



# City of Lawrence

## Report on Short-Term Rentals

February 21, 2017

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### Introduction

Communities around the world are trying to come to terms with the new sharing economy and the impacts that it has within a community. The sharing economy has grown drastically through the use of technology which has both positive and negative impacts on a community.

This report aims to understand the sharing economy, specifically homesharing (also referred to as short-term rentals). It will outline the benefits and concerns associated with homesharing. Additionally, it will outline how other communities are addressing this phenomenon as well as the regulations that the City of Lawrence currently has in place. Finally, the report will provide options for the City to take moving forward and elements that should be considered if policy action is taken.

The report is not exhaustive but rather seeks to highlight some of the major elements associated with homesharing.

### Background

Short-term rentals have been around long before the internet;<sup>1</sup> however, with better technology the popularity of short-term rentals has drastically increased. Homesharing provide sleeping accommodations on a short-term basis. The increase of homesharing is largely attributed to the expansion of the sharing economy.

The sharing economy is centered on the notion of using personal resources more efficiently.<sup>2</sup> These personal resources can include anything from a car to a spare bedroom. Companies such as Uber and Airbnb provide a platform for people to share these underutilized goods and services with one another<sup>3</sup> for a fee.

There are numerous short-term rental platforms around the world. The most well know is Airbnb which was founded in 2008. Airbnb is a platform that allows people to list and book unique sleeping accommodations around the world.<sup>4</sup> They have had over 2 million listings in 191 countries and 34,000 cities<sup>5</sup> and those numbers are expected to continue to grow. A few other homesharing platforms include: HomeAway, Flipkey, VRBO, Couchsurfing, and Homestay.

Airbnb, like many other homesharing platforms, provides a marketplace where hosts can rent out spare rooms or entire properties, and guests can book them.<sup>6</sup> Guests are able to communicate with hosts, confirm travel dates, and pay<sup>7</sup> through many homesharing platforms.

Additionally, the State of Kansas and Airbnb have reached an agreement to collect and remit state and local sales tax and local transient guest tax on behalf of Airbnb hosts beginning February 1, 2017.

### **Benefits of Homesharing**

Proponents of homesharing argue there are numerous benefits to regulating and legalizing short-term rentals. The most common arguments include 1) the growth of the sharing economy, 2) economic impact for hosts, 3) economic impact for cities, 4) increased information for users, and 5) reduced blight.

The sharing economy has grown drastically in a short period of time indicating there is a demand in the marketplace for quick access to borrowed goods and services.<sup>8</sup> This demand has been possible through the use of technology and flexibility that users have to enter and exit the market.<sup>9</sup> Additionally, there is a low cost of entry into the market.<sup>10</sup>

Another benefit of homesharing is the additional income it provides hosts. This additional income helps hosts pay their rent or mortgage, property taxes, insurance, or make improvements.<sup>11</sup> This additional income helps preserve property values because homeowners are able to *share* some of the costs associated with homeownership.<sup>12</sup> Additionally, this can enable people to age in place longer before transitioning to an independent or assisted living facility.<sup>13</sup>

In addition to an economic benefit to hosts, there is an economic benefit to cities. Beginning February 1, 2017, the State of Kansas will be receiving state and local sales tax and transient guest tax through Airbnb. This is revenue that previously has not been collected. Additionally, homesharing provides more rooms for tourists particularly during special events.<sup>14</sup> There are a number of travelers that ‘want to live like a local’ and those who use a homesharing service tend to spend more time and more money in the city they are visiting.<sup>15</sup>

The increase in technology has provided hosts and those that use homesharing services more information that they can use to determine whether or not they would like to participate in a given transaction.<sup>16</sup> Many homesharing platforms, including Airbnb, have a feedback mechanism in place to help provide more information to users. For example, Airbnb verifies the true identity of both hosts and guests<sup>17</sup> and both are able to review the transaction. This helps identify if there are problematic hosts or problematic guests.

Finally, proponents of homesharing argue that it can help reduce blight within neighborhoods. The increased potential for earning can lead to the rehabilitation of once blighted properties.<sup>18</sup> It provides incentives and revenue for property owners to make improvements that may not have been possible previously.

### **Concerns of Homesharing**

Opponents of homesharing argue there are numerous concerns with regulating and legalizing short-term rentals. The most common arguments include 1) impact on neighborhoods, 2) zoning, 3) safety, 4) impact on the hotel industry, and 5) impact on affordable housing. It should be noted that many concerns are centered on taxation but given the recent agreement between Airbnb and the State of Kansas those concerns are not addressed here.

