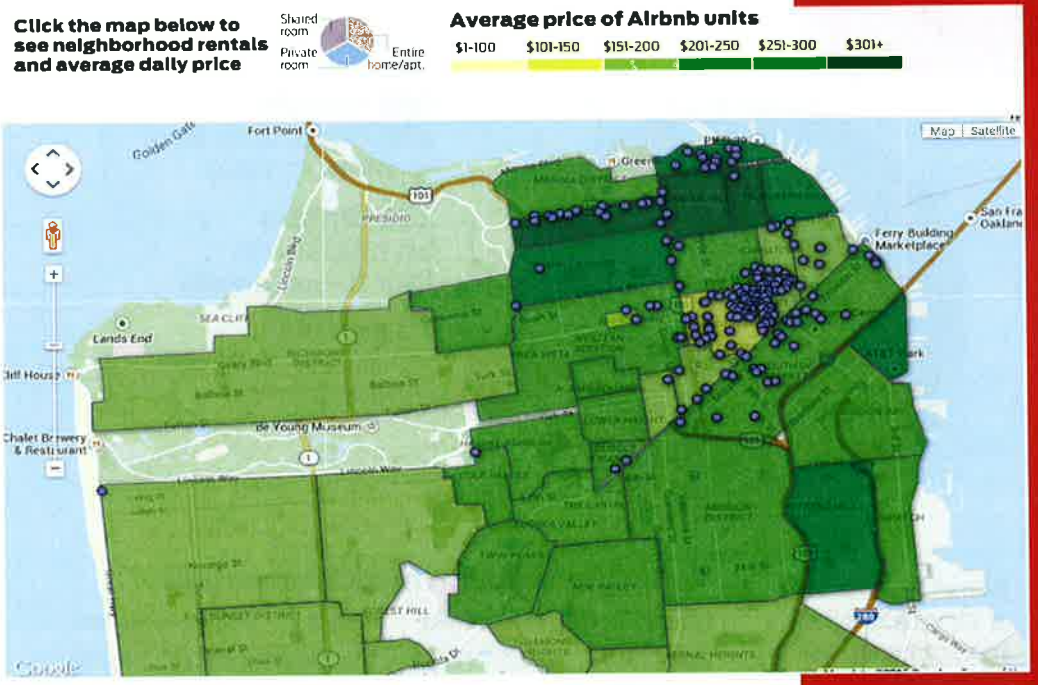


Figure 3.4 - Average Price of Airbnbs

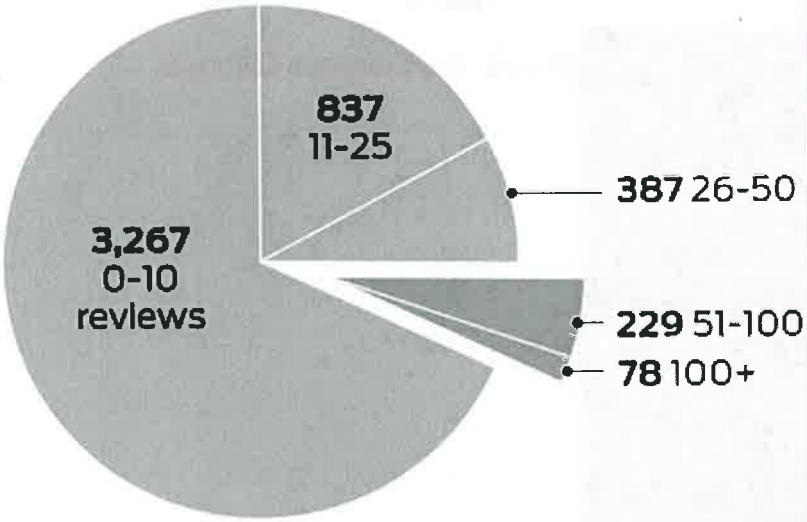


Figure 3.5 - Breakdown of Airbnb Reviews

Source: San Francisco Chronicle

Regulating Short-term Rentals in San Francisco

In July 2014, the City/County Board of Supervisors was one of the first cities in the U.S. to pass legislation legalizing and regulating short-term rentals. Before the new legislation passed, renting a residential unit for less than a 30-day term in San Francisco was prohibited (Jones, 2014).

Board of Supervisors President David Chiu was responsible for introducing the legislation. There are four major components of the legislation, according to Chiu: distinguishing unacceptable and reasonable short-term rentals, code compliance and enforcement, regulation of Airbnb and other rental platforms, and ensuring that taxes are paid on these rentals (Jones, 2014). In response to Chiu's introducing the legislation, Airbnb (2014) issued the following statement:

> "There are certainly provisions in this proposal that could be problematic to our hosting com munity, including a registration system that could make some of their personal information public, so there is much work to be done to ensure that we pass legislation that is progressive, fair, and good for San Francisco and our hosting community," Airbnb wrote. But this is an important first step, and its just the beginning of what promises to be a very long process during which the entire Board of Supervisors will look at this proposal, hear from all sides-including out community-and make decisions about how to proceed". (Jones, 2014, p.1)

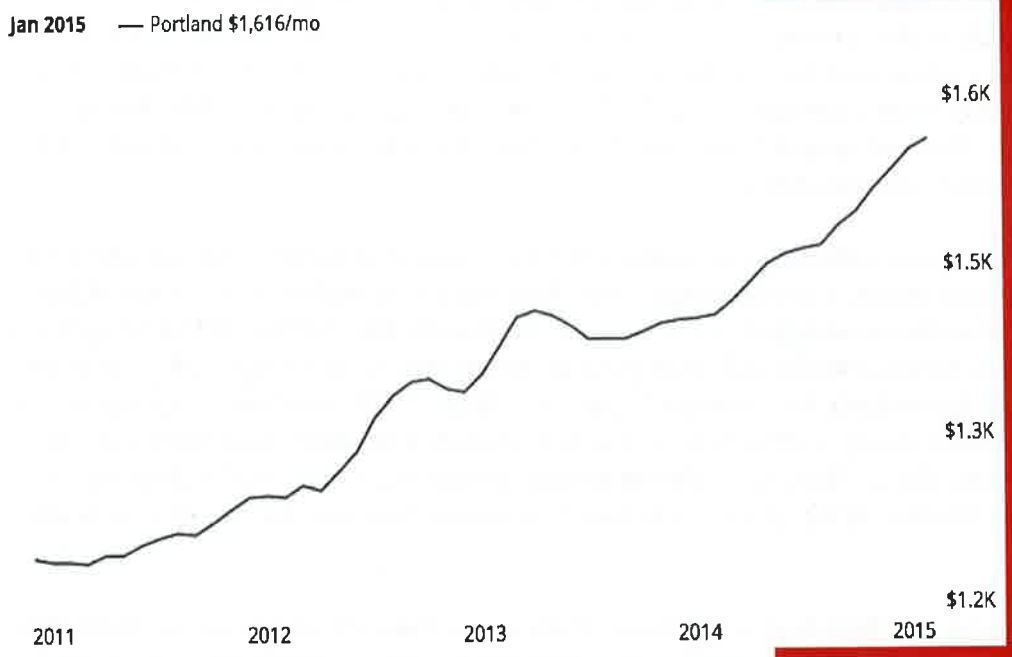
After months of heated debates, hearings, and lobbying, on October 7, 2014, the Board of Supervisors voted seven to four to legalize short-term rentals in the City and County of San Francisco. This meant that companies like Airbnb were now legal to operate in the City under new regulations and laws as stated in ORDINANCE NO. 218-14 (FILE NO. 140381) (Steinmetz, 2014). The City and County of San Francisco stated in Ordinance 218-14 that the purpose of this ordinance is to: 1) Permit and legalize short-term rentals by requiring rentals to be registered with the City, insured and in compliance with all city, state, and federal laws; 2 Require online travel agencies to verify the validity of housing unit registration prior to advertising the unit's availability: and 3) Require payment of Transient Occupancy Taxes (City of San Francisco, 2014).

The ordinance is divided into four sections. Section 1 of the ordinance describes the Board of Supervisors of the City and County of San Francisco's findings and determinations (General Plan and Planning Code Findings, Environmental Findings, and General Findings). Although all of the findings and determinations are equally important, for the purpose of the project, this case study will mainly focus on the General Findings section. Section 2 of the ordinance reviews the amendments made to the Administrative Code Sections 37.9(a), 41A4, 41A.5, and 41A.6. Section 3 of the ordinance reviews the amendments made to the Planning Code Sections 102.7, 102.13, 790.88, and 890.88. Section 4 of the ordinance covers other uncodified provisions, please see Appendix B for more details and information on Sections 2, 3, and 4 of the ordinance.

The General Findings section of Ordinance 218-14 states that the conversion of residential housing to short-term rentals continues to proliferate, which led the City to strengthen enforcement on short-term rental law and create a pathway to legalize this activity (City of San Francisco, 2014).

legalizing the rentals (Said, 2015). Also, in April 2012, Mayor Ed Lee assembled a team of city staff, neighborhood and community stake holders and sharing economy companies, the Sharing Economy Working Group, to work with sharing firms, including Airbnb, to address outdated and rigid regulations (Chang, 2014). Mayor Ed Lee announced that the first working group discussion will focus on how to better support parking and car sharing while policy makers discuss the appropriate level of taxation and regulation of short-term rentals (City of San Francisco, 2012).

04 Portland, Oregon Case Study



Source: Zillow

Figure 4.1 - Average Rent Prices, Portland, 2011 to 2015

	2013 ACS
Median Household Income	$52,657
Median Family Household Income	$68,036
Median Non-Family Household Income	$37,330

Source: U.S. Census

Table 4.1 - Median Income by Household Type, Portland, 2013

suggestions from the public, agencies and other interested stakeholders, help refine the proposal from the early draft in January 2014 through several subsequent drafts.

Video recordings of the hearings reveal discussions regarding the impacts of short-term rentals, as well as potential regulations. For instance, over a seven-week review and comment period preceding the January 6, 2014, hearing before the Planning and Sustainability Commission (PSC), City staff exchanged comments and concerns with the Design Commission, Historic Landmarks Commission, the Planning and Sustainability Commission, six neighborhood district coalitions, and two individual neighborhood associations (PSC, 2014). There were more than 1,000 notices sent to the public to participate in the discussion regarding short-term rentals and the outcome of this discussion was pronounced successful by the PSC. According to the staff presentation on January 6, 2014, the PSC spoke to over 350 people and received over 100 written comment (PSC, 2014). The following is a summary on what PSC heard from the public on January 6, 2014, divided into comments regarding the potential benefits and negative consequences of the proposed regulations and comments covering their negative impacts:

Benefits:

- Reduces the barriers of entry for the legal establishments of short-term rentals.
- Allows for efficient use of underutilized rooms.
- Allows flexibility similar to home occupations.
- Provides income to be able to stay in homes in time of job and income insecurity.
- Brings tourism dollars to neighborhood businesses.
- Provides an alternative form of lodging.

Potential Negative Consequences:

- Impacts neighborhood livability: noise, parking, traffic, privacy, security, housing affordability, and neighborhood stability.
- Increases outside activity in residential "enclaves."
- Economically benefits one household at the expense of the neighborhood

The PSC presentation started out with explaining the two different types of rentals that were allowed in Portland, at the time; long-term rentals that are for more than 30 days and short-term rentals that are for less than 30 days (PSC, slide 3). Followed by types of short-term rentals, the PSC reviewed the existing and current regulations. At the time, the City's current regulations allowed for hotels and motels to only operate in commercial zones and not residential zones, required hotels and motels to perform annual health inspections, and pay transient lodging taxes to the city (PSC, slide 4). The City also had regulations for bed and breakfast facilities, which are only allowed through a conditional use review process in residential zones, required annual health inspections for facilities with two or more guest rooms, and pay the transient lodging taxes to the city (PSC, slide 5). Although regulations and legality exist in Portland for bed and breakfast facilities, the conditional use permit process is extremely long and expensive. The Type II Conditional Use Review requires an administrative decision that can take 8 to 10 weeks to process while costing $4,130 (PSC, 2014). Under the city's bed and breakfast regulations, the operating facility is required to send public notices to property owners and recognized organizations within 150 feet of the facility (PSC, 2014). PSC reported that were only 24 Conditional Use Reviews on

short-term rental. Type A and Type B have many similar requirements, however, the most significant difference between Type A and Type B short-term rentals is the "process". Type A only requires an over-the-counter permit from the City and Type B requires a Conditional Use Review, which can take up to 8-10 weeks to process. For a more detailed summary of regulations for the two different types of accessory short-term rentals, please see Appendix C page 2.

Any resident in Portland that owned a home, attached house, duplex, manufactured home, or accessory dwelling unit with a city permit could legally operate short-term rentals for Airbnb users (The City of Portland, 2014). Hosts have to pay a $180 permit fee, get a home inspection every six years, pay lodgings taxes and live on-site at least 9 months out of the year (Law, 2014). To provide consumer protection, the City Council also requires that hosts post their permit at their home and in any advertising such as listings on Airbnb's website (Law 2014). During the June, 4, 2014 public hearing, Mayor Charlie Hales proposed an additional amendment that would allow short-term rentals in multi-dwelling structures, such as apartments and condos, if host got signed permission from their landlord or home association (Law, 2014). Mayor Charlie Hayes and City Council determined to address short-term rentals in multi-dwelling structures some time later in the year (City of Portland, 2014).

In efforts to address the concerns of residents, it is required for hosts to notify surrounding neighbors to ensure accountability, strengthen neighbor networks and ensure that neighbors know who the point-of-contact is (PSC, 2014). Many of those on the opposing side emphasized on the fact that short-term rentals were deteriorating "residential character" and generating too much noise and traffic. A copy of the neighbor notice sent out is required to be submitted at the processing time of application. City Council has also directed short-term rental hosts to display their permit number at the residence and in advertisements such as an Airbnb listing.

The ordinance also required Airbnbs register with the City of Portland Tax Revenue Bureau and submit appropriate transient lodging taxes. A week prior to adopting the short-term rental ordinance, City Council agreed to dedicate $500,000 from the new lodging tax proceeds for affordable housing in next year's budget (Law, 2014).

