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A GUIDE TO SMART AIRBNB REGULATION FOR LOCAL GOVERNMENTS

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With the rise of AirBnB and other online rental platforms, AirBnB regulation has become an evolving and complex area for local governments. While some may think it's only an issue in larger cities or tourist destinations, there are over 2,700 U.S. cities and counties with more than 50 short-term rental (STR) listings.*

It's a divisive issue for many communities, with clear arguments for both the benefits and costs of allowing more STRs. While some celebrate the additional income for residents and a boon to the local economy, others fear the degradation of their neighborhoods and lack of affordable housing.

Local government responses have ranged from no regulation to completely banning STRs. However, most communities have not yet figured out the best way to approach the issue. In a survey of 800 local government officials, only a quarter had rules in place, 53% stated having no rules, 16% were actively adopting new rules, and 6% were unsure.

Where Are Local Governments on Short-Term Rental Regulation?
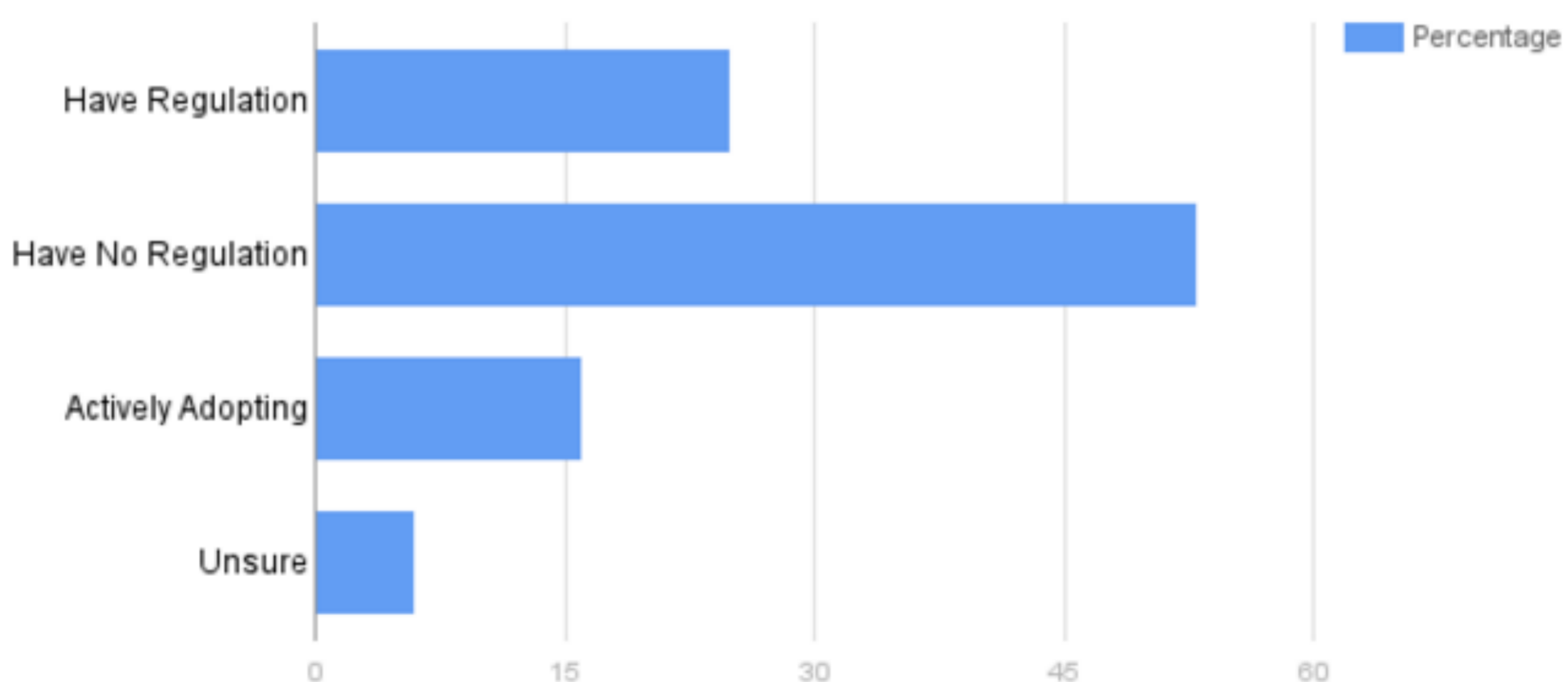
Source: Jeffrey B. Goodman and Host Compliance, Survey of Local Governments presented in "Webinar: The Best Practice Guide to Crafting a Short-Term Rental Ordinance/Bylaw"

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It's a delicate issue that involves balancing the interests and well-being of diverse stakeholders. However, there are experts actively studying the issue, and they provide research and best practices to help guide the way to smarter AirBnB regulation.