There are concerns that residential neighborhoods will become commercialized and will increase the likelihood that investors will purchase homes to rent them out as short-term rentals.<sup>19</sup> Additionally, short-term rentals may erode the character of neighborhoods because it could lead to fewer full-time residents and an increase of short-term guests.

Zoning is another issue that would need to be addressed. The City’s current zoning codes do not allow short-term rentals within the framework of the homesharing model and there is not a one-size-fits-all solution.<sup>20</sup> How cities address this issue varies drastically and will be explored further in the next section.

There are also safety concerns that are worth noting that impact both guests and hosts. There are concerns with host's ability to adhere to fire codes and to what extent those should be tested.<sup>21</sup> Many argue that these properties will see an increase in crime and become a center for partying.<sup>22</sup> There have been several examples of racial discrimination by both hosts and guests.<sup>23</sup> Additionally, there are limited numbers of accessible rooms and accommodations that meet ADA regulations.<sup>24</sup> Finally, there are concerns with liability and insurance<sup>25</sup> if an incident were to occur.

Many within the hotel and bed & breakfast industry argue that homesharing does not have to comply with the same building code, health, safety, fire, and ADA regulations<sup>26</sup> putting short-term rentals at a significant competitive advantage. The exact impact of homesharing on hotels is not known and will vary based on regional markets. There has been research conducted in the State of Texas that showed a greater impact on hotels that operate at a lower price point and do not cater to business travelers.<sup>27</sup> This research is not necessarily indicative of all regional markets, but does demonstrate there is the potential that homesharing impacts the hotel industry.

Finally, there is a concern that short-term rentals negatively impact affordable housing. Homesharing may take housing off the market because owners will be incentivized to use property as a short-term rental which could be more lucrative than long-term tenants. Renting out a house or apartment for a few weekends a month has the potential to earn the property owner as much or more than monthly rent from a full-time tenant.<sup>28</sup> Many cities address this concern through residency requirements which requires hosts to rent out the home they live in for the majority of the year (primary residence).<sup>29</sup> This requirement reduces the ability to property owners to rent out secondary residences or income properties.

### **What are other communities doing?**

There are numerous communities that have established some form of short-term rental regulation. Each community is different and has tailored a policy to meet their specific needs. There are however, some similarities among the aspects addressed within various regulations. Additionally, there have been some common measures that communities have taken to address some of the aforementioned concerns.

The most common elements of short-term rental regulations include:

- **Zoning:** This is one of the major issues with homesharing. Zoning is used to protect property owners<sup>30</sup> and provide assurance that the land is being used for a specified purpose. Zoning codes would have to be updated to accommodate short-term rentals. Some cities have addressed this by requiring hosts to apply for some form of variance such as a special use permit or a conditional use permit.<sup>31</sup>
- **Permit/Registration Process:** Many municipalities require hosts to obtain a permit. This is done for several reasons. It can be revoked if a host is not adhering to city ordinances.<sup>32</sup> Additionally, there is generally a fee associated with obtaining a permit that can help offset the cost of administering the permit and the cost of an inspection, if required.<sup>33</sup> It can also help ensure that all zoning codes are being followed and a variance has been obtained, if required. Finally, it can ensure that an inspection was conducted and the hosts met all the stated requirements.<sup>34</sup>
- **Residency Requirements:** Many cities require short-term rentals to be within the host's permanent residence.<sup>35</sup> This is done to help alleviate some concerns about the impact that homesharing could have on neighborhoods (i.e. commercialization, loss of character within neighborhoods). It also inhibits landlords from converting long-term rentals into short-term rentals<sup>36</sup> which has the potential to impact affordable housing.
- **Inspections:** Cities that regulate homesharing differ greatly when addressing inspections. Some municipalities do not require any inspections and work on a case-by-case basis when a complaint is received<sup>37</sup> while others have required that short-term rentals adhere to incredibly strict

guidelines.<sup>38</sup> Many cities fall somewhere in the middle and ensure that there are at a minimum, working fire alarms and carbon monoxide detectors.<sup>39</sup>