Lastly, the new regulations require that the short-term rentals only be allowed within a primary residence to ensure that the dwelling unit still provides housing to a long-term resident (PSC, 2014). The host must occupy the residence for 9 months out of the calendar year (PSC, 2014).

An unpredictable chain of events occurred after the ordinance for short-term rentals got approved on July 30, 2014. The City Council adopted an ordinance to amend the transient lodgings tax to add definitions and clarify duties for operators of short-term rental locations in an effort to boost compliance of short-term rentals (City of Portland, 2014). The new ordinance would call for booking agents like Airbnb to disclose hosts and the location of the short-term rental (Francis, 2015). According to the ordinance, "many hosts have not registered with the Bureau of Development Services and have not received the required code compliance review or paid the required permit fee" (City of Portland, 2015). Airbnb estimated that there were a total of 1,600 short-term rental listings in Portland and since the new regulations of short-term rentals took effect on August 30, 2014, only 50 people have applied for permits and only 24 people have been issued permits (Law, 2014). This means that less than 10%

purchase a city permit for $180 (PSC, 2014). During the June 4, 2014 public hearing, Commissioner Amanda Fritz drew attention to the permit fee amount of $180 stating that she was seeking a way to reduce the permit fee down to $159 (The City of Portland, 2014). She also shared to the Council and public that there is a general concern about the requirement of an "expensive building inspection" for every two years while proposing an amendment for discussion on the subject (The City of Portland, 2014). In response to Commissioner Fritz's concern about the building inspection, PSC responded by explaining that there are two kinds of expectations, one type of inspection is less extensive than the other and that PSC's concern in relation to the building inspections would be making sure that homes had adequate life saving mechanisms like smoke and carbon monoxide detectors. In addition, the Council discussed adjusting the number of years in between inspections from 2 every two years to maybe every 5 or 10 years. The City Council decided that it be appropriate to conduct an inspection of the bedroom(s) of "basic safety measures" during the initial application and every 6 years thereafter, or with a change in ownership by the Bureau of Development Services (PSC, 2014).

In the discussions, articles, public hearings regarding short-term rentals in Portland, there was little to no discussion on the topic of potential impacts to the affordable housing supply. In Portland, concerns regarding affordable housing were not as prominent an issue as in the discussion of regulations for short-term rentals and shared economy in other cities. As noted previously, a week prior to adopting the short-term rental ordinance, the City Council agreed to dedicate $500,000 from the new lodging tax proceeds for affordable housing in next year's budget (Law, 2014). Despite this, Commissioner Steve Novik explained to the Oregonian that he cautiously voted aye and still felt nervous about legalizing short-term rentals because he is concerned that Airbnb and similar operations will cut into the city's supply of affordable housing (Law, 2014).

Two of the commissioners resisted against the additional amendment, proposed by Mayor Hales, that would allow for short-term rentals in multi-dwelling units, if hosts got signed permission from their landlord or homeowner association (Law, 2014). In the letter that was written to the Mayor and City Council from the PSC, dated May 13, 2014, PSC expressed their concern for the potential of unintended consequences and impacts that short-term rentals could have on Portland's affordable housing problem (PSC, 2014). By allowing short-term rentals in residences, the price of home ownership and rental housing could increase overall (Law, 2014). And although the PSC state that "there are relatively few short-term rentals compared to the entire housing stock", the additional amendment for allowing short-term rentals in multi-dwelling units such as apartments and condominiums are very likely to increase the number of short-term rentals while driving the number of affordable housing supply down. Commissioner Dan Saltzman, who oversees the housing bureau, said, "There's a clear nexus between this shared economy and displacing (long-term) renters" (Njus, 2014). Even with the acknowledgement that short-term rentals could displace and further gentrify long-term renters of Portland, the City of Portland sees affordable housing as a peripheral issue.

In defense, Mayor Hales said, "We're trying to legalize what's already going on, in a way that's sensible" (Law, 2014). This quote suggests that the City of Portland's priority may be to merely legalize the illegal activity that is occurring, rather than addressing outdated regulations for the new and upcoming sharing economy also known as the "peer-to-peer" business model.

Housing activists and concerned residents await the decision of Mayor Charlie Hales and City

05 Recommendations

Regulating the Sharing Economy from an Economic Perspective

Regulating the Sharing Economy from a Planning Perspective

There are local, state, and federal laws for conventional businesses; however, Airbnb is not a conventional business. Because the sharing economy is a relatively new kind of business model, most government regulations are outdated and do not address this new and evolving kind of industry. With no regulations, comes the opportunity for misconduct. In the case of New York City, each of the top twelve Airbnb operators earned revenue exceeding $1 million without paying proper taxes and by breaking the existing short-term rental housing law (New York State Attorney General, 2014).

The City of Portland Bureau of Planning & Sustainability (2014) explains in regards to housing impacts, "Basic economics tells us that increase the value of a commodity, while supply remains the same, will drive prices up" (p. 3). It is not the company itself, but the lucrative business model that makes it possible to produce a large demand for the precious commodity, whether it is a short-term rental or car service. In general, sharing firms either (1) own goods or services that they rent out to customers on a short-term basis or (2) create a peer-to-peer platform connecting providers and users for short-term exchange of goods or services (Rauch & Schleicher, 2015).

The research paper, Like Uber, But for local Government Policy: The Future of Local Regulation of the "Sharing Economy", by Daniel E. Rauch and David Schleicher (2015), from the George Mason University Law and Economics Research Paper Series, applied tools of agglomeration economics and public choice to sketch the future of such policy regimes (Rauch & Schleicher, 2015). According to the Rauch and Schleicher (2015),

> "Local and state governments will adopt some combination of the following policies in addition to insisting on consumer/incumbent protections: (1) subsidizing sharing firms to encour age expansion of services that produce public goods, generate substantial consumer surplus and/or minimize the need to excessive regulation of the property market; (2) harnessing sharing firms as a tool for redistribution and/or (3) contracting with sharing firms to provide traditional government services" (p. 1).

According to Rauch and Schleicher (2015), "both cities and sharing firms are going to have to rethink their approach to local regulations" (p.60). City governments should reevaluate what they want from these firms, as there are both political and financial limits to the costs they can impose (Rauch & Schleicher, 2015). The authors suggest that city officials carefully consider whether today's priorities provide the biggest policy or political benefits they can achieve (Rauch & Schleicher, 2015).

Sharing firms as well need to become less oppositional to local governments and seek rents and contracts through lobbying and bidding rather than engaging exclusively in defense against local regulation (Rauch & Schleicher, 2015). Airbnb CEO Brian Chesky has recently claimed that "We're not against regulation, we want fair regulation" (Kessler, 2014, para. 27). Rauch and Schleicher (2015) said, "Cities have long had both the political incentives and the legal powers to closely regulate activity in these sectors to ensure local market depth and efficient matching and to minimize their effect on the urban congestion" (p. 3).

One of the principle rationales for economic regulations is to protect consumer welfare (Koopman, Mitchell, & Thierer, 2014). City governments have two options; the first option is to allow the sharing economy and leave it alone and the second option is to shut down the sharing economy. And

In order to control the rapid increase of short-term rentals, I recommend that only primary residences be allowed for short-term rentals. This will restrict those who remove housing units off the market to operate multiple properties as short-term rentals. The following restrictions also limit impacts on the housing supply:

- Placing a limit on the number of days a host can operate. This still provides a resident the opportunity to rent out his/her short-term rental for supplemental income.
- Requiring that the host be physically present in the residence, at the minimum, for the remaining number of days in the year. The limit on the number of days a host can operate a year defines what is acceptable and what is not acceptable. This ensures that the type of use does not change and remains as short-term rental, which would comply with the intentions of residential zoning.

By requiring hosts to occupy the residence for the majority of time and setting a limit on the number of days a host can operate, it specifically targets those who remove entire housing units off the market to operate multiple units as short-term rentals. San Francisco and Portland both have the same limit on the number of days a host can operate short-term rentals in a year, as well as the same minimum requirement for hosts to occupy their residence: 1) A limit of 90 rental days (3 months); and 2) Presence for a minimum of 275 days (9 months).

In order to address the concerns of "residential character" deteriorating, public safety, noise, and traffic, I recommend that city planning departments administer and manage a city registry of hosts and their short-term rental units and issue city permits for short-term rentals. The information provided in the city registry should be kept private and restricted to only city staff. The city registry would serve as a tool to regulate compliance with planning and building codes. The city permit for short-term rentals would require the host provide liability insurance. . Noise and traffic complaints should be formally filed with cities, and cities should act upon these complaints if the problem continues to occur. Permits should be revoked in the extreme case, when the problem continues.

To address the large substantial revenue cities are losing from uncollected lodging taxes, I recommend that cities update existing ordinances related to lodging taxes. If short-term rentals are providing services similar to hotels, Airbnb users should pay some form of transient occupancy taxes. I suggest that Airbnb and similar sites be made responsible to collect the lodging tax directly from its users and then pay the collected taxes to the appropriate city department.

To accurately assess the impacts of Airbnb on local communities and the efficacy of new regulations, there needs to be additional research. In the short time since regulations have passed in San Francisco and Portland, these cities have not received a high volume of short-term rental permit applications and lodging taxes collected, as anticipated with new laws and regulations. It is likely that cities will need to proactively enforce regulations, which can be a costly process In the meantime, city governments should work together with sharing economy firms and the communities they affect to craft regulations that address the impacts on individual incomes, government revenues, affordable housing supply, and impacts to residential neighborhoods. Through collaboration between the interested and affected parties, it may be possible to avoid confrontation and make the best of this new business model.

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Appendix A City and County of San Francisco Ordinance Regulating Illegal Use of Housing for Tourist Accommodations – Filed on May 12, 2014. Ordinance No. 218-14 (File no. 140381) – Adopted on October 7, 2014.

City and County of San Francisco Ordinance Regulating Illegal Use of Housing for Tourist Accommodations

Preamble:

At a time when San Francisco faces its most severe housing shortage in more than 100 years, an increasing number of apartments, condominiums, houses, and portions thereof are offered and advertised as short-term rentals on websites, such as AirBNB and VRBO. In recent months, the number of such listings has exceeded 9,000. These listings contribute greatly to the disappearance of affordable housing in the City and County of San Francisco. To date, not a single online travel agency that advertises short-term residential rentals to tourists has paid the established Transient Occupancy Tax levied on hotels, despite a determination by the City in 2012 that they are liable for the tax. This ordinance is intended to stop the proliferation of short-term rentals through online travel agencies by requiring the registration prior to listing with an online travel agency; the verification of registration by the agencies prior to accepting listings; and allowing citizens to enforce the requirements of this ordinance through a complaint process.

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Be it ordained by the People of the City and County of San Francisco:

SEC. 41B.1 TITLE

This chapter shall be known as Neighborhood Preservation and Public Revenue Recovery Ordinance.

SEC. 41B.2 PURPOSE

It is the purpose of this ordinance to benefit the general public by requiring short-term rentals to be registered, insured and in compliance with all city, state and federal laws; requiring online travel agencies to verify the validity of housing unit registration prior to advertising the unit's availability; affirming the City's determination that such rentals are subject to the Transient Occupancy Tax, as set forth in Article 7 of the San Francisco Business and Tax Regulations Code; and through establishing appropriate administrative and judicial remedies, such that citizens may file a complaint alleging violation of this Chapter.

SEC. 41B.3. FINDINGS.

The people of the City and County of San Francisco (the "City") find that:

(a) It is estimated that the short-term rental market in San Francisco costs the City millions of dollars annually in lost transient occupancy tax revenue.

(b) By removing residential units from the housing market, short-term rentals contribute greatly to the lack of affordable housing in the City.

housing operated by a medical or educational institution when not located on the same lot as such institution.

(g) **Short-Term Rental.** The rental of all or a portion of a Residential Unit for less than a 30-day consecutive tenancy by an Owner, Broker or Permanent Resident. A Short-Term Rental is not a Residential Use.

SEC. 41B.5. REGISTRATION AND REQUIREMENTS.

(a) Any Owner, Broker or Permanent Resident that offers a Residential Unit as a Short-Term Rental shall first register the street address of the Short-Term Rental with the Treasurer of the City. A Permanent Resident must also submit written proof of authorization from his or her Owner agreeing to the Short-Term Rental of the Residential Unit. The Treasurer shall create and publish on a dedicated webpage available to the public a detailed and current listing of all Short-Term Rentals, including address, name of registrant and Broker, if applicable.

(b) As part of the required registration, the Owner or Permanent Resident must also acknowledge and confirm that the Short-Term Rental of a Residential Unit does not violate any laws of the State of California, federal government and the City, including but not limited to the Administrative, Business and Tax Regulations, Planning and the Zoning Codes of the City.

(c) All Short-Term Rentals shall be insured by homeowner's or rental property insurance, as the case may be, in an amount not less than $250,000 per incident. Any insurance policy obtained by a Permanent Resident shall name the Owner as an additional insured party. Proof of said insurance must be submitted at the time of registration.

(d) All persons, including but not limited to Owners, Permanent Residents, and Brokers shall comply with Articles 6 and 7 of the City's Business and Tax Regulations Code. A Broker that collects any revenue from arranging or listing a Short-Term Rental shall have primary responsibility for collecting, paying and transmitting all tax due to the City pursuant to said Article 7.

(e) Every Broker shall ensure that each Short Term Rental is registered with the City prior to listing or advertising said property for rent.

(f) All persons and entities offering or listing Short-Term Rentals shall retain and make available to Treasurer of the City, records to demonstrate compliance with this Chapter.

(g) A Residential Unit that (1) received funds from any local, state or federal affordable housing source, including down payment assistance; (2) has been the subject of an Ellis Act eviction; (3) is an "in-law" or secondary unit created or legalized under local law; or (4) is a below market rate (BMR) or inclusionary unit (as defined in the Inclusionary Affordable Housing Program Monitoring and Procedures Manual adopted

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be recorded. Any party to the hearing may at his or her own expense cause the hearing to be recorded by a certified court reporter. Parties may be represented by counsel and shall have the right to cross-examine witnesses. All testimony shall be given under oath. Written decisions and findings shall be rendered by the hearing officer within 20 working days of the hearing. Copies of the findings and decision shall be served upon all parties, including the Complainant, if any, by certified mail. A notice that a copy of the findings and decision is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday shall be posted by the owner or the Treasurer in the building in the same location in which the notice of the administrative review hearing was posted.

