



Home-Sharing & Short-Term Rentals Regulations **FAQs**

Table of Contents

Q: What Are Short-Term Rentals?	3
Q: What Is Occupancy Tax?	4
Q: Aren't Short-Term Rentals Just A Vacation Town Or Big City Phenomenon?	5
Q: How Many Short-Term Rental Websites Are There?	3
Q: How Many Short-Term Are There In My City / Town / County?	4
Q: Is The Existence Of Short-Term Rentals In My Community A Cause For Concern?	5
Q: Why Regulate Short-Term Rentals In The First Place?	3
Q: Do Local Governments Have The Authority To Regulate (And Restrict) Short-Term Rentals Within Their Jurisdiction?	4
Q: Is Regulating And / Or Enforcing Short-Term Rental Regulation Worth The Time And Resources?	4
Q: What Does It Take To Effectively Enforce Short-Term Rentals Regulation Manually?	4
Q: Is It Necessary To Conduct Audits To Get Short-Term Rental Property Landlords To Comply With Permitting And Lodging / Hotel / Transient Occupancy Taxes Requirements?	4
Q: Is It Possible And Cost-Effective To Outsource The Enforcement Of Short-Term Rental Regulation On The Local Government Level?	4
Q: Is It Necessary To Require Short-Term Rental Property Owners To Be Registered Or Licensed In Order To Effectively Manage Short-Term Rental Activity In The Community?	4
Q: Is It Necessary To Physically Inspect All Properties That Are Applying For A Short-Term Rental Permit?	4



Q: What Are Short-Term Rentals?

A: A short-term rental (also called a vacation rental or STR) is most often defined as a rental of a residential dwelling unit or accessory building for periods of less than 31 consecutive days. In some communities, short-term rental housing may be referred to as vacation rentals, transient rentals, short-term vacation rentals or resort dwelling units.

Short-term rentals are often divided into:

	OWNER OCCUPIED DWELLINGS (To be considered owner-occupied, a home must often be a designated homestead by the owner at least 51% of the time.)	NON-OWNER OCCUPIED DWELLINGS
ENTIRE HOMES	Example: An owner living in their residence most of the time but renting out the entire home for a few days or weeks (up to consecutive 30 days) a year.	Example: An absentee-owner who rents out his/her property in increments of less than 30 days one or more times per year.
ACCESSORY DWELLINGS	Example: An owner who rents out a garage apartment or back cottage on the same property as their primary home for short periods is operating an accessory dwelling STR.	Example: An absentee-owner who rents out an accessory dwelling on his/her non-primary residence in increments of less than 30 days one or more times per year.
ROOMS	Example: An owner who rents out one or more rooms in his/her primary home in increments of less than 31 days.	Example: An absentee-owner who rents out one or more rooms in his/her non-primary residence in increments of less than 30 days one or more times per year.

In addition some jurisdictions make further distinctions between:

- Short-term rental properties that are classified as single-family homes vs. properties that are classified as multi-family homes.
- Short-term rental properties located in areas zoned as residential vs properties located in in areas zoned as commercial or multi-use areas.
- Short-term rentals for which the owner is present during the entire rental period (as is often the case for rooms rented in owner-occupied dwellings) vs. short-term rentals for which the owner is not present (as is the case when entire homes are rented).