- **Limit on the Number of Occupants:** Occupant restrictions also vary greatly from city to city. Some communities have restricted the number of occupants allowed per room while other municipalities have restricted the number rooms that can be dedicated to short-term rentals.<sup>40</sup>
- **Maximum Number of Day a Property can be Rented:** Regulations on the number of days a property can be rented out varies. If restricted, many communities set the maximum number of days a property can be rented between 30 days and 90 days although there are some communities allow more than that. For example, the State of Wisconsin permits an unlimited number of days rented if the owner is present, however sets a cap of 30 days if the property owner is not present.<sup>41</sup>
- **Notifications:** Some communities require notifications be sent to property owners within a specified radius of the short-term rental or to adjacent property owners. This notification generally includes a brief description of homesharing and how to file a complaint if an issue were to arise.<sup>42</sup>

Some additional elements that are found within specific homesharing regulations include:

- **Geographic Limits:** Some municipalities restrict the number of permits within each neighborhood or within the city as a whole.<sup>43</sup>
- **Good Neighbor Brochure:** Some communities require hosts share a “good neighbor brochure” with guests that summarize local ordinances that might impact guests (i.e. noise, parking, trash, number of guests).<sup>44</sup>
- **Insurance Requirements:** Insurance and liability have been of some concern as well. Some cities have tried to address this by requiring hosts have homeowner’s insurance.<sup>45</sup> Additionally, Airbnb hosts have access to a \$1 Million Host Protection Insurance program.<sup>46</sup>

Taxation is a major element that communities have to address. However it is not dwelt upon here because Airbnb, the largest homesharing platform in the City of Lawrence, has an agreement with the State of Kansas to collect and remit sales tax and transient guest tax. It should be noted that many cities treat this as a ‘new’ revenue source because it has not been collected previously and use this ‘new’ revenue to address affordable housing concerns, often through a trust or specified fund. Additionally, to Staff’s knowledge, Airbnb is the only homesharing platform that has an agreement with the State. Other platforms may not be collecting and remitting sales and transient guest tax.

Enforcement of the policy was another aspect that was emphasized. Due to a lack of consistent data, it can be difficult to enforce elements such as the number of occupants or the number of days a property can be rented. There is also additional administrative work associated with the permitting/registration process. If inspections are required, that too would add additional responsibilities. Many communities have had to hire additional staff to help offset the additional work.

### What are the current regulations in Lawrence?

The current zoning regulations categorize short term rentals as “transient accommodations”, which include the following uses: bed and breakfast; campground; elderhostel; and hotel, motel and extended stay. In residential zoning districts (RS and RM), the bed and breakfast use is permitted only with a special use permit, except it is an allowed use in the RM24, RM32, and RMO districts. The elderhostel is permitted via special use permit only in the RMG (Greek Housing) district. All residential zoning districts permit rental with a 30-day lease being the minimum amount of tenancy. Renting a unit for a time period less than 30 days is considered a transient accommodation.

Over the last three years, Staff has received and acted on three complaints alleging short term renting of homes. All three cases, to Staff's knowledge, resulted in ceasing of the use without proceeding to court.

### **Next Steps**

Moving forward there are two general options available to the City (1) maintain the prohibition of all homesharing activities and address complaints as they are submitted or (2) regulate homesharing activities through zoning code changes and policies that mitigate potential negative impacts. This may require additional City resources.

Regardless of how the City moves forward there are going to be some benefits and concerns that will need to be addressed. It is clear that there is not a simple one-size fits all solution. If policy action is taken, the City Commission and staff will need to set and implement policy that addresses the specific needs of Lawrence residents.

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## Endnotes

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<sup>2</sup> Joseph Shuford, *Hotel, Motel, Holiday Inn and Peer-to-Peer Rentals: The Sharing Economy, North Carolina, and the Constitution* (North Carolina Journal of Law & Technology, 2015), 302

<sup>3</sup> Roberta Kaplan and Michael Nadler, *Airbnb: A Case Study in Occupancy Regulation and Taxation* (University of Chicago Law Review, 2015), 103

<sup>4</sup> Airbnb Inc., *About Us* (2016)

<sup>5</sup> Ibid.