(4) Failure to Appear. In the event an interested party fails to appear at the hearing, the hearing officer may nevertheless make a determination based on the evidence in the record and files at the time of the hearing, and issue a written decision and findings.

(5) Finality of the Hearing Officer's Decision and Judicial Review. The decision of the hearing officer shall be final. Within 20 calendar days after service of the hearing officer's decision, any party may seek judicial review of the hearing officer's decision.

(6) Hearing Officer Decision and Collection of Penalties. If any imposed administrative penalties and costs have not been deposited at the time of the Hearing Officer's decision, the Treasurer may proceed to collect the penalties and costs pursuant to the lien procedures set forth in subsection (e) below, consistent with the Hearing Officer's decision.

(7) Remedy of Violation. If the Hearing Officer determines that a violation has occurred, the Hearing Officer's Decision should:

(i) Specify a reasonable period of time during which the owner must correct or otherwise remedy the violation; and

(ii) State that if the violation is not corrected or otherwise remedied within this period, the owner may be required to pay the administrative penalties set forth in subsection (d) below.

(8) If the Hearing Officer determines that no violation has occurred, the determination is final.

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(d) **Notice of Continuing Violation and Imposition of Penalties**. The Treasurer shall notify the Broker, Owner or Permanent Resident, as the case may be, by certified mail that the violation has continued unabated and that administrative penalties shall be imposed as set forth below.

(1) Administrative Penalties. For a violation concerning the use of a registered Residential Unit, the Treasurer can revoke such registration; and/or

and is punishable by a fine of not more than $10,000.00 per violation, or incarceration for not more than 180 days in county jail, or both such fine and incarceration.

SEC. 41B.7. CONSTRUCTION/IMPLEMENTATION.

(a) No section, clause, part or provision of this Chapter shall be construed as requiring the payment of any fee for engaging in a business or the doing of an act when such payment or act would constitute an unlawful burden upon or an unlawful interference with interstate or foreign commerce, or which payment or act would be in violation of the United States Constitution or a statute of the United States or of the California Constitution or a statute of the State of California. If any section, clause, part or provision of this Chapter conflicts with any ordinance, code or regulation heretofore or hereafter adopted by the Board of Supervisors of the City, the provisions of this Chapter shall prevail. Further, if any section, clause, part or provision of this Chapter, or the application thereof to any person or circumstance, is held invalid or unconstitutional, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

(b) City and its agencies, including the Board of Supervisors, shall take whatever action is necessary to implement and enforce the provisions of this Chapter within 60 days from its passage.

SAN FRANCISCO
FILED
2014 MAY 12 AM 11:05
DEPARTMENT OF ELECTIONS

Appendix B City and County of San Francisco Ordinance No. 218-14 (File no. 140381) – Adopted on October 7, 2014.

AMENDED IN BOARD
10/7/14

FILE NO. 140381 ORDINANCE NO. 218-14

[Administrative, Planning Codes - Amending Regulation of Short-Term Residential Rentals and Establishing Fee]

Ordinance amending the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Planning Department, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; amending the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) General Plan and Planning Code Findings.

(1) On August 7, 2014, at a duly noticed public hearing, the Planning Commission in Resolution No. 19213 found that the proposed Planning Code amendments contained in this ordinance were consistent with the City's General Plan and with Planning Code Section 101.1(b) and recommended that the Board of Supervisors adopt the proposed Planning Code amendments. A copy of said Resolution is on file with the Clerk of the Board of

(2) The exception created here for permanent residents would allow for reasonable flexibility in renting residential spaces on an occasional basis; however, this exception is only intended for residents who meet the definition of permanent resident so that these units remain truly residential in use. Thus, the exception is only for primary residences in which permanent residents are present for a significant majority of the calendar year.

(3) The hosting platforms, as part of a new but growing industry, would also benefit from regulation to ensure good business standards and practices. Such regulation includes required notification to users of local short-term rental laws and transient occupancy tax obligations to San Francisco.

(4) The Office of the Treasurer & Tax Collector retains all of its existing authority under the Business & Tax Regulations Code with regard to the subject matter of this ordinance.

Section 2. The Administrative Code is hereby amended by revising Sections 37.9(a), 41A.4, 41A.5, and 41A.6, to read as follows:

SEC. 37.9. EVICTIONS. Notwithstanding Section 37.3, this Section shall apply as of August 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

(a) A landlord shall not endeavor to recover possession of a rental unit unless:

(1) The tenant:

(A) Has failed to pay the rent to which the landlord is lawfully entitled under the oral or written agreement between the tenant and landlord:

(i) Except that a tenant's nonpayment of a charge prohibited by Section 919.1 of the Police Code shall not constitute a failure to pay rent; and

partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as a result of the addition of the spouse or domestic partner of a tenant, so long as the maximum number of occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord has unreasonably refused a written request by the tenant to add such occupant(s) to the unit. If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord. A landlord's reasonable refusal of the tenant's written request may not be based on the proposed additional occupant's lack of creditworthiness, if that person will not be legally obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a unit exceeds (or with the proposed additional occupant(s) would exceed) the lesser of (i) or (ii):

(i) Two persons in a studio unit, three persons in a one-bedroom unit, four persons in a two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-bedroom unit; or

(ii) The maximum number permitted in the unit under state law and/or other local codes such as the Building, Fire, Housing and Planning Codes; or

(3) The tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the rental unit, or is creating a substantial interference with the comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such nuisance, damage or interference is specifically stated by the landlord in writing as required by Section 37.9(c); or

(4) The tenant is using or permitting a rental unit to be used for any illegal purpose, *provided however that a landlord shall not endeavor to recover possession of a rental unit*

shall be defined as an owner of record of at least 10 percent interest in the property or, for Section 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who become owners of record of the rental unit after February 21, 1991, the term "landlord" shall be defined as an owner of record of at least 25 percent interest in the property or, for Section 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at least 25 percent.

(iv) A landlord may not recover possession under this Section 37.9(a)(8) if a comparable unit owned by the landlord is already vacant and is available, or if such a unit becomes vacant and available before the recovery of possession of the unit. If a comparable unit does become vacant and available before the recovery of possession, the landlord shall rescind the notice to vacate and dismiss any action filed to recover possession of the premises. Provided further, if a noncomparable unit becomes available before the recovery of possession, the landlord shall offer that unit to the tenant at a rent based on the rent that the tenant is paying, with upward or downward adjustments allowed based upon the condition, size, and other amenities of the replacement unit. Disputes concerning the initial rent for the replacement unit shall be determined by the Rent Board. It shall be evidence of a lack of good faith if a landlord times the service of the notice, or the filing of an action to recover possession, so as to avoid moving into a comparable unit, or to avoid offering a tenant a replacement unit.

(v) It shall be rebuttably presumed that the landlord has not acted in good faith if the landlord or relative for whom the tenant was evicted does not move into the

with the relocation assistance specified in Section 37.9A(f) below prior to the tenant's vacating the premises; or

(11) The landlord seeks in good faith to remove temporarily the unit from housing use in order to be able to carry out capital improvements or rehabilitation work and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent. Any tenant who vacates the unit under such circumstances shall have the right to reoccupy the unit at the prior rent adjusted in accordance with the provisions of this Chapter. The tenant will vacate the unit only for the minimum time required to do the work. On or before the date upon which notice to vacate is given, the landlord shall advise the tenant in writing that the rehabilitation or capital improvement plans are on file with the Central Permit Bureau of the Department of Building Inspection and that arrangements for reviewing such plans can be made with the Central Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months; provided, however, that such time period may be extended by the Board or its Administrative Law Judges upon application by the landlord. The Board shall adopt rules and regulations to implement the application procedure. Any landlord who seeks to recover possession under this Section 37.9(a)(11) shall pay relocation expenses as provided in Section 37.9C; or

(12) The landlord seeks to recover possession in good faith in order to carry out substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this

tenancy under this Section 37.9(a)(16) within 60 days after expiration of the Original and any Extended Good Samaritan Status Period.

* * * *

SEC. 41A.4. DEFINITIONS.

Whenever used in this Chapter 41A, the following words and phrases shall have the definitions provided in this Section:

Business Entity. *A corporation, partnership, or other legal entity that is not a natural person that owns or leases one or more residential units.*

Complaint. *A complaint submitted to the Department* ~~by an interested party~~ *alleging a violation of this Chapter 41A and that includes the* ~~r~~*Residential* ~~u~~*Unit's address, including unit number, date(s) and nature of alleged violation(s), and any available contact information for the* ~~o~~*Owner and/or resident of the* ~~r~~*Residential* ~~u~~*Unit at issue.*

Conversion or Convert. *A change of use from* ~~r~~Residential ~~u~~Use *to* ~~t~~*Tourist or* ~~t~~*Transient* ~~u~~*Use, including, but not limited to, renting a* ~~r~~*Residential* ~~u~~*Unit as a* ~~t~~*Tourist or* ~~t~~*Transient* ~~u~~*Use.*

Department. *The Planning Department.*

Director. *The Director of the Planning Department.*

Hosting Platform. *A person or entity that provides a means through which an* ~~o~~*Owner may offer a* ~~r~~*Residential* ~~u~~*Unit for* ~~t~~*Tourist or* ~~t~~*Transient* ~~u~~*Use. This service is usually, though not necessarily, provided through an online platform and generally allows an* ~~o~~*Owner to advertise the* ~~r~~*Residential* ~~u~~*Unit through a website provided by the* ~~h~~*Hosting* ~~p~~*Platform and provides a means for potential tourist or transient users to arrange* ~~t~~*Tourist or* ~~t~~*Transient* ~~u~~*Use and payment, whether the tourist or transient pays rent directly to the* ~~o~~*Owner or to the* ~~h~~*Hosting* ~~p~~*Platform.*

~~*a residential unit was occupied by a permanent resident on or after February 8, 1981, and the owner has the burden of proof to show that a residential unit is not subject to this Chapter*~~.

~~*(b)*~~ **Residential Use.** Any use for occupancy of a ~~*dwelling*~~ ~~r~~*Residential* ~~u~~Unit by a ~~p~~Permanent ~~r~~Resident.

Short-Term Residential Rental. *A* ~~t~~*Tourist or* ~~t~~*Transient* ~~u~~*Use where all of the following conditions are met:*

(a) the ~~r~~*Residential* ~~u~~*Unit is offered for* ~~t~~*Tourist or* ~~t~~*Transient* ~~u~~*Use by the* ~~p~~*Permanent* ~~r~~*Resident of the* ~~r~~*Residential* ~~u~~*Unit;*

(b) the ~~p~~*Permanent* ~~r~~*Resident is a natural person;*

(c) the ~~p~~*Permanent* ~~r~~*Resident has registered the* Residential U~~u~~*nit and maintains good standing on the Department's Short-Term Residential Rental Registry; and*

(d) the ~~r~~*Residential* ~~u~~*Unit; is not subject to the Inclusionary Affordable Housing Program set forth in Planning Code Section 415 et seq.*~~,~~*; is not a residential hotel unit* ~~as defined in~~ subject to the provisions of *Chapter 41*, unless such unit has been issued a Permit to Convert under Section 41.12; is not otherwise a designated as a below market rate or income-restricted Residential Unit under City, state, or federal law; *and no other requirement of federal or state law, this Municipal Code, or any other* ~~application~~ applicable *law or regulation prohibits the permanent resident from subleasing, renting, or otherwise allowing Short-Term Residential Rental of the* ~~r~~*Residential* ~~u~~*Unit.*

Short-Term Residential Rental Registry or Registry. *A database of information maintained by the Department that includes information regarding* ~~p~~*Permanent* ~~r~~*Residents who are permitted to offer* ~~r~~*Residential* ~~u~~*Units for Short-Term Residential Rental.* Only one Permanent Resident per Residential Unit may be included on the Registry at any given time. *The* ~~r~~*Registry shall be available for public review to the extent required by law, except that, to the extent permitted by*

(2) any *Oo*wner to offer a *Rr*esidential *Uu*nit for rent to a *Bb*usiness *Ee*ntity that will allow the use of a *Rr*esidential *Uu*nit for *Tt*ourist or *Tt*ransient *Uu*se~~,~~; or

(3) any *Bb*usiness *Ee*ntity to allow the use of a *Rr*esidential *Uu*nit for *Tt*ourist or *Tt*ransient *Uu*se.

(b) **Records Required.** The *Oo*wner and *Bb*usiness *Ee*ntity*, if any,* shall retain and make available to the Department ~~*or Building Inspection occupancy*~~ records to demonstrate compliance with this Chapter *41A upon written request as provided herein. Any Permanent Resident offering his or her Primary Residence as a Short-Term Residential Rental shall retain and make available to the Department records to demonstrate compliance with this Chapter 41A, including but not limited to records demonstrating Primary Residency,* ~~and~~ *the number of days per calendar year he or she has occupied the Residential Unit,* and the number of days per calendar year, with dates and the duration of each stay, the Residential Unit has been rented for Short-Term Residential Rental Use.

(c) **Determination of Violation**. Upon the filing of a *written Cc*omplaint that an Owner or Business Entity has engaged in an *alleged* unlawful ~~*c*~~*C*onversion ~~has occurred~~ or that a Hosting Platform is not complying with the requirements of subsection (g)(~~5~~4)(A), the Director shall take reasonable steps necessary to determine the validity of the *Cc*omplaint. The Director may independently determine whether an *Oo*wner or *Bb*usiness *Ee*ntity may be renting a *Rr*esidential *Uu*nit for *Tt*ourist or *Tt*ransient *Uu*se ~~*as defined*~~ in *violation of* this Chapter *41A* or whether a Hosting Platform has failed to comply with the requirements of subsection (g)(~~5~~4)(A). To determine if there is a violation of this Chapter *41A*, the Director may initiate an investigation of the subject property or Hosting Platform's allegedly unlawful activities. This investigation may include, but is not limited to, an inspection of the subject property and/or a request for any pertinent information from the *Oo*wner~~,~~ ~~or~~ *Business Entity*, or Hosting Platform, such as leases, business records, or other documents. The Director shall have discretion to

misdemeanor. Any person convicted of a misdemeanor hereunder shall be punishable by a fine of not more than $1,000 or by imprisonment in the County Jail for a period of not more than six months, or by both. Each *R*~~r~~esidential *U*~~u~~nit rented for *T*~~t~~ourist or *T*~~t~~ransient *U*~~u~~se shall constitute a separate offense.

