Short Term Rental Study, 2019 Ed.

City of New Orleans

City Planning Commission

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Table of Contents

Executive Summary 3
Introduction and Goals 9
Recent History of Short Term Rental (STR) Regulations in New Orleans 10
Current Short Term Rental Regulations 32
Short Term Rental Data 2018-2019 45
Best Practices – STR Grandfathering and Economic Development 47
Information Sources/Studies on STRs 58
Public Input Received 66
Economic Development Districts and Programs 69
Residential STR Regulation Issues and Analysis 75
Commercial STR Issues and Analysis 77
STRs as a Blight Remediation Tool 80
Commercial STRs and Housing Affordability 83
"Grandfathering" Short Term Rentals and the Issue of Vested Rights 87
Summary and Recommendations 89
Next Steps 92

Executive Summary

Introduction and Goals

Motion M-19-6 requests the City Planning Commission (CPC) to conduct a public hearing and study on the possibility of special programs or conditions that would allow for the issuance of two or more Residential Short Term Rental (STR) permits to a single license holder to incentivize economic development in certain areas of the city, without imposing secondary effects relative to its residential fabric. The CPC will consider and recommend provisions including but not limited to:

- The creation of an Economic Development Incentive STR Zone, possibly to be created as an overlay zoning district;
- The size of any such zone;
- The cap on the total number of Residential STR permits within any such zone;
- The cap on the number of Residential STR permits per owner within any such zone; and
- The possibility of a "grandfather" provision to allow any existing or prior Temporary or Commercial license holders whose license lapsed during the Short Term Rental Interim Zoning District effectiveness to regain one or more permits for use in the Economic Development Incentive STR Zone.

Motion M-19-6 grants the CPC flexibility to expand the scope of the study and make recommendations deemed necessary in light of the study, review, and public testimony resulting from this motion. In considering the request to "incentivize economic development" in certain areas of the city, the CPC staff believes that commercial and mixed use districts must also be considered. Commercial uses are an essential part of any economic development strategy.

City of New Orleans Timeline of Recent STR Actions

January, 2016 – Short Term Rental Study by City Planning Commission

April, 2017 – New citywide Short Term Rental regulations enacted

March-April, 2018 – Modifications made to STR regulations in the HU-B1 Historic Urban Neighborhood Business, HU-MU Historic Urban Neighborhood Mixed Use, and RIV-3 and RIV-4 Riverfront Overlay Subdistricts

May, 2018 – Short Term Rental Interim Zoning District enacted

October, 2018 – Short Term Rental Study by the City Planning Commission to propose modifications to the existing regulations

January, 2019 – City Council passes motions to (1) propose zoning text modifications to the existing STR regulations; (2) direct the Safety & Permits Department to propose regulations of the STR platforms; and (3) study STRs as an economic development tool and potential "grandfathering" of STRs when new regulations are enacted

March, 2019 – City Planning Commission recommends zoning text modifications to the existing STR regulations in Zoning Dockets 26/19 and 27/19

May 16, 2019 – City Council passes a motion to modify STR regulations in the text of the CZO in accordance with CPC recommendations, subject to 15 amendments (final ordinance still pending)

Stakeholder Meetings Held for the 2019 Short Term Rental Study

City Planning Commission staff met with the following groups or individuals during the development of the 2019 Short Term Rental Study:

- Safety & Permits Department, Law Department, City of New Orleans
- Andreanicia Morris, Stacy Horn Koch, Greater New Orleans Housing Alliance
- Jeff Schwartz, Broad Community Connections
- Melissa Heuer, Sonder Public Policy Manager, and Bob Ellis, Consultant
- Ellen Lee, Courtney Stuckwisch, Nicole Heyman, Mayor's Office of Economic and Community Development
- Webre Consulting, representing STR interests
- City of Seattle Planning Department
- City of San Antonio Planning Department and Development Services Department
- New Orleans Business Alliance
- New Orleans Redevelopment Authority
- Councilmember Kristin Palmer and staff
- Councilmember Jay Banks staff
- Danielle Delsol, Nathan Lott, and Jean H. Boughton, Preservation Resource Center
- Short Term Rental Committee, including representatives from Faubourg Marigny Improvement Association, Vieux Carre Property Owners & Residents Association, French Quarter Citizens, and the Garden District Association
- Will Bradshaw, Green Coast Enterprises
- Stacy Dejan, Jonathan Shaver, Eli Bailey, Sonder New Orleans Real Estate Division
- Tracey Jackson, Restoration Tax Abatement program
- Councilmember Cyndi Nguyen
- Code Enforcement staff
- Councilmembers Moreno, Williams, Brossett, and Giarusso staff

Key Findings

The numbers of STR permits has changed significantly since the implementation of the STR Interim Zoning District in May, 2019. Temporary STR permits, prohibited by the IZD in the parts of the city where they had been most prevalent, have fallen 87%. Commercial STRs, perhaps taking advantage of the Temporary STRs prohibition, have increased 21%. Surprisingly, Accessory STR permits decreased 8% despite not being affected by the IZD.