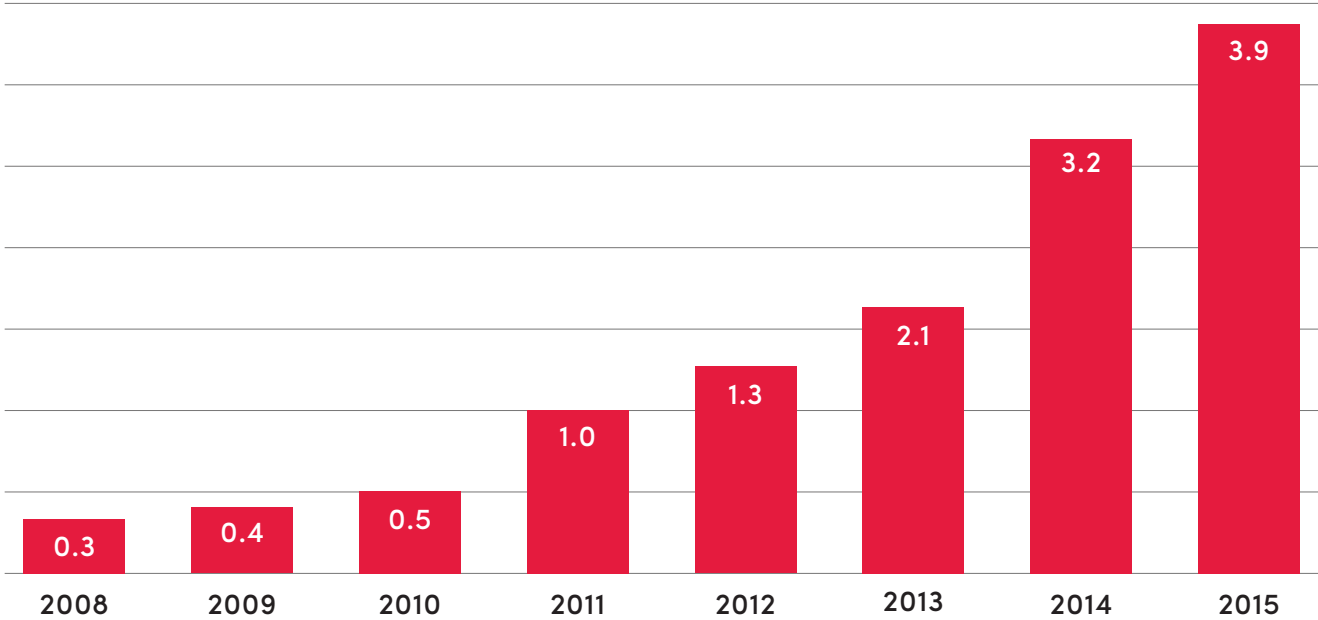
Q: What Is Occupancy Tax?

A: Occupancy tax is a tax on the rental of rooms that state or local governments may require. In many places this is known as an occupancy tax, but may also be known as a transient occupancy tax, lodging tax, a room tax, a bed tax, a sales tax, a tourist tax, or a hotel tax. Occupancy tax rates and rules vary by city, county and state,. They're generally owed on the accommodations price plus any fees for other items, like cleanings or extra guests. In some places, occupancy tax is required on a per person, per night basis. There are typically long-term stay exceptions that exempt stays over a certain number of nights (i.e. 30 nights). Occupancy tax is generally paid by the guest, but the obligation to remit the taxes to the government usually falls on the short-term landlord / host.

Q: Aren't Short-Term Rentals Just A Vacation Town Or Big City Phenomenon?

A: No, the emergence of Airbnb, VRBO, FlipKey and 100's of other short-term rental websites have created a global boom in short-term rentals of personal residences and contrary to in the past, these rentals are spread all over the country. Traditional residential non-tourist communities that have never had to deal with the consequences of transient populations are therefore now suddenly being forced to deal with new opportunities and challenges, and the problem is not going away. Indeed, the number of short-term rentals have grown at a 45% annual rate over the past 5 years and there is no reason to believe that the growth will slow down in a foreseeable future.

Millions of homes listed on top 4 short-term rental websites



Q: How Many Short-Term Rental Websites Are There?

A: As of January 2016, there were more than 100 short-term rental websites operating in the U.S. alone. Here are the top 30 sites listed in alphabetical order: 9flats.com, Agoda.com, Airbnb.com, Alterkeys.com, Aluguest.com, atraveo.com , Booking.com, Casamundo.com, couchsurfing.com, Craigslist.com, Dwellable.com, FlipKey.com, Holiday Lettings, HomeAway.com, Housetrip.com, Interhome.com, Kidandcoe.com, Niumba.com, Only-apartments.com, Rentalspot.com, Roomorama.com, Sleepout.com, Travelmob.com, tripvillas.com, vacationrentals.com, VRBO.com, webchalet.com and Wimdu.com. The list of websites dedicating to short-term rentals is growing and changing constantly and keeping up with all of the sites requires constant monitoring.