(f) **Method of Enforcement, Director.** The Director shall have the authority to enforce this Chapter against violations thereof by any or all of the means provided for in this Chapter 41A.

(g) Exception for Short-Term Residential Rental.

(1) Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent Resident may offer his or her Primary Residence as a Short-Term Residential Rental if ~~he or she~~*:*

(A) ~~occupies t~~T*he* ~~Residential Unit is occupied by the~~ Permanent Resident occupies the Residential Unit *for no less than 275 days* ~~out of the preceding~~ ~~per~~ out of ~~any given~~ the *calendar year* in which the Residential Unit is rented as a Short-Term Residential Rental or, ~~proportional share thereof if he or she~~ if the Permanent Resident has not rented or owned the Residential Unit for the full preceding calendar year, for no less than 75% of the days he or she has owned or rented the Residential Unit;

(B) The Permanent Resident *maintains records for two years demonstrating compliance with this Chapter, including but not limited to information demonstrating Primary Residency, the number of days per calendar year he or she has occupied the Residential Unit,* the number of days per calendar year the Residential Unit has been rented as a Short-Term Residential Rental, *and compliance with the insurance requirement in Subsection (D). These records shall be made available to the Department upon request;*

(C) The Permanent Resident *complies with any and all applicable provisions of state and federal law and the San Francisco Municipal Code, including but not limited to the requirements of the Business and Tax Regulations Code by, among any other applicable*

desist orders, or correction notices. The Department shall not include a property that is subject to any such outstanding violations in the Registry. If such a violation occurs once a Residential Unit has been included in the Registry, the Department shall suspend the Residential Unit's registration and registration number until the violation has been cured.

(2) Additional Requirements.

(A) Offering a Residential Unit for Short-Term Residential Rental, including but not limited to advertising the Residential Unit's availability, while not maintaining good standing on the Registry shall constitute an unlawful conversion in violation of this Chapter 41A and shall subject the person or entity offering the unit in such a manner to the administrative penalties and enforcement procedures, including civil penalties, of this Chapter.

(B) Only one Permanent Resident may be associated with a Residential Unit on the Registry, and it shall be unlawful for any other person, even if that person meets the qualifications of a "Permanent Resident", to offer a Residential Unit for Short-Term Residential Rental.

(C) A Permanent Resident offering a Residential Unit for Short-Term Residential Rental shall maintain a valid business registration certificate.

(D) A Permanent Resident offering a Residential Unit for Short-Term Residential Rental shall post a clearly printed sign inside his or her Residential Unit on the inside of the front door that provides information regarding the location of all fire extinguishers in the unit and building, gas shut off valves, fire exits, and pull fire alarms.

(~~2~~3) *Short-Term Residential Rental Registry Applications*, ~~and~~ *Fee*, and Reporting Requirement.

(A) Application. Registration shall be for a two-year term, which may be renewed by the Permanent Resident by filing a completed renewal application. Initial and renewal applications shall be in a form prescribed by the Department. The Department shall determine, in its

generated by the fees for the prior fiscal year and the prior fiscal year's costs of establishing and maintaining the registry and enforcing the requirements of this Chapter 41A, *as well as any other information that the Controller determines appropriate to the performance of the duties set forth in this Chapter.* After the hearing by the Planning Commission, but ~~N~~not *later than* ~~May 15~~August 1, 2015, *the Controller shall determine whether the current fees have produced or are projected to produce revenues sufficient to support the costs of establishing and maintaining the registry,* enforcing the requirements of this Chapter 41A *and any other services set forth in this Chapter and that the fees will not produce revenue that is significantly more than the costs of providing such services. The Controller shall, if necessary, adjust the fees upward or downward for the upcoming fiscal year as appropriate to ensure that the program recovers the costs of operation without producing revenue that is significantly more than such costs. The adjusted rates shall become operative on July 1.*

(C) Reporting Requirement. To maintain good standing on the Registry, the Permanent Resident shall submit a report to the Department on January 1 of each year regarding the number of days the Residential Unit or any portion thereof has been rented as a Short-Term Residential Rental since either initial registration or the last report, whichever is more recent, and any additional information the Department may require to demonstrate compliance with this Chapter 41A.

(~~45~~4) Requirements for Hosting Platforms.

(A) Notice to Users of Hosting Platform. All Hosting Platforms shall provide the following information in a notice to any user listing a Residential Unit located within the City and County of San Francisco through the Hosting Platform's service. The notice shall be provided prior to the user listing the Residential Unit and shall include the following information: that Administrative Code Chapters 37 and 41A regulate Short-Term Rental of Residential Units; the requirements for Permanent Residency and registration of the unit with the Department; and the transient occupancy tax obligations to the City.

(~~6~~7) *Department Contact Person. The Department shall designate a contact person for members of the public who wish to file Complaints under this Chapter or who otherwise seek information regarding this Chapter or Short-Term Residential Rentals. This contact person shall also provide information to the public upon request regarding quality of life issues, including for example noise violations, vandalism, or illegal dumping, and shall direct the member of the public and/or forward any such Complaints to the appropriate City department.*

(~~7~~8) *Notwithstanding any other provision of this Chapter, nothing in this Chapter shall relieve an individual, Business Entity, or Hosting Platform of the obligations imposed by any and all applicable provisions of state law and the San Francisco Municipal Code including but not limited to those obligations imposed by the Business and Tax Regulations Code. Further, nothing in this Chapter shall be construed to limit any remedies available under any and all applicable provisions of state law and the San Francisco Municipal Code including but not limited to the Business and Tax Regulations Code.*

(~~9~~8) Annual Department Reporting Requirement. Within one year of the effective date of this ordinance and annually thereafter, the Department shall provide a report to the Board of Supervisors regarding the Department's administration and enforcement of the Short-Term Residential Rental program. The study shall make recommendations regarding proposed amendments to this Chapter 41A necessary to reduce any adverse effects of the Short-Term Residential Rental program.

SEC. 41A.6. PROCEDURES FOR DETERMINING ADMINISTRATIVE PENALTIES.

(a) **Notice of Complaint.** Within ~~15~~30 days of the filing of a *C~~c~~*omplaint and upon the Director's independent finding that there may be a violation of this Chapter, the Director shall notify the *O~~o~~*wner by certified mail that the *O~~o~~*wner's *R~~r~~*esidential *U~~u~~*nit is the subject of an investigation for an unlawful use and provide the date, time, and place of an administrative review hearing in which the ~~o~~Owner can respond to the *C~~c~~*omplaint. If the Director finds there

the evidence to be offered at the hearing. Such information shall be forwarded to the hearing officer prior to the hearing along with any information compiled by the Director.

(3) Hearing Procedure. If more than one hearing is requested for R~~r~~esidential U~~u~~nits located in the same building at or about the same time, the Director shall consolidate all of the hearings into one hearing. The hearing shall be ~~tape~~ recorded. Any party to the hearing may at his or her own expense cause the hearing to be recorded by a certified court reporter. Parties may be represented by counsel and shall have the right to cross-examine witnesses. All testimony shall be given under oath. Written decisions and findings shall be rendered by the hearing officer within ~~20~~30 ~~working~~ days of the hearing. Copies of the findings and decision shall be served upon the parties by certified mail. A notice that a copy of the findings and decision is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday shall be posted by the O~~o~~wner or the Director in the building in the same location in which the notice of the administrative review hearing was posted.

(4) Failure to Appear. In the event the O~~o~~wner, authorized Hosting Platform representative, or an interested party fails to appear at the hearing, the hearing officer may nevertheless make a determination based on the evidence in the record and files at the time of the hearing, and issue a written decision and findings.

(5) Finality of the Hearing Officer's Decision and Judicial Review. The decision of the hearing officer shall be final. Within 20 days after service of the hearing officer's decision, any party may seek judicial review of the hearing officer's decision.

(6) Hearing Officer Decision and Collection of Penalties. ~~If any imposed administrative penalties and costs have not been deposited at the time of the Hearing Officer's decision~~Upon the Hearing Officer's decision, the Director may proceed to collect the penalties and costs pursuant to the lien procedures set forth in Subsection 41A.6(ed), consistent with the Hearing Officer's decision.

(g)(~~5~~4), per day from the ~~day the unlawful use activity commenced~~ notice of Complaint until such time as the unlawful ~~use~~ activity terminates;

(B) for the second violation ~~within six months of any hearing held pursuant to this Chapter~~ by the same Owner(s), Business Entity, or Hosting Platform, *not more than eight times the standard hourly administrative rate of $121.00 for each unlawfully converted unit,* or for each identified failure of a Hosting Platform to comply with the requirements of subsection (g)(~~5~~4), per day *from the day the unlawful* ~~use~~activity *commenced until such time as the unlawful* ~~use~~ activity *terminates; and*

(C) for the third and any subsequent violation ~~within 12 months of any hearing held pursuant to this Chapter~~ by the same Owner(s), Business Entity, or Hosting Platform, *not more than twelve times the standard hourly administrative rate of $121.00 for each unlawfully converted unit* or for each identified failure of a Hosting Platform to comply with the requirements of subsection (g)(~~5~~4) per day *from the day the unlawful* ~~use~~ activity *commenced until such time as the unlawful* ~~use~~ activity *terminates.*

(2) ~~Enforcement Costs. The Oowner or Hosting Platform shall reimburse the City for the costs of enforcement of this Chapter, which shall include, but not be limited to, reasonable attorneys' fees.~~

~~(3)~~ *Prohibition on* Registration and *Listing Unit(s) on Any Hosting Platform.* ~~If the violation has continued unabated beyond the time specified in the notice required by the Hearing Officer~~In the event of multiple violations, *the Department shall* remove the Residential Unit(s) from the Registry for one year and *include the Residential Unit(s) on a list maintained by the Department of Residential Units that may not be listed* ~~by any Permanent Resident~~ *on any Hosting Platform until compliance. Any Owner* or Business Entity *who continues to list a Residential Unit in violation of this section shall be liable for additional* administrative penalties and *civil penalties of up to $1,000 per day of unlawful inclusion.*

Section 3. The Planning Code is hereby amended by revising Sections 102.7, 102.13, 790.88 and 890.88, to read as follows:

SEC. 102.7. DWELLING UNIT.

A room or suite of two or more rooms that is designed for, or is occupied by, one family doing its own cooking therein and having only one kitchen. A housekeeping room as defined in the Housing Code shall be a dwelling unit for purposes of this Code. For the purposes of this Code, a live/work unit, as defined in Section 102.13 of this Code, shall not be considered a dwelling unit. *Notwithstanding the foregoing, use of a dwelling unit as a Short-Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a residential use.*

* * * *

SEC. 102.13. LIVE/WORK UNIT.

A live/work unit is a structure or portion of a structure combining a residential living space for a group of persons including not more than four adults in the same unit with an integrated work space principally used by one or more of the residents of that unit; provided, however, that no otherwise qualifying portion of a structure which contains a Group A occupancy under the San Francisco Building Code shall be considered a live/work unit. *Notwithstanding the foregoing, use of a live/work unit as a Short-Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a live/work unit.*

* * * *

SEC. 790.88. RESIDENTIAL USE.

(b) Group Housing. A residential use which provides lodging or both meals and lodging without individual cooking facilities for a week or more at a time in a space not defined as a dwelling unit. Group housing includes, but is not limited to, a roominghouse, boarding house, guest house, lodging house, residence club, commune, fraternity and sorority house, monastery, nunnery, convent, and ashram. It also includes group housing operated by a medical or educational institution when not located on the same lot as such institution.

(c) Single Room Occupancy (SRO) Unit. A dwelling unit or group housing room consisting of no more than one occupied room with a maximum gross floor area of 350 square feet and meeting the Housing Code's minimum floor area standards. The unit may have a bathroom in addition to the occupied room. As a dwelling unit, it would have a cooking facility and bathroom. As a group housing room, it would share a kitchen with one or more other single room occupancy unit/s in the same building and may also share a bathroom. A single room occupancy building (or "SRO" building) is one that contains only SRO units and non nonaccessory living space.

Section 4. Other Uncodified Provisions.

(a) Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

(b) Operative Date. This ordinance shall become operative on February 1, 2015.

(c) Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it

File Number: 140381 **Date Passed:** October 21, 2014

Ordinance amending the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Planning Department, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; amending the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

September 15, 2014 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 15, 2014 Land Use and Economic Development Committee - CONTINUED AS AMENDED

September 29, 2014 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 29, 2014 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

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October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 140381

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 10/21/2014 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

10/27/14
Date Approved

Appendix C City of Portland Bureau of Planning and Sustainability Regulatory Improvement Workplan Accessory Short-term Rentals (RICAP 6) – Adopted July 30, 2014.

Regulatory Improvement Workplan

Accessory Short-term Rentals

Regulatory Improvement Code Amendment Package 6

(RICAP 6)

This report exhibit represents only the code amendments pertaining to accessory short-term rentals.

Other RICAP 6 items are addressed under separate Ordinance No. 186639.

Adopted Report
Adopted: July 30, 2014
Effective: August 29, 2014
Ordinance No. 186736

Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.
City of Portland, Oregon
Charlie Hales, Mayor • Susan Anderson, Director

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Portland Planning and Sustainability Commission

André Baugh, Chair

Katherine Schultz, Vice Chair
Karen Gray
Don Hanson
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Howard Shapiro, Vice Chair
Gary Oxman
Michelle Rudd
Chris Smith

May 13, 2014

Mayor Charles Hales and Members of Portland City Council
Portland City Hall
1221 SW Fourth Avenue
Portland, OR 97204

Dear Mayor Hales and City Commissioners:

On April 22, 2014, the Planning and Sustainability Commission (PSC) held a public hearing on the Regulatory Improvement Code Amendment Package 6 (RICAP 6). The PSC determined to split the package and vote on two separate components.