<sup>6</sup> Robinson & Cole LLP, *Residential Rentals: The Housing Market, Regulations, and Property Rights* (2015), 12

<sup>7</sup> Airbnb Inc., *How Airbnb Works* (2017)

<sup>8</sup> Virginia Municipal League and Center for State and Local Government Leadership at George Mason University. *The Sharing Economy: Implications for Local Government Leaders* (Virginia Municipal League & Center for State and Local Government Leadership at George Mason University, 2015), 5

<sup>9</sup> Georgios Zervas, Davide Proserpio and John W Byers, *The Rise of the Sharing Economy Estimating the Impact of Airbnb on the Hotel Industry* (Boston University School of Management Research, 2016), 1-7

<sup>10</sup> Liran Einav, Chiara Farronato and Jonathan Levin, *Peer-to-Peer Markets* (Annual Review of Economics, 2016), 1

<sup>11</sup> Kindel et al., *Short Term Rental Study*, 29

<sup>12</sup> Jamila Jefferson-Jones, *Can Short-Term Rental Arrangements Increase Home Values? A Case for AirBNB and Other Homesharing Arrangements* (Cornell Real Estate Review 2015), 19

<sup>13</sup> Dwight Merriam, *Peering into the Peer Economy: Short-Term Rental Regulation* (American Planning Association, 2015), 4

<sup>14</sup> Kindel et al., *Short Term Rental Study*, 29

<sup>15</sup> Ibid., 29

<sup>16</sup> Christopher Koopman, Matthew Mitchell and Adam Thierer, *The Sharing Economy and Consumer Protection Regulation: The Case for Policy Change* (Arlington: Mercatus Center at George Mason University, 2014), 5, 15

<sup>17</sup> Einav et al., *Peer-to-Peer Markets*, 10



<sup>18</sup> Kindel et al., *Short Term Rental Study*, 29-30

<sup>19</sup> Ibid., 30-32

<sup>20</sup> Virginia Municipal League and Center for State and Local Government Leadership at George Mason University. *The Sharing Economy*, 13

<sup>21</sup> Joeri van den Steenhoven, Idil Burale, Vanessa Toye and Claire Bure, *Shifting Perspectives* (Toronto: MaRS Solutions Lab, 2016), 46

<sup>22</sup> Kindel et al., *Short Term Rental Study*, 31

<sup>23</sup> Benjamin Edelman, Michael Luca and Dan Svirsky, *Racial Discrimination in the Sharing Economy: Evidence from a Field Experiment* (Harvard Business School, 2016), 1

<sup>24</sup> Kindel et al., *Short Term Rental Study*, 31, 38

<sup>25</sup> Ibid., 78

<sup>26</sup> Ibid., 31, 38

<sup>27</sup> Zervas et al., *The Rise of the Sharing Economy Estimating the Impact of Airbnb on the Hotel Industry*, 4

<sup>28</sup> Kindel et al., *Short Term Rental Study*, 31

<sup>29</sup> Steenhoven et al., *Shifting Perspectives*, 43-44

<sup>30</sup> Leonard Cohen, *The Sharing Economy: Airbnb and Municipal Zoning Regulation*. (Host Compliance, n.d.)

<sup>31</sup> Ibid.

<sup>32</sup> Host Compliance LLC, *A Practical Guide to Effectively Regulating Short-Term Rentals on the Local Government Level*, (San Francisco, 2016)

<sup>33</sup> Kindel et al., *Short Term Rental Study*, 50-51

<sup>34</sup> Ibid., 50-51

<sup>35</sup> Ibid., 47-48

<sup>36</sup> Host Compliance LLC, *A Practical Guide to Effectively Regulating Short-Term Rentals on the Local Government Level*

<sup>37</sup> Lauren Hirshon, Morgan Jones, Dana Levin, Kathryn McCarthy, Benjamin Morano and Sarah Simon, *Cities, the Sharing Economy and What's Next* (Washington DC: National League of Cities Center of City Solutions and Applied Research, 2015), 23-24

<sup>38</sup> Ibid., 23

<sup>39</sup> Kindel et al., *Short Term Rental Study*, 50-51

<sup>40</sup> Ibid., 45

<sup>41</sup> Ibid., 47

<sup>42</sup> Ibid., 49

<sup>43</sup> Ibid., 45-47

<sup>44</sup> ViewPoint Cloud, *A Very Comprehensive Guide to Smart Airbnb Regulation for Local Governments* (2016), 14-15

<sup>45</sup> Shuford, *Hotel, Motel, Holiday Inn and Peer-to-Peer Rentals*, 317

<sup>46</sup> Airbnb Inc., *Host Protection Insurance* (n.d.)