The company iCompass recently hosted a webinar on this topic, featuring Jeffrey B. Goodman and the company Host Compass, among the nation's leading authorities on short-term rental regulation. Goodman has overseen national research studies on the topic, and consulted for AirBnB as well as cities and towns nationwide. Host Compass has also worked with local government partners nationwide, helping them find solutions to research, draft, and enforce short-term rental regulations.

Through collaborative research on local government ordinances around the country, Goodman and Host Compliance developed best practices for dealing with common concerns and planning objectives, and a standardized process for drafting effective regulation.

Ulrik Binzer is the Founder & CEO of Host Compliance, a company that helps local governments cost-effectively research, draft and enforce short-term rental regulations.

Jeffrey Goodman is a designer, researcher, programmer, and planner based in New Orleans. His work focuses on the sharing economy, community participation, and data-driven regulation.

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Here is a summary of their advice for local governments looking to develop and implement effective AirBnB regulation (used here interchangeably with "short-term rental regulation").

*All cited statistics taken from Host Compliance and Jeffrey B. Goodman's presentation in: "Webinar: The Best Practice Guide to Crafting a Short-Term Rental Ordinance/Bylaw. Hosted by: iCompass

1. Research

Before making decisions, you need to understand the context for your regulation. While easy to overlook, comprehensive research will be the foundation for successful AirBnB regulation.

Local Context

Begin the research process by getting a sense of the short-term rental market in your area. Here are questions to consider while conducting this research:

- How many listings are there in your community?
- Where are current listings located? Where are the areas of concentration, if any?
- Where are the most bookings happening?
- What type, size, and occupancy levels of housing are offered?
- What are the range and average listing prices?
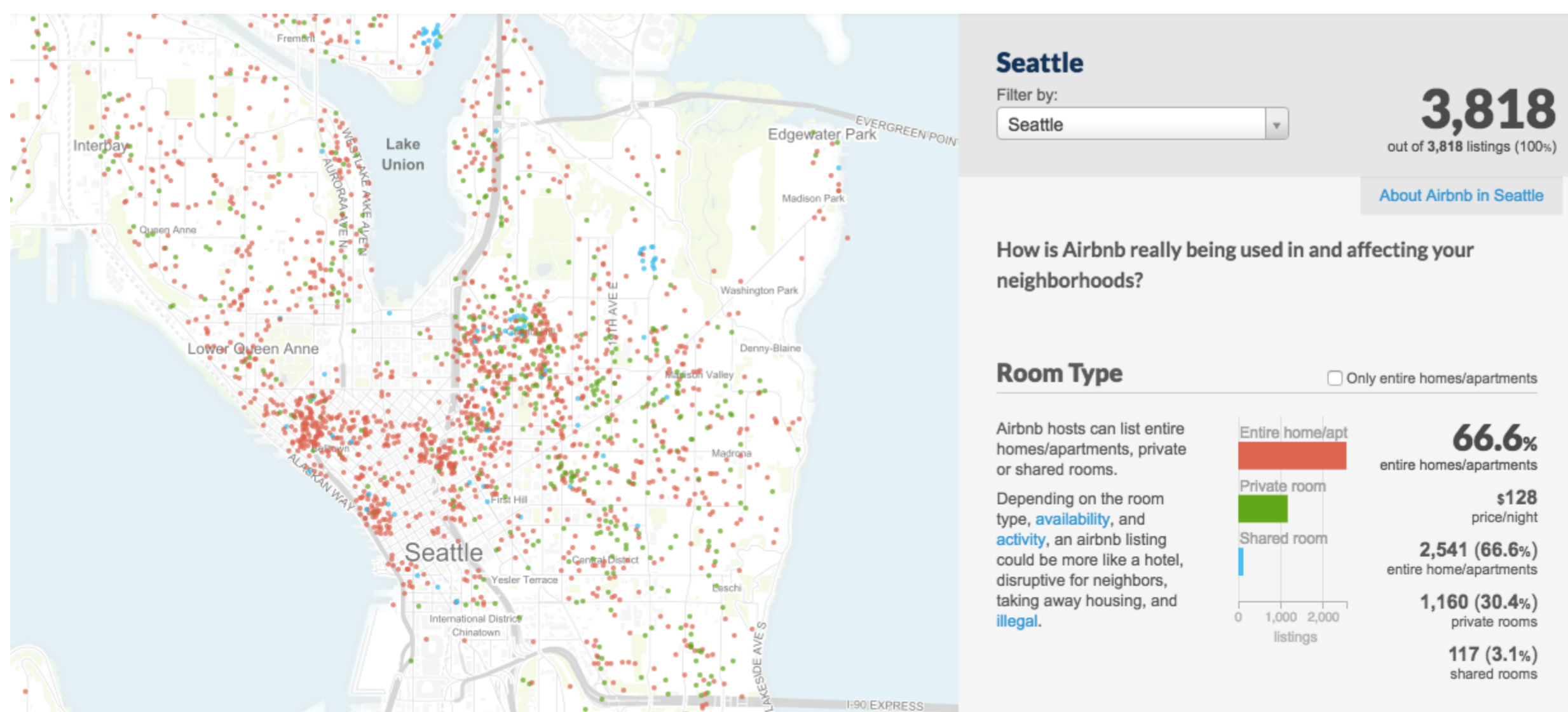
Map of current AirBnB listings in Seattle