STR Permits from March 24, 2018 to May 31, 2019

	Permits Issued		Percent Change	Permits Issued		Percent Change	Permits Issued		Percent Change
	3/24/18	3/29/19	3/24/18 - 3/29/19	3/29/19	5/31/19	3/29/19 - 5/31/19	3/24/18	5/29/19	3/24/18 - 5/31/19
Accessory	1,234	1,399	13%	1,399	1,134	-24%	1,234	1,134	-8%
Commercial	848	1,113	31%	1,113	1,026	-8%	848	1,026	21%
Temporary	2,304	1,052	-54%	1,052	293	-72%	2,304	293	-87%
Total STR Permits	4,386	3,564	-19%	3,564	2,453	-31%	4,386	2,453	-44%

Economic Development Districts and Programs

Since Motion M-19-6 asks the City Planning Commission to study STRs in the context of economic development, the Study provides a summary of programs that provide economic incentives or funding for development in furtherance of City goals. Even in New Orleans' strong markets, a combination of incentives is often needed to facilitate the development or redevelopment of a property. Any future adjustment of STR regulations for the purpose of economic development should be considered in the context of market strength and other available incentives. These programs are described in the Study:

- Federal Opportunity Zones
- Enterprise Zones
- Federal New Market Tax Credit
- Federal Historic Tax Credit
- State Historic Tax Credit
- State Cultural Products Districts
- Payment in Lieu of Tax (PILOT)
- Restoration Tax Abatement
- Neighborhood Housing Improvement Fund
- Environmental Protection Agency Brownfield Program

Best Practices

In Motion M-19-6, the question of grandfathering is in relation to the Temporary STR license in an Economic Incentive STR District, if one is created. The boundaries of this district, however, have yet to be determined. If council does adopt a grandfathering provision for certain Temporary STR permits located within a proposed Economic Incentive STR District, a different term would more accurately describe this privilege. These permits do not have a vested right or a permanent entitlement, and are not eligible for grandfathering when regulations change, beyond the expiration date of the permit. Although the staff does not believe a grandfathering provision, or a "special entitlement" for certain Temporary STR operators or areas is equitable, the motion directed the

City Planning Staff to research if other cities have implemented a grandfathering or sunsetting provision with the implementation of new or modified STR regulations. Below are some of the findings from the CPC staff's research.

- Grandfathering depends on the vesting of a right, which can be different depending on the situation and laws in each city. Other cities such as San Antonio, Seattle and Nashville have grandfathered operating Short Term Rentals with the implementation of newly implemented STR regulations. San Antonio and Seattle did not regulate STRs prior to the enactment of their new regulations, differentiating these cities from New Orleans.
- Grandfathered STRs in San Antonio, Seattle and Nashville are not used as a way to incentivize development or investment; they're simply concentrated in the areas that already are zoned to allow hotels in which tourists most often visit.
- Nashville modified its STR regulations in 2018 which had a sunset provision for non-owner occupied STRs. The State passed a bill that blocked this aspect of the regulations and grandfathered whole-home STRs located in residential districts past the sunset date as long as the operator continues to renew their license.
- San Antonio grandfathered a relatively small number of Short Term Rentals. Therefore, the grandfathering of existing STRs in San Antonio ostensibly has a lesser impact than the grandfathering of whole-home, Temporary STRs in New Orleans, as the impact is disproportionately greater in New Orleans.
- Boston modified its STR regulations in 2018 to prohibit non-owner-occupied STRs in residential areas and provided a one year sunset on "investor" STRs for existing reservations.
- New Orleans has a history of loosening restrictions through overlay districts or place-based zoning to spur revitalization or support cultural opportunities. In the 1990s, the City allowed Bed and Breakfasts as a by-right use in specific areas of the city under the premise that the extra revenue generated could help maintain and renovate historic single-family structures.
- Overlay Districts are also a tool New Orleans has used to help incentivize investment in specific areas of the City. The Arts and Cultural (AC) Overlay Districts are intended to create less restrictive barriers for live entertainment and arts-related uses. The Residential Diversity Overlay (RDO) District, another type of overlay district the City implemented to encourage investment, was developed to provide a straightforward path for historic commercial structures to return to commerce without having to go through a spot zoning or a conditional use process.