Q: How Many Short-Term Are There In My City / Town / County?

A: If you would like to request a free analysis of the short-term rental market in your city / town / county, please email us on info@hostcompliance.com or fill out this form on our website and we will get back to you within 24 business hours.

Q: Is The Existence Of Short-Term Rentals In My Community A Cause For Concern?

A. The answer to this question depends on the characteristics of your community and whether the short-term rentals operating there are doing so respectfully and not negatively impacting the community directly or in-directly. That said it is often hard to get conclusive evidence to indicate whether this is the case or not.

As an example police call logs, code enforcement activity reports, and prosecutorial records seldom specify whether documented incidents are attributable to short-term rental properties or renters. The reason being that most local governments have never kept good records of short-term rental properties in their jurisdiction and police and code-enforcement personnel have generally not been trained to collect and record this type of information. It is also worth noting that many people who have been negatively affected by neighboring short-term rentals, may not have reported the issues they experienced out of fear from ruining their relationship with their neighbors. In many cases affected neighbors may also not know where to report their observations of misconduct related to short-term rentals. All in all, it is therefore very unlikely that one will be able to obtain accurate and/or conclusive evidence to indicate whether short-term rentals are in fact a cause for concern or not without conducting a public hearing or other process for local citizens to speak out on the topic.

Q: Why Regulate Short-Term Rentals In The First Place?

A: There are many good reasons why local government leaders are focused on finding ways to manage the rapid growth of short-term rental properties in their communities. To name a few:

- 1.** Increased tourist traffic from short-term renters has the potential to slowly transform peaceful residential communities into “communities of transients” where people are less interested in investing in one another’s lives, be it in the form of informal friend groups or church, school and other community based organizations.
- 2.** Short-term renters may not always know (or follow) local rules, resulting in public safety risks, noise issues, trash and parking problems for nearby residents.

3. So-called “party houses” i.e. homes that are continuously rented to larger groups of people with the intent to party can severely impact neighbors and drive down nearby home values.
4. Conversion of residential units into short-term rentals can result in less availability of affordable housing options and higher rents for long-term renters in the community.
5. Local service jobs can be jeopardized as unfair competition from unregulated and untaxed short-term rentals reduces demand for local bed & breakfasts, hotels and motels.
6. Towns often lose out on tax revenue (most often referred to as Transient Occupancy Tax / Hotel Tax / Bed Tax or Transaction Privilege Tax) as most short-term landlords fail to remit those taxes even if it is required by law.
7. Lack of proper regulation or limited enforcement of existing ordinances may cause tension or hostility between short-term landlords and their neighbors.
8. The existence of “pseudo hotels” in residential neighborhoods (often in violation of local zoning ordinances etc.) may lead to disillusionment with local government officials who may be perceived as ineffective in protecting the interests of local tax-paying citizens.

Q: Do Local Governments Have The Authority To Regulate (And Restrict) Short-Term Rentals Within Their Jurisdiction?

A: Yes. The reasons are as follows:

1. **U.S. local governments have the authority to regulate land use within their jurisdiction (except for in Florida)**

In general, short-term rental restrictions are typically adopted under the specific authority of a state zoning enabling statute or the general police power delegated to local governments by the state constitution, or by statute. Zoning regulations that restrict short-term rentals in residential areas have been upheld where the restrictions are found to be substantially related to land use impacts in the area. Prohibiting short-term occupancy in single-family areas has been held to be within the lawful scope of the zoning power. However, in 2011 the Florida State Legislature enacted legislation that specifically limits the authority of local governments to regulate or prohibit short-term rentals. Enacted as Chapter No. 2011-119 on June 2, 2011, the Florida law (entitled —"An act relating to public lodging establishments and public food service establishment") states:

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

As of January 2016, Florida appears to be the only state to have enacted legislation limiting the authority of local governments to regulate or prohibit short-term rentals. It is conceivable, however, that the Florida law may become a model for other states. This would appear to be the most likely in those states where short-term rentals comprise a meaningful segment of the tourist lodging industry. short-term rentals. Enacted as Chapter No. 2011-119 on June 2, 2011, the Florida law (entitled —"An act relating to public lodging establishments and public food service establishment") states:

2. Restricting short-term rentals does not constitute "taking of property"

It is well established that a land use regulation that is excessively restrictive may constitute a taking of property for which compensation must be paid under the state constitution and the Fifth and Fourteenth Amendments to the United States Constitution. The prevailing test for determining whether a regulatory taking has occurred was established in the landmark case of Penn Central Transportation Co. v. City of New York, decided by the United States Supreme Court in 1978.

The Penn Central test requires a balancing of the public and private interests involved in each case, weighing the following three factors: (1) the economic impact of the regulation on the property owner; (2) the extent to which the regulation interferes with the property owner's —distinct investment-backed expectations; and (3) the character of the governmental action (i.e., physical invasion v. economic interference). The application of the Penn Central —balancing test is illustrated in an Oregon case that concerned a takings challenge to a short-term rental ordinance. In that case rental property owners challenged a City of Cannon Beach, Oregon ordinance that prohibited the creation of new transient occupancy uses and required existing transient occupancy uses to end by 1997. The petitioners claimed that Ordinance 92-1 constituted a taking of property without just compensation under the Fifth and Fourteenth Amendments. The Supreme Court of Oregon, however, upheld Ordinance 92-1, focusing ultimately on the economic impact of the restrictions:

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

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

Q: Is Regulating And/Or Enforcing Short-Term Rental Regulation Worth The Time And Resources?

A: Regulating and enforcing short-term rental regulation is most often revenue positive for municipalities as the incremental licensing and tax revenue easily offset the additional enforcement costs if done thoughtfully. That said, regulating short-term rentals should not just about revenue, but rather about minimizing the many negative side effects associated with the uncontrolled growth of short-term rentals in residential neighborhoods. The economic questions are therefore only half of the equation, and the non-economic benefits are often much more important to the local citizens than the incremental revenue.

Q: What Does It Take To Effectively Enforce Short-Term Rentals Regulation Manually?

A: A lot. In general most local governments find it practically impossible and/or prohibitively expensive to manually enforce their local ordinances covering short-term rental properties without dedicated staff or help from specialized firms such as Host Compliance. There are several reasons for this:

1. Rental property listings are spread across 100s of different websites, with new sites popping up all the time.
2. Manually monitoring 100s or 1,000s of properties is practically impossible as listings are constantly added, changed or removed.
3. Address data is hidden from listings, making it time-consuming or impossible to locate the exact properties to enforce permitting requirements.

4. Law enforcement and local government staff have no legal basis to evict problematic short-term renters even if several ordinances are violated.
5. It is practically impossible to manually collect Transient Occupancy Taxes as there is no easy way to find out how often the individual properties are rented and for how much.

Q: Is It Necessary To Conduct Audits To Get Short-Term Rental Property Landlords To Comply With Permitting And Lodging / Hotel / Transient Occupancy Tax Requirements?

A: No, audits are not required to get people to do the right thing as just the fact that short-term landlords know that their local government knows who they are (and monitoring their short-term rental activities) will result in a large number of them voluntarily getting a business license and paying their taxes when due. In fact, academic studies estimate that almost 9 out of 10 tax-payers will pay their taxes when due if there is some level of 3rd party reporting or monitoring. As for the remaining 10% it is luckily possible to easily identify the biggest violators so local government officials can decide to audit or pursue legal avenues to collect what it is due. To learn more about the science and data of tax compliance, here is a good short [article from the New York Times](#) that summarizes a lot of the research on the topic.