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The website *insideairbnb.com* is a helpful resource for up-to-date data on current listings in larger cities. Smaller communities can gather data directly from *airbnb.com* and other online rental platforms.

It's also important to look at the local context indirectly related to AirBnB regulation.

- What is the picture of housing availability and affordability in your community?
- What are the other existing lodging options?
- How are socioeconomic demographics spread throughout the city?

Once you have a landscape of the STR market and pertinent local factors, you can start diving into other research areas.

Qualitative Data

As any local government official knows, research gets more complicated when you start gathering data from local stakeholders. Creating effective policy for a controversial issue like short-term rentals means managing this complexity, and ultimately coming out with a better understanding of your community's values. Start by identifying the stakeholders:

- Who is concerned about the issue?
- Who might not know what's going on, but be inadvertently affected?
- What are their motivations? What are their fears?

Public comment forums will help get a pulse on residents' opinions. But Goodman emphasizes framing the issue around planning objectives. When you make STRs a yes or no issue—are you for or against them?—it's too easy for stakeholders to hold opinions without considering compromise or community goals.

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Town hall meeting in Rexburg, Idaho is packed with community members ready to discuss Airbnb issues
Source: Natalia Hepworth, EastIdahoNews.com, Sept. 2016

After you've identified relevant stakeholders, get a baseline on each group's motivations and fears. How are they currently affected by STRs? What are they most concerned about—housing availability, neighborhood preservation, economic development?

Discussions will evolve throughout the regulation process, so initial conversations do not need to cover every concern. You will return to do a deeper stakeholder analysis after the initial research phase.

Policy Research

Do your due diligence on existing STR, B&B, and motel laws in your municipality. It's likely that at least some of the laws are outdated, and you'd be surprised at what you might find. According to Goodman, one city had banned B&B's from serving breakfast due to the influence of a "brunch lobby".

Look at the state level as well. There are currently 10-15 states that regulate hotels and/or STRs. This changes the value for cities looking to invest in creating and enforcing new policies. If the money collected from fees and permits goes back to the state, it might not be worth the investment at a local level. Additionally, some states have said municipalities cannot regulate STRs based on certain criteria (e.g. length of stay), and many states are changing laws rapidly, so keep up-to-date.

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Amsterdam, one of AirBnB's closest partners, is currently discussing major reforms to their short-term rental regulations, trying to balance tourism and housing availability for residents.

Lastly, in doing policy research, look beyond your local neighbors and your state. How are communities of similar size (or other important factors) around the country and around the world effectively addressing AirBnB regulation?

Enforcement Capabilities

Your policies will largely be shaped by what you can enforce. Take this into account early in the process, before you start publicly proposing things you don't have the capacity to enforce. Consider these questions:

- What types of regulations do we have the ability to enforce with our current resources?
- What are we willing to spend on new resources?
- What kind of regulatory environment do we want to impose on our community?
- What is the input from those who would be responsible for enforcing new laws?