The first recommendation addressed many technical and minor amendments to the Portland Zoning Code. The amendments address a variety of subjects, including Radio Frequency Transmission Facilities, historic landmarks located in the public right-of-way, temporary activities, review processes for environmental resource projects and revocable permits. With one minor change to staff's proposal, the Commission voted 9-0 to recommend approval of these amendments.

The second vote was specific to the proposed short-term rental regulations. The Commission voted 8-1 to recommend approval of the proposed amendments to allow one- or two-bedrooms to be rented in a home to overnight guests through a simple permit process. This issue garnered the most testimony and discussion, and we would like to convey the collective thoughts of this Commission to Council members.

We are excited about the City's exploration into the shared economy.
As a leader in promoting sustainable practices, Portland is well-positioned to foster innovations that allow better utilization of existing resources. One such innovation is the use of technology to facilitate peer-to-peer networking and commerce. We see the use of Portlanders' spare bedrooms as a way to let the market evolve and offer options for Portlanders' to supplement their income, while offering visitors greater access to our city.

We see an important role for these regulations.
The Commission is pleased to recommend amendments that provide clarity to operators of short-term rentals and neighbors, and right-sizes the review procedure with the level of impact of smaller (one- and two-bedroom) short-term rentals.

We heard concerns about the requirement for a City inspection as part of obtaining a permit to allow short-term rentals. In fact, members of the Commission expressed concerns about the parity and consistency of such inspections. However, we acknowledge that the traveling public will be

Recommendations
The Portland Planning and Sustainability Commission recommends that City Council take the following actions:

1. Adopt the *RICAP 6: Recommended Draft*, dated May 2014; and
2. Amend the Zoning Code (Title 33) as shown in *RICAP 6: Recommended Draft*.

Thank you for the opportunity to participate in the review of this project and for considering our recommendations.

Sincerely,

Andre' Baugh

Andre' Baugh, Chair
Portland Planning and Sustainability Commission

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Appendix A: RICAP 6 Short-Term Rental Ordinance 53

I. Introduction

Short-term Rental/Bed and Breakfast Amendments Summary

This package of code amendments pertaining to accessory short-term rentals/bed and breakfast facilities was initially included as a bundle in the Regulatory Improvement Code Amendment Package 6 (RICAP 6). Bundles are groups of related items that focus on similar policy issues. There are five bundles in RICAP 6: Mechanical Equipment, Fence Height, Short-term Rental/Bed & Breakfast, Temporary Activities, and Columbia South Shore Plan District. The amendments pertaining to the short-term rental bundle were eventually separated from the remaining RICAP 6 items as interest in this topic grew.

The short-term rental amendments respond to issues raised from the dramatic increase in the number of residences being rented informally on a short-term basis (fewer than 30 days) through Internet sites such as Airbnb and HomeAway. In Portland, Airbnb has the largest concentration of listings: over 1,600 today (up from 107 in January 2011). The most common listings are from hosts who live on their property and offer a bedroom for rent in their home. This is a new way of providing visitor lodging accommodations and Portland, like many cities, is determining how to regulate these short-term rentals.

The amendments create a new Accessory Short-Term Rental permit that will allow a resident to rent one to two bedrooms in their house, attached house, duplex, manufactured home or accessory dwelling unit to overnight guests. Currently, the Zoning Code requires a conditional use review for all bed and breakfast facilities regardless of their size. The proposed permit process offers smaller scale short-term rentals a less expensive and faster process, while ensuring that the adjacent neighbors are notified of the activity. Three-to-five bedroom short-term rentals will continue to require a conditional use review.

RICAP 6 Process

Background

Portland's current Zoning Code was adopted in 1990. Changing needs, new laws and court rulings, new technology and innovations, and shifting perceptions necessitate that the City's regulations be updated and improved on an ongoing basis. Since 1990 there have been several programs to update the Zoning Code. The most recent of these programs is the Regulatory Improvement Program, which was initiated in 2002 as a way to update and improve City building and land use regulations that hinder desirable development.

One component of the program - Regulatory Improvement Code Amendment Package (RICAP) - was designed to provide an ongoing and rapid vehicle for technical and minor policy amendments to the City's regulations. From 2005 to 2010 City Council adopted five packages of amendments (RICAP 1 through 5), which resulted in many amendments to city regulations. Most of the changes were to Zoning Code regulations. Due to budgetary constraints, the program was suspended in 2010. As part of the fiscal year 2013-2014 budget process, City Council funded a RICAP project.

The process used to develop the workplan for RICAP 6 consisted of:

- Cataloguing potential amendments through an **online database.** These are items suggested by City staff, community members, and others;

- **Ranking each item** to evaluate the impacts of and the ability to improve the regulation, the variety of stakeholders affected, and the geographic range of the issue; and

- **Holding a hearing** before the Planning and Sustainability Commission on August 13, 2013.

For more information on selection of items for the workplan, see the *RICAP 6 Proposed Workplan*, dated July 24, 2013.

RICAP Item Analysis

Staff conducted an assessment to identify and evaluate positive and negative impacts of possible changes. Staff also reviewed the origin and legislative intent of the existing regulation, identified what sorts of circumstances may have changed since the regulation was first adopted, and evaluated potential code language from both the desired outcome as well as for unintended consequences. This assessment also identified when the regulations did not need to change or when a non-regulatory approach may be a better solution. When a regulatory approach is determined to be appropriate, the regulations are crafted to be simple, clear, and feasible to implement and enforce.

The list of RICAP workplan items that the Planning and Sustainability Commission (PSC) selected for staff to further analyze was more extensive than the items that are contained in the PSC's recommended code amendments. This is due to the fact that RICAP items are researched and evaluated to determine whether an amendment to the zoning code is necessary to either clarify or correct language, or adjust existing policy in order to better achieve a desired outcome.

In some cases, the city opted to not move certain amendment requests forward for a number of reasons. These include:

1. Research indicates that the solution is not worth the costs or added complexity; or that the existing regulation is achieving the desired result;

2. Research shows that the issue is important, but the solution should be decided as part of a more comprehensive project; and/or

3. More information and public input is needed before a solid recommendation can be made.

The community had an additional opportunity to review the proposal and provide testimony at the City Council's public June 4, 2014 hearing on this *Recommended Draft*. City Council passed the majority of RICAP 6 on June 4th with the exception of the proposed short-term rental regulations. At the conclusion of the June 4th Council meeting, the Council agreed to hold the hearing open for the short-term rental proposal to hear additional testimony and scheduled a worksession with Staff for June 24th. All councilors were present along with key staff from BPS, BDS and the Revenue Bureau to discuss a number of items and questions related to: scope and frequency of inspections, nonresident operators, whether resident needed to be present when overnight guests are in home, taxing mechanisms, impacts on affordable housing, dedicated vacation rentals (homes where there is no long-term resident) and short-term rentals in multi-dwelling units (e.g., apartments and condominiums).

Council then reconvened on July 2, and following several hours of additional testimony, moved the accessory short-term rental package forward to a hearing on July 23rd with the following changes:

- The Bureau of Development Services will inspect the initial application and every 6 years thereafter, or with a change in ownership. The amendment allows for self-certification for the intervening semi-annual renewals.
- Require carbon monoxide alarms, where carbon monoxide sources are present.
- Require that the resident reside in the dwelling unit at least 270 days per year.
- Allow the resident to appoint a designee to operate the short-term rental.
- Require the permit number to be in all advertisements and in the dwelling unit.
- Require Bureau of Planning and Sustainability to return with a monitoring report in September 2016.

On July 30, 2014 City Council adopted the short-term rental regulations with an effective date of August 29, 2014. The Council voted to make the changes listed above as well as an amendment that will allow short-term rentals in detached accessory structures.

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II. Amendments to the Zoning Code

This section of the report contains the amendments to the Zoning Code. The amendments are on the odd-numbered pages. The facing (even-numbered) pages contain commentary about each amendment that provides the legislative intent of the proposed amendment.

Items are arranged in this section following the order they appear in the Zoning Code. For example, items amending portions of the base zone requirements will come before items amending portions of overlay zones or plan districts. The Short-Term Rental/Bed and Breakfast Bundle replaces Chapter 33.212 Bed and Breakfast Facilities with a new Chapter 33.207 Short-Term Rentals and includes amendments in the following Zone Code sections: 33.110 (Single-Dwelling Zones); 33.120 (Multi-Dwelling Zones); 33.203 (Accessory Home Occupations); 33.205 (Accessory Dwelling Units); 33.910 (Definitions); and 33.920 (Descriptions of Use Categories).

Also see amendments to other titles of City Code—Title 3, Administration and Title 6, Special Taxes found in Section III of this report.

Code Index for Short-Term Rental/Bed and Breakfast Bundle

Code Section	Proposed Change	Page
Base Zones		
33.110.100	Change terminology -from B&B to accessory short-term rental	17
33.110.110	Change terminology -from B&B to accessory short-term rental	17
33.120.100	Change terminology -from B&B to accessory short-term rental	19
33.120.110	Change terminology -from B&B to accessory short-term rental	19
Additional Regulations		
33.203.020-030	Prohibit Type B home occupations on short-term rental sites	21
Ch. 33.212→33.207	Rename chapter, revise regulations for short-term rentals, create Type A (1-2 bedrooms), Type B (3-5 bedrooms)	25
General Terms		
33.910.030	Add "domestic partnership" to definition of household	43
33.920.110	Change terminology -from B&B to accessory short-term rental	45
Other City Titles		
3.30.040	Adds Type A short-term rental permit revocation authority	49
6.04.060	Requires permit or conditional use numbers in all advertising and to be prominently displayed in the rental unit	50

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

CHAPTER 33.110
SINGLE-DWELLING ZONES

33.110.100 Primary Uses

A.-B. [No change]

C. Conditional uses.

1. [No change]

2. ~~Bed and breakfast facilities~~ Accessory short-term rentals. ~~Bed and breakfast facilities~~ Accessory short-term rentals are accessory uses ~~which are regulated as~~ that may require a conditional ~~uses~~ reviews. See Chapter 33.207~~212~~.

D. [No change]

33.110.110 Accessory Uses

Accessory uses to a primary use are allowed if they comply with all development standards. Accessory home occupations, accessory dwelling units, and ~~bed and breakfast facilities~~ accessory short-term rentals have specific regulations in Chapters 33.203, 33.205, and 33.2~~12~~07 respectively.

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CHAPTER 33.120
MULTI-DWELLING ZONES

33.120.100 Primary Uses

A.-B. [No change]

C. Conditional uses.

1. [No change]

2. ~~Bed and breakfast facilities~~ Accessory short-term rentals. ~~Bed and breakfast facilities~~ Accessory short-term rentals are accessory uses ~~which are regulated as~~ that may require a conditional uses reviews. ~~Some exceptions may apply in the RX zone.~~ See Chapter 33.207~~212~~.

D. Prohibited uses. [No change]

33.120.110 Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all regulations for that use and all applicable development standards. In addition, some specific accessory uses have additional requirements as indicated below.

A. Accessory home occupations, accessory dwelling units, and ~~bed and breakfast facilities~~ accessory short-term rentals. Accessory uses to a primary use are allowed if they comply with all development standards. Accessory home occupations, accessory dwelling units, and ~~bed and breakfast facilities~~ accessory short-term rentals have specific regulations in Chapters 33.203, 33.205, and 33.207~~12~~ respectively.

B.-C. [No change]

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CHAPTER 33.203
ACCESSORY HOME OCCUPATIONS

33.203.020 Description of Type A and Type B Accessory Home Occupations
There are two types of home occupations, Type A and Type B. Uses are allowed as home occupations only if they comply with all of the requirements of this chapter.

A. Type A. A Type A home occupation is one where the residents use their home as a place of work; however, no employees or customers come to the site. Examples include artists, crafts people, writers, and consultants. Type A home occupations also provide an opportunity for a home to be used as a business address but not as a place of work.

B. Type B. A Type B home occupation is one where the residents use their home as a place of work, and either one employee or customers come to the site. Examples are counseling, tutoring, and hair cutting and styling.

C. ~~Bed and breakfast facility~~ Accessory short-term rentals. ~~Bed and breakfast facilities are exempt from the regulations of this chapter.~~ The regulations for ~~bed and breakfast facilities~~ accessory short-term rentals are stated in Chapter 33.~~212~~207.

D. Family daycare. Family daycare for up to 16 children, including the children of the provider, is exempt from the regulations of this chapter as required by ORS 657A.440.

33.203.030 Use-Related Regulations

A. Allowed uses. [No change]

B. Prohibited uses.

1.-2. [No change]

3. A Type B accessory home occupation is prohibited in a residence with an accessory dwelling unit

4. A Type B accessory home occupation is prohibited in a dwelling unit with any accessory short-term rental.

C. Additional Type B home occupation regulations. [No change]

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

CHAPTER 33.205
ACCESSORY DWELLING UNITS

33.205.030 Design Standards

A.-B. [No change]

C. Requirements for all accessory dwelling units. All accessory dwelling units must meet the following:

1.-2. [No change]

3. Other uses.

a. Type B home occupation. An accessory dwelling unit is prohibited on a site with a Type B home occupation.

b. Type A accessory short-term rental. An accessory dwelling unit is allowed on a site with a Type A accessory short-term rental.

c. Type B accessory short-term rental. An accessory dwelling unit is allowed on a site with a~~n approved Bed and Breakfast facility~~ Type B accessory short-term rental if the accessory dwelling unit meets the standards of Paragraph 33.815.040.B.1.