Q: Is It Possible And Cost-Effective To Outsource The Enforcement Of Short-Term Rental Regulation On The Local Government Level?

A: No, it is easy to cost-effectively outsource most of the short-term rental regulation compliance monitoring and enforcement work to new innovative companies (such as Host Compliance) that specializes in this area and have developed sophisticated "big data" technology and deep domain expertise to bring down the compliance monitoring and code enforcement costs to a minimum. In many situations, these companies can even take on all the work associated with managing the enforcement of the short-term rental regulation in return for a percentage of the incremental permitting fees, tax revenue and fine revenue that they help their local government partners collect. Adopting short-term rental regulation and outsourcing the administration and enforcement can therefore be net-revenue positive for the local government, while adding no or little additional work to the plates of internal staff. What's more, getting started generally requires no up-front investment, long-term commitment or complicated IT integration.

Q: Is It Necessary To Require Short-Term Rental Property Owners To Be Registered Or Licensed In Order To Effectively Manage Short-Term Rental Activity In The Community?

A: Yes, virtually all effective short-term rental ordinances require owners who intend to offer their property for use as a short-term rental to obtain a license or permit prior to commencing the use. In general, licensing and registration requirements enable local governments to create and maintain a database of dwelling units being operated as short-term rentals for code enforcement and transient occupancy tax collection in jurisdictions authorized to collect such taxes.

Q: Is It Necessary To Physically Inspect All Properties That Are Applying For A Short-Term Rental Permit?

A: Generally no. While many communities require short-term rental properties to pass certain inspections prior to the issuance or renewal of a short-term rental permit. However, mandatory inspection requirements arguably do not advance a community's interests in protecting and maintaining residential character or preventing the adverse effects of transient occupancy on residential neighborhoods. Therefore, if a short-term rental ordinance is specifically adopted for reasons related to protection of residential character, then a mandatory inspection requirement is unnecessary and should not be imposed upon rental property owners.

That said, mandatory inspection requirements may be justified in cases where a short-term rental ordinance is adopted for the purpose (at least in part) of ensuring the safety of short-term rental tenants.

However, even if a mandatory inspection requirement can be justified, the scope of the inspection program should be limited to the initial permit issuance and thereafter only on a reasonable periodic basis.



About the Author

Ulrik Binzer founded Host Compliance LLC (now Granicus), the industry leader in short-term rental compliance monitoring and enforcement solutions for local governments.

Ulrik got the idea to found Host Compliance when he was serving on a committee appointed by his local town council to study possible ways to regulate short-term rentals in the local community. In preparation for his work on the committee, Ulrik spent countless hours researching how other municipalities had approached the regulation of short-term rentals, and it became evident that enforcing the regulations and collecting the appropriate taxes without the support of sophisticated technology was virtually impossible. As a result, Ulrik set out to build those tools and make them available to municipalities of all sizes at a fraction of the cost of what it would cost them to build and run such technology internally.

Prior to founding Host Compliance, Ulrik served as Chief Operating Officer of Work4 Labs - an 80 person Venture Capital backed technology company with offices in Silicon Valley and Europe, and Soligent Distribution LLC - the largest distributor of solar equipment to local governments and businesses in the Americas.

Before assuming executive management roles in technology companies, Ulrik served as Vice President of the private equity firm Golden Gate Capital, as a strategy consultant at McKinsey & Company and as an Officer in the Danish Army where he commanded a 42-person Platoon and graduated first in his class from the Danish Army's Lieutenant School.

Ulrik received his M.B.A. from Harvard Business School where he was as a Baker Scholar (top 5% of his class) and earned his Bachelor of Science degree in International Business from Copenhagen Business School and New York University.

Ulrik can be contacted on (415) 715-9280 or ulrik.binzer@granicus.com.



GRANICUS

granicus.com