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Are you thinking of requiring every rental unit to get an inspection with only one part-time inspector on staff? Is the police department willing to enforce a policy prohibiting excessive noise after a certain hour?

Access to data can also limit certain types of regulation. For example, San Francisco has outlawed STRs being rented more than 90 days of the year. This type of policy would be hard to enforce without reliable access to booking data.

Members of HomeSharersSF, holding a rally at City Hall in San Francisco before vote on AirBnB regulation.

On top of your government's enforcement capabilities, consider what kind of environment you want to create in your community. How will residents feel if the police begin making extra rounds in residential areas? Will additional inspections be invasive to surrounding residents? Considering these scenarios will help you know what kinds of regulation options are realistic to bring to the table.

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2. Framing the issue

Framing the issue for productive discussion is key to managing diverse opinions and producing successful compromises.

Stakeholder Analysis

Public opinion matters, but so does the input of elected officials, relevant government departments, and local businesses. Think about which government departments/responsibilities will be affected by new regulations (e.g. code enforcement, planning and zoning, permitting and licensing, finance, tax collection, police department, etc.). Here are some basic questions to get you started:

- How will an increase in STRs affect each government department?
- Will any departments need new resources? Can the cost of new resources be covered by estimated increases in permitting and licensing fees?
- How many residents are actively concerned about the issue? Where do their fears and motivations overlap?
- Which businesses are for and against more STRs? How would an increase or decrease affect them?
- Where are areas of centralized commerce, entertainment, and tourism? How do we want STRs to affect their development?

Once you can map out the motivations, fears, and priorities for each interest group, you can move forward with the process. Understanding how policy changes may affect stakeholders and anticipating their reactions will help you judge the externalities of new regulation. More importantly, community voices will inform which planning objectives you choose to prioritize with AirBnB regulation.

Messaging

A stakeholder analysis will also help you come up with effective messaging, so people aren't surprised by new policy proposals. Remember to frame the issue beyond a simple yes or no.

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Most communities will not impose full bans nor leave STRs unregulated, there will likely be a solution somewhere in between. Making sure stakeholders know they must be open to compromise will make discussion more productive. Here are some foundational questions to help frame the issue:

- What problems are STRs actively causing in our community?
- What do we love and want to preserve about our community?
- How can STRs help us support our goals?
- How can policies address these issues and support these goals?

Goodman suggests allowing anecdotes in public comment, but to remain aware of biases. Most importantly, look for underlying patterns and the root causes of stakeholders' concerns.

3. Defining Planning Objectives

Some people will never compromise, and you must move past those voices to produce viable policies. The result of research and stakeholder analysis is a clear set of priorities to inform your planning objectives and therein your policy tactics.

Context and Values

Community context and values will vary. For some, housing availability is a main concern, while for others it may be neighborhood preservation and safety. It's important to communicate clearly about how you came to prioritize certain planning objectives, avoiding confusion and frustration with the process moving forward.

The table below shows a list of common STR policy objectives and corresponding regulation tactics.

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Best Practices for Addressing Common Planning Objectives

Common STR Policy Objectives	Best Regulatory Practices
Housing Availability	- Only allow permanent residents to operate STRs - Disallow rentals in subsidized housing
Neighborhood Preservation	- Set neighborhood quotas - Ban signs
Protecting Quality of Life	- Require adequate parking and garbage disposal - Require hosts to post noise ordinance - Require a local contact person
Economic Development	- Encourage hosting in certain areas and time frames
Safety	- Require physical safety and habitability inspections

These best practices were developed from Goodman's and Host Compliance's research on STR regulations in municipalities across the country. They are a good starting point, but no one knows the unique context of your community like you do. Don't be afraid to brainstorm creative policies that might work better in your area.

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Enforcement Capabilities

Remember that the ability to enforce a policy is the litmus test for what is realistic. Always ask yourself:

- Can you enforce it legally and physically?
- Would it cause undue burden on the government's resources?

Use local context and community values to decide on planning objectives, and then check corresponding policy measures against enforcement capabilities. This will give you a tailored, realistic set of policy measures specific to your community.

4. Ordinance Drafting

Once you've done the research and prep work, it's time to dig into the details. Planning discussions might happen in broader strokes, while ordinance drafting requires final decisions and precise language. This is a good time to refer back to the laws already on the books, as well as example AirBnB policies from other municipalities you've gathered in your research.