4.-11. [No change]

D. [No change]

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

CHAPTER 33.~~212~~207
ACCESSORY SHORT-TERM RENTALS ~~BED AND BREAKFAST FACILITIES~~

Sections:

33.~~212~~207.010 Purpose
33.~~212~~207.020 Description and Definitions
33.~~212~~207.030 Where These Regulations Apply
33.~~212~~207.040 Type A Accessory Short-Term Rentals~~Use Related Regulations~~
33.~~212~~207.050 Type B Accessory Short-Term Rentals~~Site Related Regulations~~
~~33.212.060 Conditional Use Review~~
33.~~212~~207.06~~7~~0 Monitoring
33.~~212~~207.07~~8~~0 Pre-Established Bed and Breakfast Facilities

33.~~212~~207.010 Purpose

This chapter provides standards for the establishment of ~~bed and breakfast facilities~~ accessory short-term rentals. The regulations are intended to allow for a more efficient use of ~~large, older houses,~~ certain types of residential structures ~~in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable owners to maintain large residential structures~~ in a manner which keeps them primarily in residential uses, and without detracting from neighborhood character. In some situations, the ~~proprietor~~ operator can take advantage of the scale and ~~often the~~ architectural ~~and~~or historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

33.~~212~~207.020 Description and Definitions

A. Description.~~Bed and breakfast facility.~~ An accessory short-term rental~~bed and breakfast facility~~ is ~~one~~ where an individual or family resides in a dwelling unit~~house~~ and rents bedrooms to overnight guests for fewer than 30 days. There are two types of accessory short-term rental: ~~A bed and breakfast facility may also have visitors and non-resident employees.~~

1. Type A. A Type A accessory short-term rental is where no more than 2 bedrooms are rented to overnight guests.

2. Type B. A Type B accessory short-term rental is where 3 or more bedrooms are rented to overnight guests.

B. Definitions.~~Retail Sales And Service use.~~ For the purposes of this chapter, the following words have the following meanings:~~In zones where Retail Sales And Service uses are allowed, limited or conditional uses, a bed and breakfast facility is defined as a hotel and is included in the Retail Sales And Service category.~~

1. Resident. The individual or family who resides in the dwelling unit. The resident can be the owner or a long-term renter.

2. Operator. The resident or a person or entity that is designated by the resident to manage the accessory short-term rental.

33.~~212~~207.030 Where These Regulations Apply

The regulations of this chapter ~~Sections 33.212.040 through 33.212.080~~ apply to ~~bed and breakfast facilities~~ accessory short-term rentals in ~~the R~~ all zones. In ~~the RX and RH zones,~~ where Retail Sales And Service uses ~~a limited amount of commercial uses~~ are allowed, limited ~~by right~~ or ~~by~~ conditional uses, ~~a bed and breakfast facility~~ accessory short-term rentals may be regulated either as a Retail Sales And Service use, or as ~~a bed and breakfast facility~~ an accessory short-term rental under the regulations of this chapter. The decision is up to the applicant.

33.~~212~~207.040 Type A Accessory Short-Term Rentals~~Use-Related Regulations~~

A. Use-related regulations.

1. Accessory use. A Type A accessory short-term rental must be accessory to a Household Living use on a site. This means that a resident must occupy the dwelling unit for at least 270 days during each calendar year, and unless allowed by Paragraph .040.B.2 or .040.B.3, the bedrooms rented to overnight guests must be within the dwelling unit that the resident occupies.

2. Permit required. A Type A accessory short-term rental requires a Type A accessory short-term rental permit per Subsection 040.C.

3. Allowed structure type. A Type A accessory short-term rental is allowed only in the following residential structure types:

   a. House;

   b. Attached house;

   c. Duplex;

   d. Manufactured home on its own lot; and

   e. Accessory dwelling unit.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

B. Standards. The following standards apply to Type A accessory short-term rentals. Adjustments are prohibited:

1. Maximum size. A Type A accessory short-term rental is limited to renting a maximum of 2 bedrooms to overnight guests.

2. Accessory dwelling units. On sites with an accessory dwelling unit, the resident can live in the primary or accessory dwelling unit and rent bedrooms in either dwelling unit, but the maximum number of bedrooms on the site that can be rented to overnight guests is 2.

3. Detached accessory structures. A bedroom in a detached accessory structure can be rented to overnight guests, and counts toward the maximum size limit.

4. Bedroom requirements. The Bureau of Development Services must verify that each bedroom to be rented to overnight guests:

   a. Met the building code requirements for a sleeping room at the time it was created or converted;

   b. Has a smoke detector that is interconnected with a smoke detector in an adjacent hallway; and

   c. Is located on the floor of a dwelling unit equipped with a functioning carbon monoxide alarm. If the dwelling unit does not have a carbon monoxide source, then a carbon monoxide alarm is not required.

5. Number of residents and guests. The total number of residents and guests occupying a dwelling unit with a Type A accessory short-term rental may not exceed the number allowed for a household. For sites with an accessory dwelling unit, the total number of residents and guests occupying both dwelling units may not exceed the number allowed for a household.

6. Employees. Nonresident employees are prohibited. Hired service for normal maintenance, repair and care of the residence or site, such as yard maintenance or house cleaning, is allowed.

7. Services to overnight guests and visitors. Serving alcohol and food to overnight guests and visitors is allowed and may be subject to other county or state requirements.

8. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings are prohibited with a Type A accessory short-term rental. A historic landmark that receives special assessment from the State, may be open to the public for 4 hours one day each year. This is not considered a commercial meeting.

9. A Type B accessory home occupation is prohibited with a Type A accessory short-term rental.

C **Type A accessory short-term rental permit.** The resident of a Type A accessory short-term rental must obtain a permit from BDS. It is the responsibility of the resident to obtain the permit every two years. The permit requires the resident, and operator if the operator is not the resident, to agree to abide by the requirements of this section, and document that the required notification requirements have been met:

1. Notification. The resident must:

   a. Prepare a notification letter that:

      (1) Describes the operation and the number of bedrooms that will be rented to overnight guests;

      (2) Includes information on how to contact the resident, and the operator if the operator is not the resident, by phone; and

      (3) Describes how the standards in Subsection .040.A and B are met.

   b. Mail or deliver the notification letter to all recognized organizations whose boundaries include the accessory short-term rental, the property owner if not the resident, and all owners of property abutting or across the street from the accessory short-term rental. See Figure 207-1.

2. Required information for permit. In order to apply for a Type A accessory short-term rental permit, the operator must submit to BDS:

   a. Two copies of the completed application form bearing the address of the property, the name, signature, address, and telephone number of the resident and operator if the operator is not also the resident;

   b. A copy of the notification letter and a list with the names and addresses of all the property owners and recognized organizations that received the notification.

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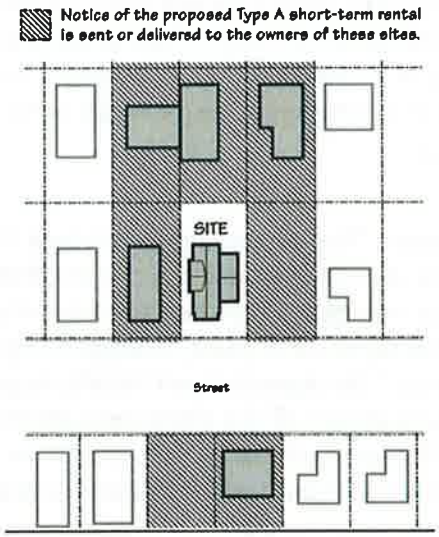
Figure 207-1
Type A Accessory Short-Term Rental Permit Notice Area



D. Revoking a Type A accessory short-term rental permit. A Type A accessory short-term rental permit can be revoked according to the procedures in City Code Section 3.30.040 for failure to comply with the regulations of this Chapter. When a Type A accessory short-term rental permit has been revoked, a new Type A accessory short-term rental permit will not be issued to that resident at that site for 2 years.

33.207.050 Type B Accessory Short-term Rentals

A. Use-related regulations.

1. Accessory use. A Type B accessory short-term rental~~bed and breakfast facility~~ must be accessory to a Household Living use on a site. This means that ~~the~~ a resident~~individual or family who operate the facility~~ must occupy the dwelling unit for at least 270 days during each calendar year, and unless allowed by Paragraph .050.B.2 or .050.B.3, the bedrooms rented to guests must be within the dwelling unit that the resident occupies~~house as their primary residence. The house must be at least 5 years old before a bed and breakfast facility is allowed~~.

2. Conditional use review. A Type B accessory short-term rental requires a conditional use review. A Type B accessory short-term rental that proposes commercial meetings is processed through a Type III procedure. All other Type B accessory short-term rentals are processed through a Type II procedure. The approval criteria are stated in 33.815.105, Institutional and other uses in R zones.

3. Allowed structure type. A Type B accessory short-term rental is allowed only in the following residential structure types:

   a. House;

   b. Attached house;

   c. Duplex;

   d. Manufactured home on its own lot; and

   e. Accessory dwelling units.

B. Standards.

1~~B~~. Maximum size. A Type B accessory short term rental~~Bed and breakfast facilities~~ is~~are~~ limited to renting a maximum of 5 bedrooms ~~for~~ to overnight guests. In the single-dwelling zones, a Type B accessory short-term rental~~bed and breakfast facility~~ over this size limit is prohibited.

2. Accessory dwelling units. On sites with an accessory dwelling unit, the resident can live in the primary or accessory dwelling unit and rent bedrooms in either dwelling unit.

3. Detached accessory structures. A bedroom in a detached accessory structure can be rented to overnight guests, and counts toward the maximum size limit.

4. Bedroom requirements. The Bureau of Development Services must verify that each bedroom to be rented to overnight guests:

   a. Met the building code requirements for a sleeping room at the time it was were created or converted;

   b. Has a smoke detector that is interconnected with a smoke detector in an adjacent hallway; and

   c. Is located on the floor of a dwelling unit equipped with a functioning carbon monoxide alarm. If the dwelling unit does not have a carbon monoxide source, then a carbon monoxide alarm is not required.

5. Number of residents and overnight guests. The total number of residents and overnight guests occupying a dwelling unit with a Type B accessory short-term rental may be limited as part of a conditional use approval.

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6~~C~~. Employees. ~~Bed and breakfast facilities may have n~~Nonresident employees for ~~such~~ activities such as booking rooms and food preparation~~, if~~ may be approved as part of the conditional use review. Hired service for normal maintenance, repair and care of the residence or site such as yard maintenance or house cleaning, is allowed~~may also be approved~~. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of a conditional use approval.

7~~D~~. Services to guests and visitors. Serving alcohol and food to guests and visitors is allowed and may be subject to other county or state requirements. ~~The proprietor may need Oregon Liquor Control Commission approval to serve alcohol at a bed and breakfast facility.~~

8~~E~~. Commercial ~~M~~meetings~~ and social gatherings~~.

a~~1~~. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings in ~~bed and breakfast facilities~~ are regulated as follows:

(1)~~a~~. In the single-dwelling zones, commercial meetings are prohibited~~ at a bed and breakfast facility~~;

(2)~~b~~. In ~~the multi-dwelling~~ all other zones, ~~the residents of a bed and breakfast facility may request~~ up to 24 commercial meetings per year may be approved as part of a ~~C~~conditional ~~U~~use ~~R~~review. The maximum number of visitors or guests per event will be determined through the ~~C~~conditional ~~U~~use ~~R~~review. Adjustments to the maximum number of meetings per year are prohibited.

~~2. Private social gatherings. The residents of a bed and breakfast facility are allowed to have only 12 private social gatherings, parties, or meetings per year, for more than 8 guests or visitors. The private social gatherings must be hosted by and for the enjoyment of the residents. Private social gatherings for 8 or fewer guests are allowed without limit as part of a normal Household Living use at the site.~~

b~~3~~. Historic~~al~~ landmarks. ~~A bed and breakfast facility which is located in a~~ A historic~~al~~ landmark that~~and which~~ receives special assessment from the State, may be open to the public for 4 hours one day each year. This does not count as ~~either~~ a commercial meeting~~ or a private social gathering~~.

c4. Meeting log.~~The bed and breakfast operator must log the dates that private social gatherings for more than 8 visitors or guests are held, and the number of visitors or guests at each event.~~ The operator must ~~also~~ log the dates of all commercial meetings held, and the number of visitors or guests at each event. The log must be available for inspection by City staff upon request.

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~~33.212.050 Site-Related Standards~~

~~**A. Development standards.** Bed and breakfast facilities must comply with the development standards of the base zone, overlay zone, and plan district, if applicable.~~

9~~**B**~~. Appearance. Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure being used as a residence in the future. Internal or external changes that will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.

10. A Type B accessory home occupation is prohibited with a Type B accessory short-term rental.

~~**C. Signs.** The sign standards are stated in Title 32, Signs and Related Regulations.~~

~~**D. Accessory dwelling units.** Accessory dwelling units must meet all requirements of Chapter 33.205, Accessory Dwelling Units.~~

~~33.212.060 Conditional Use Review~~
~~Bed and breakfast facilities require a conditional use review. A facility that proposes commercial meetings as provided in 33.212.040.E.1.b is processed through a Type III procedure. The review for all other facilities is processed through a Type II procedure. The approval criteria are stated in 33.815.105, Institutional and other uses in R Zones.~~

33.~~212~~207.0~~6~~70 Monitoring
All accessory short-term rentals~~bed and breakfast facilities~~ must maintain a guest log book. It must include the names and home addresses of guests, guest's license plate numbers if traveling by car, dates of stay, and the room assigned to~~number of~~ each guest. The log must be available for inspection by City staff upon request.

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33.207~~212~~.07~~80~~ Pre-Established Bed and Breakfast Facilities

A. Facilities without a revocable permit. Bed and breakfast facilities that were operating before May 24, 1988 and which did not receive a revocable permit, may continue to operate as an approved conditional use if the operator can show proof that the operation was established through City licensing. The requirements for verification are listed below.

1. The facility was operating with a City business license or was granted exemption from the business license requirement;

2. City transient lodging taxes were paid part or all of the tax period preceding May 24, 1988; and

3. The owner or operator can document that the Portland Bureaus of Planning or Buildings approved the site for a bed and breakfast facility prior to purchase, construction, or remodeling of the facility.

B. Alterations and Expansions. The approved conditional use status provided for in Subsection 070.A. ~~above~~ applies only to the number of bedrooms, and size of facility that existed on January 1, 1991. Any expansions of building area or alterations, that increase the intensity of the facility, are not allowed unless approved through a conditional use review as provided in Section 33.207~~212~~.05~~60~~.A.2.