Blight Remediation and Historic Preservation

For historic properties with significant code violations, transferring the property to another party willing to invest and make major renovations to develop the structure as a short term rental may be a beneficial strategy. To allow an STR use as an incentive, the City must ensure that the legislation advances a substantial and legitimate government interest. Historic preservation goals constitute a legitimate government interest, and requiring a developer to meet historic preservation standards to preserve a historically or architecturally important structure is rationally related to that interest. If a policy judgement is made that such an incentive is a needed tool, only historic

or architecturally significant properties should be eligible for the program. The tool should be used only for properties where the demolition of a seriously dilapidated structure would remove a historically contributing building. The new owner should submit documentation of the conditions and the renovations to be performed. Some standards should be in place beyond the minimal investment amount for remediation of the violations. For instance, the criteria could include:

- The structure must be vacant.
- The property owner responsible for the code violations shall not be eligible to own or operate the short term rental.
- The short term rental shall be limited to 5 years of operation without owner occupancy.
- A minimum of $100,000 or 50% of the value, whichever is higher, shall be invested into the structure's rehabilitation. The minimum dollar figure shall be adjusted for inflation each year.
- Establish a program similar to the Restoration Tax Abatement to review proposals.
- The structure must be a contributing structure located in a national or local historic district, or be designated an historic landmark.
- If the structure is not already located in a full-control local historic district or is not a locally designated historic landmark, renovations to the exterior must be approved by the staff of the appropriate Historic District Landmarks Commission.
- The number of guest bedrooms shall be limited to 5 per unit for a single-family dwelling structure, 4 per unit for a two-family dwelling structure, and 2 per unit for a multi-family dwelling structure.
- Limit the non-owner-occupied STRs to 1 per block face.
- If the structure is in a district that allows Commercial STRs, the benefit may be allowing 100% of the units to operate as Commercial STRs.

Residential STRs Economic Development Zones

With the STR regulations soon changing that will prohibit property owners from having multiple Residential STR permits for different properties, there may be more opportunities for small-time operators with a single Residential STR, thus spreading the benefits of STRs in a more equitable manner. This Study discusses a number of options for more permissive Residential STR regulations that could be implemented, but recommends letting STR Administration get settled under the new regulations and re-examining the need in a year's time.

- The City should monitor the effects and realignment of conditions in residential areas for at least one year prior to implementing new strategies.

Commercial Corridors Economic Development and STRs

Encouraging Commercial STRs may be a useful strategy for Arts & Cultural (AC) Overlay Districts, where there are opportunities to tailor the additional allowances in different ways. There are 5 sets of AC Overlays that apply to 7 different areas. Additionally, other commercial corridors could be selected for additional allowances based on weak market indicators, such as high concentrations of vacant lots. The benefit of exceeding the 25% Commercial STRs cap should be reserved for corridors where either (1) the stabilization of the building stock and infill development

is not assured by depending on regular market forces; and/or (2) the encouragement of tourist lodging will assist in creating a district of live entertainment and cultural attractions.

- Increase the percentage cap of Commercial STR units per lot in the Arts & Cultural Overlay Districts, as appropriate. Allow the increased percentage only for new construction or redevelopment of long-term vacant and non-residential structures.
- Consider authorizing Large Residential STRs in the residential districts of squares within an Arts & Cultural Overlay District.
- Consider increasing the percentage cap of Commercial STR units per lot in corridors that aren't part of an Arts & Cultural Overlay District, but have high numbers of vacant lots. Allow the increased percentage only for new construction or redevelopment of long-term vacant and non-residential structures.
- Consider authorizing Large Residential STRs in the residential districts of squares adjacent to commercial corridors with high numbers of vacant lots.
- Any greater percentage allowance for Commercial STRs should be applied to a minimum 2 block area.
- Consider any strategy for a greater Commercial STRs percentage allowance in the context of other available incentives, the presence of advisory Main Street or merchants' organizations, community input, and the forthcoming HR&A analysis on leveraging STRs for affordable housing.

"Grandfathering"

"Grandfathering" refers to the ongoing legality of a use once laws have changed making the use non-conforming. "Grandfathering" of the Temporary STR permits is not possible, since as temporary permits for a use limited to operating 90 days per year, they were not permits that vested a right. When the City Council established the STR Interim Zoning District (IZD), it prohibited both the issuance and renewal of Temporary STR permits in the applicable areas. By the time new regulations are in place and the IZD is rescinded, most Temporary STR permits would also have been expired for more than 180 days, which is the time frame after which a legal non-conforming loses its legal status. Grandfathering in the context of the Temporary STR permits would need to be a new temporary permit system of preferential treatment only for properties formerly issued a Temporary STR permit. This is fraught with potential complications as there would be issues of ownership changes, new permanent tenants, and potential legal challenges based on the new system. This Study recommends against establishing any system that would create new Temporary STRs and base the issuance of permits on formerly issued Temporary STR permit locations.