STR Definition

You will need to specifically define short-term rentals beyond a "unit rented for less than 30 or 14 days." In addition to length of stays, the definition should speak to:

- Who is allowed to host (this can have significant implications for planning objectives)?
  - Owners, renters, management companies, etc.

- What types of units are allowed to be STRs (consider safety implications)?
  - Homes, bedrooms, accessory units, yards, etc.

- What type of insurance is required for a STR property (this is to protect both the municipality and host)?

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AirBnB listings range from full houses to "camping in the backyard."

Effective AirBnB regulation is grounded in a clear definition. You want to avoid future questions in the enforcement process over whether something qualifies as a STR. If you are going to change your existing definition, take into account how current rental operations might change in status (e.g. will AirBnB listings be subject to the same regulations as traditional B&Bs?).

Land use and zoning

Use your STR land use and zoning policies to target your top planning objectives, like housing availability or economic development. For instance, if you want to preserve long-term housing options in certain areas, you can control density levels (i.e. only so many listings allowed in this area) or create buffers around units (i.e. no units within x distance of each other). Neighborhoods with a tight rental market may require harsher controls.

You also need to consider how to balance traditional lodging options with STRs.

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- Should STRs populate the same areas as traditional lodging options? How will this affect businesses in those areas?
- How "commercial" does an STR have to be to reside in a commercial zone? Should STRs be allowed in residential areas?
- Should different types of STRs be zoned differently?

Prioritizing certain objectives means accepting tradeoffs. Ashland, Oregon prioritized neighborhood preservation in their AirBnB regulation, so they decided to keep all STRs near busy streets to avoid bothering residents. This might have the added effect of boosting the economy for local businesses, however it also precludes many homeowners from being able to earn extra income through online rental platforms.

Unit Characteristics

Requiring units to have certain characteristics is not necessary, but it can help divert unwanted behaviors. Imposing bedroom/occupancy limits and providing adequate trash and parking can help prevent large groups and parties from disturbing neighbors. Building, safety, and ADA codes help ensure listings are in legal compliance and in accordance with insurance policies. Remember that including specific unit characteristics will require additional inspections.

A three-bedroom apartment in Portland, Oregon listed on AirBnB for $400/night.

Permit fees can also help create the right balance of supply and demand for different types of units. Portland, Oregon requires different permits for rentals depending on the number of bedrooms (above 3 bedrooms is $3,000, and units with more than 5 bedrooms are not allowed). Scaling permit fees also helps the city collect revenue proportionate to the amount earned by hosts' listing prices.

Host Operation

Some communities impose host operation regulations to keep hosts accountable and to keep neighbors apprised of STRs in their area. Examples of this include:

- Requiring hosts to notify neighbors and allow a certain time period for neighbor input before booking a listing
- Requiring a host contact person to be available in case of emergency

Requiring a host contact person might affect who and how hosts are able to operate their STRs. If the contact has to be within a specific range of the listing, it might prevent homeowners from renting their houses while on vacation. Alternatively, the policy might specify that the host contact could be someone other than the property owner (e.g. a relative, or property manager), allowing hosts more flexibility.

Guest Requirements

Many communities also include guest requirements in AirBnB regulation, especially in residential areas. Common areas to address include:

- Noise limits
- Pools & Spas (time restrictions for usage)
- Traffic limits
- Guest registration

Guests may also need to know community-specific information. For example, in one small Florida beach town, leaving the lights on at night is confusing for baby sea turtles looking for the ocean.

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One Florida beach town must advise guests about leaving the lights on at night, which can confuse baby sea turtles looking for the ocean.

While this is a rare example, many communities will have unique considerations for new guests.

Permitting Process

Permitting is one of your most powerful tools in implementing effective AirBnB regulation and collecting revenue for your government. If you do not currently require permits or licenses for STRs, writing this part of your policy will probably be the most time-consuming. Incorporate feedback from government departments that will be involved in the permitting process, and remain realistic about your processing capabilities.

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- Will STR rentals require a permit, license, or both?
- What are the main categories of STRs in your community (e.g. single homeowners, commercial properties, full-time vs. part-time listings)? Will these require different permits or licenses?
- Do you want to affect the supply and demand for STRs in the area? Is permitting the appropriate way to accomplish this goal?
- What is the range of listing prices, and how does that correspond with the way current lodging options are being taxed? Do you want to use flat or percentage fees?
- How easy are your permit applications to navigate and do you have the software to allow people to apply and pay online?
- Are you willing to invest in new permitting technology to increase your processing capacity?