C. Facilities with a revocable permit. Bed and breakfast facilities operating under approved revocable permits are subject to the regulations for revocable permits in 33.700.120, Status of Prior Revocable Permits.

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CHAPTER 33.910
DEFINITIONS

33.910.030 Definitions

The definition of words with specific meaning in the zoning code are as follows:

Household. One or more persons related by blood, marriage, domestic partnership, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than 5 additional persons, who live together in one dwelling unit.

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CHAPTER 33.920
DESCRIPTIONS OF THE USE CATEGORIES

33.920.110 Household Living

A. Characteristics. Household Living is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales And Service and Community Service categories). Apartment complexes that have accessory services such as food service, dining rooms, and housekeeping are included as Household Living. Single Room Occupancy housing (SROs), that do not have totally self contained dwelling units are also included if at least two thirds of the units are rented on a monthly basis. SROs may have a common food preparation area, but meals are prepared individually by the residents. In addition, residential homes as defined by the State of Oregon are included in the Household Living category (see Chapter 33.910, Definitions).

B. Accessory Uses. Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, ~~bed and breakfast facilities~~ accessory short-term rentals, and food membership distribution are accessory uses that are subject to additional regulations.

C.-D. [No change]

III. Amendments to other Titles of City Code

The following additional amendments affect non- Title 33 zoning code portions of the City's regulations. These regulations are contained in separate Titles of City Code. They are being presented in a separate section of this report, because while they are intended to complement the regulations in the Zoning Code, they are not land use regulations and are subject to a different legislative adoption process.

Like the previous section of this report, the amendments to code language are on the odd-numbered pages. The facing (even-numbered) pages contain commentary about the proposed amendment.

For more information about the zoning code amendments, refer to Section II.

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3.30.040 Administration and Enforcement.

In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

A.-C. [No change]

D. Gain compliance by:

1. Instituting an action before the Code Hearings Officer in the manner provided for by Title 22 of this Code.~~; or~~

2. Causing appropriate action to be instituted in a court of competent jurisdiction.~~; or~~

3. Issuing a code violation citation directly to the contractor or person responsible for carrying out the work. Any person receiving a citation for violating the provisions of the City Code administered by the Bureau of Development Services shall be subject to a fine of up to $1,000 for each citation issued.

4. Taking other lawful action.

5. Revoking a Type B home occupation permit for failure to comply with the regulations of City Code Chapter 33.203 or revoking a Type A accessory short-term rental permit for failure to comply with the regulations of City Code Chapter 33.207 by using the following procedures:

a. – d. [No change]

E. [No change]

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6.04.060 Registration of Operator; Form and Contents; Execution, Certification.

A.-C. [No change]

D. Operators of Type A and Type B accessory short-term rentals as described in Section Chapter 33.207 must include their Type A Permit Number or Type B Conditional Use case file number, as applicable, in all advertising and other listing services. No person shall advertise or otherwise represent that an accessory short-term rental has received approval unless that person holds a current, valid permit or Conditional Use case file. Additionally, this Permit Number or Conditional Use case file number shall be prominently displayed in the rental unit so as to be seen by all short-term occupants.

Appendix A -
RICAP 6 Short-Term Rental Ordinance No. 186736

8. On April 22, 2014 the Planning and Sustainability Commission held a hearing on the *RICAP 6 Proposed Draft.* The Planning and Sustainability Commission made four amendments to the proposal, and then voted to recommend approval of the RICAP 6 proposed code amendment items and to forward them to City Council for adoption.

9. On May 13, 2014 notice of the June 4, 2014 City Council hearing on RICAP 6 was mailed to all who presented testimony orally or in writing to the Planning and Sustainability Commission and provided a name and address, those who asked for notice, and other interested parties.

Findings on Statewide Planning Goals

10. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the stated goals addressed below apply.

11. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided several opportunities for public involvement. The amendments are supportive of this goal for the following reasons:

    a) Staff from the Bureau of Planning and Sustainability met with the Development Review Advisory Committee (DRAC) and the land use chairs of the city's neighborhood coalition offices on July 15, 2013, to review potential items for inclusion in the RICAP 6 work plan.

    b) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Workplan* was made available to the public for review on July 24, 2013. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.

    c) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed work plan on August 13, 2013. Notice of the hearing was mailed to all neighborhood associations, neighborhood coalitions, business associations, and other interested parties on July 25, 2013.

    d) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Discussion Draft* was made available to the public for review on January 6, 2014. The report was posted on the City's regulatory improvement program website, and mailed to all who requested a copy.

    e) Notice of the RICAP 6 discussion draft was also mailed on January 8, 2014 to over 750 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties. The notice included the dates, times and locations of neighborhood association or neighborhood coalition meetings, and a BPS sponsored open house, during which project staff presented the draft for discussions and questions.

    f) Project staff attended six neighborhood coalition meetings, and two neighborhood association meetings between January 6, and February 21, 2014. The RICAP 6 discussion draft report was presented and discussed at each of these meetings

See also findings addressing Portland Comprehensive Plan Goal 1, Metropolitan Coordination, and its related policies and objectives.

13. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural, historic and scenic resources. These amendments are consistent with this goal because they eliminate the need for a conditional use review for accessory short-term rental facilities that rent up to two bedrooms to overnight guests. By eliminating the cost and time associated with a conditional use review, the amendments facilitate use of unused bedrooms in a historic home as an accessory short-term rental, and the income generated from the accessory use may allow the owner to invest in maintaining, and therefore protecting, the historic home. The findings for Portland Comprehensive Plan Policy 2.21, Existing Housing Stock, also demonstrate that the amendments are consistent with this goal.

14. **Goal 9, Economic Development,** requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. These amendments are consistent with this goal by removing a cost barrier to establishing a Type A accessory short-term rental in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot, thereby facilitating the use of these types of dwelling units for economic activity. The findings for Portland Comprehensive Plan Goal 5, Economic Development also demonstrate that the amendments are consistent with this goal.

15. **Goal 10, Housing,** requires provision for the housing needs of citizens of the state. The findings for Portland Comprehensive Plan Goal 4, Housing, and relevant sub-policies and objectives, demonstrate that the amendments are consistent with Goal 10.

16. **Goal 12, Transportation,** requires provision of a safe, convenient, and economic transportation system. The findings for Portland Comprehensive Plan Goal 6, Transportation, and relevant sub-policies demonstrate that the amendments are consistent with Goal 12.

17. **The Oregon Transportation Planning Rule (TPR)** was adopted in 1991 and amended in 1996, 2005 and 2012 to implement State Goal 12. The TPR requires certain findings if a proposed Comprehensive Plan Map amendment, zone change, or regulation will significantly affect an existing or planned transportation facility.

    These amendments will not have a significant effect on existing or planned transportation facilities because, as demonstrated in the findings for Portland Comprehensive Plan Goal 6 and related sub-policies, the amendments ensure that the number of trips generated by a household living use with an accessory short-term rental use will not exceed the number of trips generated by a household living use without an accessory short-term rental.

18. **Goal 14, Urbanization,** requires provision of an orderly and efficient transition of rural lands to urban use, the efficient use of land, and the provision of livable communities. The findings for Portland Comprehensive Plan Goal 2, Urban Development, Goal 3, Neighborhoods, and their relevant sub-policies demonstrates that these amendments provide for livable communities and are therefore consistent with this goal.

Findings on Metro Urban Growth Management Functional Plan

19. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the accessory short-term rental amendments.

the point of our instructions to get to know one's neighbors. The point of knowing one's neighbors is not to exclude everyone else, but to have a network. A neighborhood network can thrive whether or not guests or strangers are present. In short, I do not agree with the argument that short term rentals would nullify existing Neighborhood Watches." The Council finds the Program Manager's testimony is credible and persuasive that the amendments are consistent with Title 12. The findings for Portland Comprehensive Plan Goal 8, Environment demonstrate that the amendments will limit potential impacts from noise.

Findings on Portland's Comprehensive Plan Goals

24. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the accessory short-term rentals amendments.

GOAL 1, METROPOLITAN COORDINATION

25. **Goal 1, Metropolitan Coordination,** calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because notification of the proposal, and an opportunity to provide comment at a public hearing before the Planning and Sustainability Commission, was provided to the Oregon Department of Land Conservation and Development per ORS 197.610, and to Metro, Tri-Met, and the Oregon Department of Transportation per 33.740.020. In addition, nothing within these amendments changes or affects the Urban Growth Boundary, Urban Planning Area Boundary, or Urban Services Boundary.

GOAL 2, URBAN DEVELOPMENT

26. **Goal 2, Urban Development, and Policy 2.2, Urban Diversity** call for maintaining Portland's role as the major regional employment and population center through public policies that encourage expanded opportunity for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they encourage expanded opportunity for home-based jobs, while retaining the character of existing residential neighborhoods. An accessory short-term rental is where a long-term resident rents bedrooms in their dwelling to overnight guests. Accessory short-term rentals are currently allowed in houses in residential zones as a conditional use. Approval of a facility currently requires a quasi-judicial conditional use review. These amendments establish Type A (one or two bedrooms) and Type B (three to five bedrooms) accessory short-term rentals, and eliminate the need for a conditional use review for facilities that rent up to two bedrooms to overnight guests. Operating an accessory short-term rental is a home-based occupation, and eliminating the need for a $4,130 conditional use review (CU fee as of May 2014) in order to establish a Type A accessory short-term rental will encourage this type of home-based occupation. In addition to encouraging home-based jobs, the amendments include provisions that address several common elements of neighborhood character such as use, intensity, and accessory home occupations:
    - Use. The amendments do not allow a home in a neighborhood to be converted to a full-time, short-term rental. The amendments ensure that the accessory short-term rental remains an accessory use to a primary household living use on a site. This is accomplished by requiring that a long-term resident live in the dwelling unit in which the rooms will be rented. On sites that have an accessory dwelling unit (ADU), the resident may reside in the primary dwelling and rent rooms in the ADU or vice versa;

residents occupying a dwelling unit to no more than the number allowed for a household, and a limit on the number of bedrooms that can be rented to overnight guests;

- A short-term rental (temporary lodging) is currently allowed outright in the city's Industrial zones. Up one Retail Sales and Service use, with maximum of 3,000 square feet, is allowed in an IG1 zone, and up to four Retail Sales and Service uses, with a maximum of 3,000 square feet each, are allowed in the IG2 and IH zones.

The findings for Title 4 and Goal 6, Transportation, also demonstrate that the amendments are consistent with this policy.

29. **Policy 2.15, Living Closer to Work**, calls for locating greater residential densities near major employment centers, locating affordable housing close to employment centers, and encouraging home-based work where the nature of the work is not disruptive to the neighborhood. As described in the findings for Goal 2, Urban Development, the amendments encourage home-based work, and include provisions that will protect neighborhoods. Accessory short-term rentals are currently allowed as a conditional use in houses in residential zones. These amendments establish Type A and Type B accessory short-term rentals, and eliminate the need for a conditional use review in order to establish a Type A accessory short-term rental in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot. A Type A accessory short-term rental is one where no more than two bedrooms are rented on a short-term basis. A Type B accessory short-term rental allows renting up to 5 bedrooms to overnight guests, and will continue to require a conditional use review. Operating an accessory short-term rental is a home-based occupation, and the elimination of the conditional use review fee ($4130 application fee as of May 2014) will encourage this type of job. The amendments also include provisions that limit disruption in the neighborhood:
    - The amendments ensure that the short-term rental remains an accessory use to the primary household living use on the site by limiting the number of bedrooms rented, requiring that long-term primary resident live in the dwelling unit in which the rooms will be rented, and requiring that the dwelling unit be the long-term resident's primary residence;
    - The amendments limit the total number of guests and residents occupying a dwelling unit to no more than the number allowed for a household. A household is defined as one or more persons related by blood, marriage, legal adoption, guardianship, or domestic partnership plus not more than 5 other persons (per 33.910.030). This limitation ensures that the number of residents and guests coming and going from a dwelling in which bedrooms are rented on a short-term basis does not exceed the number of residents allowed to come and go from other homes in the neighborhood that do not have an accessory short-term rental;
    - The amendments include a requirement that the operator of the accessory short term rental notify neighbors and the property owner of the accessory use. The notice must describe the operation and the number of bedrooms to be rented to overnight guests, provide contact information, and describe how the regulations of 33.207 will be met. In addition, the notification must be updated every two years;
    - The amendments prohibit the establishment of a Type B accessory home occupation in a dwelling unit with an accessory short-term rental. This will limit the impacts that more than one home-based accessory occupations could have on a neighborhood. A Type B accessory home occupation is one in which the resident uses their home as place of work, and has one employee or up to eight customers per day. Type A accessory home occupations where a resident uses their home as a home office but does not have employees or customers will continue to be allowed;
    - The amendments prohibit non-resident employees and commercial meetings in a Type A accessory short-term rental; and
    - The amendments allow a Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of 33.207.

Testimony in the record states that allowing short-term rentals in single-dwelling neighborhoods will increase speculation. The testimony does not provide evidence to support the conclusion. The testimony posits that the "active turnover of users" will contribute to speculation. However, as stated above, the amendments limit the total number of residents and guests occupying the dwelling unit to the same number allowed to occupy a dwelling without an accessory short-term rental. Thus, the number of "users" coming and going from the dwelling can be no more than the number that can come and go from neighboring dwellings, and there is no evidence in the record to suggest that the number of trips made to and from a dwelling with an accessory short-term rental will be more than the number of trips made to and from a dwelling without an accessory short-term rental. In addition, as mentioned above, the amendments prohibit the establishment of a Type B accessory home occupation in a dwelling with an accessory short-term rental. A Type B accessory home occupation allows up to eight customers coming and going per day. Eliminating this allowance further reduces the number of potential trips that a dwelling with an accessory short-term rental could generate.