Always consider the capacities of your permit office and staff before including permit requirements that will inundate them with more applications than they can handle.

Maybe some use types will require permits, while others will be exempt or have lower fees. For example, listings with bookings over a certain number of days per year may require a license, while occasional hosts only need a permit.

Some communities may decide to affect supply and demand by distributing a limited amount of STR permits. If you take this route, consider which types and listing locations will be willing to pay higher permitting and licensing fees. Always remember to refer back to your planning objectives as your guide.

Enforcement Process

AirBnB regulation should include clear, actionable consequences to listing violations. This might involve imposing fees and suspending or rescinding permits. Violation fees should be proportionate to the amount charged on average listings in the area—if hosts are making $1,000/night they will not be discouraged by a $50 fee.

Think carefully about what consequences are appropriate for what kind of violations, and how consequences might affect the supply and demand of STRs in the long-term. See the table below for example violations and corresponding consequences.

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STR Violation Examples

Violation	Consequences
2+ Noise complaints	$50 fine
Failure to provide host contact	$75 fine
Improper insurance policy	$200 fine
3+ Violations	Permit suspension (6 months)
5+ Violations	Permit revocation

Make sure you have an accessible violation reporting process. Maybe this means creating a specific hotline or email address and advertising it on your website and social media. The ordinance—particularly violation consequences—should be clearly accessible for all hosts and residents, so everyone knows what the rules are. Creating a digestible regulation guide for hosts will save you headaches down the road.

There are countless contextual factors that will inform the right enforcement process for your community. As with all regulatory aspects, if you have having trouble deciding the right course of action on a topic, use your planning objectives and enforcement capabilities to guide you.

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5. Incorporate Feedback

With any new policy, you will probably need to make adjustments as you see it play out in real time. Provide channels for feedback from the stakeholders in your research. Additionally, some community members might have been unaware of early discussions, but have important input now that AirBnB regulation is directly affecting them.

Town hall meeting in San Francisco held by California State Assemblymember David Chiu and District 3 Supervisor Aaron Peskin, to discuss AirBnB and affordable housing.
Source: Jennie Butler, Hoodline, May 2016.

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Similarly, you can guess how the influx of permit and license applications will affect your departments, but you won't really know until they start coming in. Continuous lines of communication will help you know if you need additional resources (e.g. more staff, new software or hardware, etc.).

Advice for eliciting productive feedback:

- Remember to frame the policy around the planning objectives — avoid black and white stances
- Stay on topic
- Reference other comments so stakeholders understand they are compromising with other community members, not just the government

Depending on local laws, your ordinance might have a built-in expiration date, but you may want to make changes before the sunset. Keeping a record of stakeholder feedback and updating your research will help you reassess and make your ordinance more effective in addressing your community's goals.

Goodman emphasizes that there is no silver bullet to effective AirBnB regulation. Every community will need to assess their own local context and values before diving into this process. However, you are not in this alone. Use peer governments and expert research like Goodman's to help guide your process.

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Steps to Effective Short-Term Rental Regulation

1. Research	- Local STR market - Local context - Identifying stakeholders - Existing policies - Enforcement capabilities
2. Frame the Issue	- Stakeholder analysis - Tailored messaging
3. Define Planning Objectives	- Community values - Matching planning objectives with policy measures
4. Draft the Ordinance	- Defining STRs - Land use & zoning - Unit characteristics - Host operations - Guest requirements - Permitting process - Enforcement process
5. Incorporate Feedback	- Provide channels - Keep constructive - Adjust regulations accordingly

By thoughtfully tackling this regulation area you are not only helping your residents achieve their goals as a community, but also paving the way for other governments looking to do the same thing. As technology and the sharing economy evolve, local governments will need to continue creating effective, adaptable regulation to match it.

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Regulation can be difficult, we'd like to help.

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ViewPoint Cloud is the all-in-one, user-friendly software that helps local governments and citizens manage permits and licenses from intake through approval. The integrated front-end and back-end software streamlines payments, approvals, inspections, and permit issuance, all online. No more lines at city hall, no more shuffling papers between departments, and no manual data entry. ViewPoint Cloud's simple, intuitive design leads the industry and makes it a breeze to implement the software, train employees, integrate existing data, and adapt to new needs. ViewPoint's flexible pricing makes it an easy choice for any sized community.

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