GOAL 3, NEIGHBORHOODS

31. **Goal 3, Neighborhoods,** calls for preserving and reinforcing the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses and insure the city's residential quality and economic vitality. The amendments are consistent with this goal and preserve the stability of the city's neighborhoods for the reasons stated in the findings for Goal 2, Urban Development, the Goal 2 sub-policies, and the findings below.

32. **Policy 3.2, Social Conditions,** call for providing and coordinating programs to promote neighborhood interest, concern and security and to minimize the social impact of land use decisions. The amendments promote neighborhood interest and concern because they require the operator to notify neighbors before the accessory short-term rental is approved. The notification must include a description of the operation and the number of rooms to be rented to overnight guests. The notification must also include contact information for the operator and describe how the standards of the Title 33.207 will be met. This notification must be updated every two years. The amendments also address neighborhood concern and security because they include an amendment to Title 3.30.040.B.5 allowing the Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of Title 33.207. If the permit is revoked, a new permit will not be issued to the operator at that residence for two years. Testimony in the record asserts that the amendments conflict with this policy because they do not provide full disclosure of the impacts of the use, make rental properties available mainly to "well-to-do Caucasian ambulatory tourists and visitors", promote discrimination, and displace residents. No evidence was provided to support these conclusions. Additionally, the issues raised in the testimony are not relevant to the policy in question. Policy 3.2 is aimed at City programs that promote neighborhood interest, and is not aimed at discrimination or displacement.

33. **Policy 3.3 Neighborhood Diversity**, calls for promoting neighborhood diversity and security by encouraging a diversity in age, income, race and ethnic background within the City's neighborhoods. The amendments are consistent with this policy. The amendments eliminate the need for a conditional use review in order to establish a Type A accessory short-term rental. By eliminating the cost and time associated with a conditional use review, the amendments reduce barriers to establishing this type of home-based occupation. The income generated by the accessory short-term rental may help owners and renters reduce household expenses, including costs associated with rent or a mortgage. According to a survey of accessory short-term rental operators in Portland, the typical host earns an average of $6,860 per year. Fourteen of the 36 operators of accessory short-term rental facilities who testified at the Planning and Sustainability Commission hearing stated that the income generated from the short-term rental allowed them to remain in their home during times of financial hardship.

36. **Policy 4.2, Maintain Housing Potential,** calls for retaining housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use. This policy is implemented by an approval criterion applied to quasi-judicial Comprehensive Plan Map Amendments that requires no net loss of potential housing units when a requested amendment is from a residential or the urban commercial Comprehensive Plan Map designation to a non-residential map designation (33.810.050.A.2). These amendments do not conflict with this policy because they do not amend, change, or undermine this approval criterion. Testimony in the record argues that the amendments conflict with this policy because they "effectively permit commercial uses in direct conflict with Housing Policy 4.2." No evidence was provided to support this conclusion. As stated in the findings for Goal 4, Housing, the amendments do not allow housing units in residential zones to be converted from residential to commercial use. The amendments specifically require that the short-term rental be accessory to a primary household living use on a site and, as a result, help to maintain the residential character of existing neighborhoods. The regulations:
    - Require that a long-term resident live in the dwelling unit in which the rooms will be rented. On sites that have an accessory dwelling unit (ADU), the resident may reside in the primary residence and rent bedrooms in the ADU or vice versa;
    - Require that the dwelling unit have a primary, long-term resident (the long-term resident must occupy the dwelling for at least 270 days per calendar year);
    - Limit Type A accessory short-term rentals to renting no more than two bedrooms to overnight guests, and requiring a conditional use review for facilities that rent more than two bedrooms per night.

37. **Policy 4.4 Housing Safety,** calls for ensuring a safe and healthy built environment and assisting in the preservation of sound existing housing and the improvement of neighborhoods. These amendments support this policy because they require the operator of an accessory short-term rental to verify that the bedrooms to be rented met the building code requirements for sleeping rooms at the time they were created or converted, that each floor on which a room with be rented has at least one carbon monoxide alarm, and each bedroom has a smoke detector that is interconnected with smoke detectors in an adjacent hallway. These requirements are intended to ensure that guest can exit the dwelling rapidly and safely in the event of a fire or other emergency.

    These amendments also support the preservation of sound housing because they make it easier for a long-term resident to establish a Type A accessory short-term rental in the house, attached house, accessory dwelling unit, duplex, or manufactured home in which they live. A Type A accessory short-term rental is a home-based occupation that will generate income for the resident, increasing the chances that the resident will invest in improvements that keep the home sound. Testimony in the record argues that the amendments conflict with this policy because they will establish "commercial uses as a 'by-right' in all Single Dwelling residential zones...", because they do not allow neighbors the opportunity to comment, and because they conflict with Neighborhood Watch activities promoted by the Office of Neighborhood Involvement. As stated in the findings for Policy 4.2, Maintain Housing Potential, these amendments do not allow housing units in a residential zones to be converted from residential to commercial use. As stated in the findings for Policy 3.2, Social Conditions and Policy 3.5, Neighborhood Involvement, the establishment of an accessory short-term rental requires notification to neighbors, neighborhood associations, and business associations. Issues raised in the testimony regarding Neighborhood Watch activities are not relevant to this policy, as Policy 4.4 is directed at the safety of the housing structure.

38. **Policy 4.5, Housing Conservation,** calls for restoring, rehabilitating, and conserving existing sound housing as one method of maintaining housing as a physical asset that contributes to an area's desired character. These amendments are consistent with this policy because they eliminate a $4,130 cost barrier (current cost of a Type II conditional use review) to establishing a Type A accessory short-

unit, attached duplex, attached house, duplex, group living structure, house, houseboat, manufactured dwelling, multi-dwelling development, multi-dwelling structure, single-room occupancy housing, and triplex. An individual room within a dwelling unit is not identified as a housing type. These amendments allow a long-term resident living in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot to rent rooms within the home to overnight guests. In the case of a site with accessory dwelling unit (ADU), the amendments allow the resident to live in the house, attached house, or manufactured home on its own lot and rent rooms in the ADU or vice versa (and ADU is not allowed with a duplex). In either case, the number of bedrooms that can be rented on a short-term basis and the number of total residents and guest on the site is limited. Furthermore, as stated in the findings for Goal 4, Housing, and Policy 4.2, Maintain Housing Potential, these amendments will not cause housing types to be displaced because they do not allow housing units in residential zones to be converted from a primary residential use to a primary commercial use.

43. **Policy 4.11 Affordability,** promotes the development and preservation of quality housing that is affordable across the full spectrum of household incomes. The amendments are consistent with this policy because the change to the accessory short-term rental regulations will not affect the supply of needed affordable housing for the following reasons:
    - The regulations do not allow conversions of needed housing in residential zones from a residential use to a commercial use. The amendments ensure that the primary use of the dwelling remains household living. The regulations allow a long-term resident to rent unused bedrooms within their primary residence to overnight guests, and the regulations limit the number of bedrooms that can be rented on a short-term basis.
    - In many cases a conditional use review will no longer be required, and the absence of a quasi-judicial application fee may well increase the number of householders establishing accessory short-term rentals. Testimony in the record asserts that the ability to receive income from overnight guests may increase the ability of long-term residents to afford the cost of maintaining their homes or remain in their home during times of financial struggle.
    - Any economic effects of the amended regulations are limited to lowering the entrance costs to short-term rentals by eliminating the cost of a conditional use review ($4,130 application fee). The amended regulations will require a permit fee and the installation of interconnected smoke detectors plus a carbon monoxide detector, costs that are together unlikely to exceed $1,000. Assuming that all the reduced entrance costs fully translate to a corresponding increase in the value of residential property, this increase is limited to less than $4,130. The median home price in Portland is $285,000, while the mean home price in Portland is $448,778 ("Portland Market Trends" 2014). A $4,000 increase in price is a 1.4 percent increase in the median price, and a .08 percent increase in the mean price, not enough to render affordable housing unaffordable.
    - Home Forward (formerly Housing Authority of Portland) is a government agency that owns homes and makes them available to rent by households earning less than sixty-percent of median metropolitan statistical area income. Rental agreements for these homes always contain a prohibition on subletting that will prohibit accessory short-term rentals. The amendments will therefore not affect the affordability of this publically owned housing. In addition, they will not affect affordable housing obtained through the Housing Choice Voucher Program funded by the U.S. Department of Housing and Urban Development and administered by Home Forward. This program is commonly referred to as Section 8, and it provides rent assistance to low-income residents. The assistance voucher can be used for renting an apartment or a house, but it cannot be used to rent a room in a house.

attached house, accessory dwelling unit, duplex, or manufactured home on its own lot. A Type B facility will continue to require a conditional use review. Operating an accessory short-term rental is a home-based occupation, and the elimination of the $4,130 conditional use review application fee (as of May 2014) will make entry into this type of work less costly, and therefore encourage this type of home-based job. According to a survey of accessory short-term rental host in Portland who use the Airbnb website, the average annual income generated from an accessory short-term rental is $6,860 (Airbnb survey 2014).

GOAL 6, TRANSPORTATION

46. **Goal 6, Transportation,** calls for developing a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. These amendments are consistent with this goal because they ensure that the potential number of trips generated by an accessory short-term rental will not exceed the number of trips that could be generated by a household living use without an accessory short-term rental. The amendments include a provision that limits the total number of guests and residents staying in a home with an accessory short-term rental to no more than the number of residents allowed to reside in a home without an accessory short-term rental. In addition, the amendments potentially reduce the number of trips that could be generated by an home with an accessory short-term rental because they prohibit the resident in a home with a Type A accessory short-term rental from also operating a Type B accessory home occupation. A Type B accessory home occupation is one in which the operator has one employee or up to eight customers per day. By prohibiting a Type B accessory home occupation, the potential number of trips to and from a home in a residential zone is reduced.

    Testimony at the Planning and Sustainability Commission hearing raised concerns about parking associated with an accessory short-term rental. As already mentioned, an accessory short-term rental can have no more people staying in the home than can reside or stay in a home without an accessory short-term rental, therefore the number of cars being parked in association with a home that operates an accessory short-term rental will be no more than should be expected for a home without an accessory short-term rental. In addition, several operators of accessory short-term rentals who testified at the Planning and Sustainability Commission hearing suggested that many of their guests do not have a car. One operator said that fewer than one-half of their guest have had a car, while another operator stated that more than 80 percent of their guests did not have a car.

47. **Policy 6.12, Regional and City Travel Patterns,** calls for supporting the use of the street system consistent with its state, regional, and city classifications and its classification descriptions. Objective B calls for minimizing the impacts of interregional and long intraregional trips on Portland neighborhood and commercial areas, while supporting the travel needs of the community. These amendments are consistent with this policy because, as stated in the findings for Goal 6, Transportation, they ensure that the number of trips generated by a home with an accessory short-term rental will be no more than, and could potentially be fewer than, the number of trips generated by home without an accessory short-term rental.

48. **Policy 6.26, On-Street Parking Management,** calls for managing the supply, operations, and demand for parking and loading in the public right-of-way to encourage economic vitality, safety for all modes, and livability of residential areas. As stated in the findings for Goal 6, Transportation, these amendments are consistent with this policy because they will not increase the demand for parking in residential areas, and will in some cases reduce the potential demand for parking in residential areas.

d) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Discussion Draft* was made available to the public for review on January 6, 2014. The report was posted on the City's regulatory improvement program website, and mailed to all who requested a copy.

e) Notice of the RICAP 6 discussion draft was mailed January 8, 2014 to over 750 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties. The notice included the dates, times and locations of neighborhood association or neighborhood coalition meetings, and a BPS sponsored open house, during which project staff presented the draft for discussion and questions.

f) Project staff attended six neighborhood coalition meetings, and two neighborhood association meetings between January 6, and February 21, 2014. The RICAP 6 discussion draft report was presented and discussed at each of these meetings

g) Project staff presented the RICAP 6 discussion draft report at one Design Commission meeting, one Historic Landmarks Commission meeting, and one Planning & Sustainability Commission meeting(s).

h) Project staff were available to discuss the RICAP 6 discussion draft at an open house held on February 11, 2014 from 5:00 pm to 7:30 pm.

i) On March 18, 2014 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.

j) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Draft* was made available to the public for review on March 21, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.

k) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed draft on April 22, 2014. Notice of the hearing was mailed to the regional transit agency, Metro, the Oregon Department of Transportation, all neighborhood associations, neighborhood coalitions, business associations, affected bureaus, and other interested parties on March 20, 2014, as required by ORS 227.186 and PCC 33.740. The Planning and Sustainability Commission made four amendments to the proposed draft.

l) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Recommended Draft* was made available to the public for review on May 19, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.

m) City Council held a public hearing on the RICAP 6 recommended draft on June 4, 2014. Notice of the hearing was mailed to all those who testified orally or in writing at the Planning and Sustainability Commission hearing, and to other persons who requested such notice, on May 13, 2014.

The findings for Statewide Planning Goal 1, Citizen Involvement also demonstrate compliance with this goal and policy.

Testimony in the record asserts that these amendments fail to satisfy this goal and policy. As described above, the process to adopt these amendments followed all requirements of Title 33.740, Legislative Procedures, therefore Goal 9 and Policy 9.1 are satisfied.

NOW, THEREFORE, the Council directs:

a. Adopt items #12-14 (Short-Term Rental/Bed and Breakfast amendments) of Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.

b. Adopt the commentary for items #12-14 (Short-Term Rental/Bed and Breakfast amendments) in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014 as legislative intent and further findings.

c. Amend Title 33, Planning and Zoning, as shown in items #12-14 (Short-Term Rental/Bed and Breakfast amendments) in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.

d. Amend Title 3, Administration, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.

e. Amend Title 6, Special Taxes, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.

f. Direct the Bureau of Planning and Sustainability to return to City Council with a proposal for accessory short-term rentals in multi-dwelling structures within 90 days.

g. Direct the Bureau of Planning and Sustainability to monitor the effects of the amendments as part of their overall monitoring program, and provide a report on the effects to City Council by September, 2016.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Passed by the Council: JUL 30 2014

Mayor Charles Hales
Prepared by: Shannon Buono
Date Prepared: July 16, 2014

LaVonne Griffin-Valade
Auditor of the City of Portland
By Susan Parsons
Deputy

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