Accessory (owner-occupied) STRs were not subject to the STR IZD and the issuance of Commercial STR permits was still allowed, subject to certain conditions. In cases where the Commercial STR would no longer be allowed by new permanent regulations of the zoning district, the Commercial STR would be "grandfathered" and allowed to renew its license, so long as it did not discontinue use for more than 180 days.

Introduction and Goals

Motion M-19-6 requests the City Planning Commission to conduct a public hearing and study on the possibility of special programs or conditions that would allow for the issuance of two or more Residential Short Term Rental (STR) permits to a single license holder to incentivize economic development in certain areas of the city, without imposing secondary effects relative to its residential fabric. The CPC will consider and recommend provisions including but not limited to:

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What are Short Term Rentals?

In general, short term rentals are residential dwelling units that are rented for overnight lodging purposes. Short term rentals are different from long-term rentals in that they are rented to visitors and may not be someone's place of residence. The Comprehensive Zoning Ordinance (CZO) defines short term rentals as being rented for less than 30 consecutive days, which is a common distinction between short and long-term rentals used throughout the United States.

Short term rentals are not the only defined lodging use in the CZO, which includes bed and breakfasts, hostels, hotels/motels, and timeshares. Short term rentals are most similar to bed and breakfasts, which are both located in residential dwelling units. The largest difference between short term rentals and bed and breakfasts is that short term rentals are generally rented out as an entire dwelling unit while bed and breakfasts are required to have an owner or operator who lives in the dwelling and are typically rented per guest bedroom.[1]

A hotel/motel is an establishment that provides sleep accommodations and has customary lodging services, such as a lobby, concierge services, pools, conference and meeting facilities, restaurants, and bars. Hotels/motels typically rent rooms that do not have kitchen facilities, so they are not renting dwelling units. Hostels are similar to hotels/motels, except a guest can rent a room or a bed

[1] The exception to this is the partial unit Accessory Short Term Rental where a party rents up to 3 bedrooms of an owner occupied dwelling unit, which is very similar to an Accessory Bed and Breakfast.

in a common dormitory style room and often have shared bathrooms and/or shared kitchen facilities. A timeshare building can be similar to certain types of short term rentals, in that they can be dwelling units. The difference between a timeshare and a short term rental is that in a timeshare the person has either an ownership stake or right of use for certain period of the year.

In summary, short term rentals are intended to provide temporary sleeping accommodations for visitors to New Orleans and are different from long-term rentals in that short term rentals are rented for less than 30 days. In addition, short term rentals are different from other temporary sleeping accommodations in that they are typically an entire dwelling unit that is rented to a single party of guests.

Recent History of Short Term Rental Regulations in New Orleans

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Regulations Prior to the Original Short Term Rental Study

The City Planning Commission first studied short term rentals in fall of 2015, and the first study was approved by the Planning Commission on January 26, 2016. During this first study, CPC found that there were very limited regulations on short term rentals and they were not allowed in most parts of the City. At this time, the definition for a short term rental was as follows:

> "**Short Term Rentals**. Rentals of a premises or any portion thereof for dwelling, lodging or sleeping purposes with duration of occupancy of less than sixty (60) consecutive days in the Vieux Carré and less than thirty (30) consecutive days outside the Vieux Carré. Hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated in this ordinance separately from short term rentals are not considered to be short term rentals."

The short term rental definition was not specific; it was essentially renting something for sleeping purposes that was not defined as another specific land use in the CZO. In addition, short term rentals were allowed in very few areas. Short term rentals were a permitted use in the S-LC District, a subdistrict of the MI District, and the CBD-7 District, and a conditional use in 9 other zoning districts.[2] Despite being permitted in only a few districts, the number of short term rentals proliferated as platforms like Airbnb made listing and renting short term rentals safer and easier, and short term rentals became more popular. In addition, the City had lax enforcement of the short term rental regulations, so there was little disincentive for people to rent their properties on a short-term basis without a license. The CPC staff estimated that there were between 2,400 and 4,000 individual short term rentals at that time, 70% of which were rentals of an entire dwelling unit.

2016 Short Term Rental Study

In the 2016 Short Term Rental Study, the City Planning Commission staff recommended a regulatory framework for short term rentals. CPC staff recommended creating 4 categories of short term rentals based on the type and location of the short term rental, which were generally as follows:

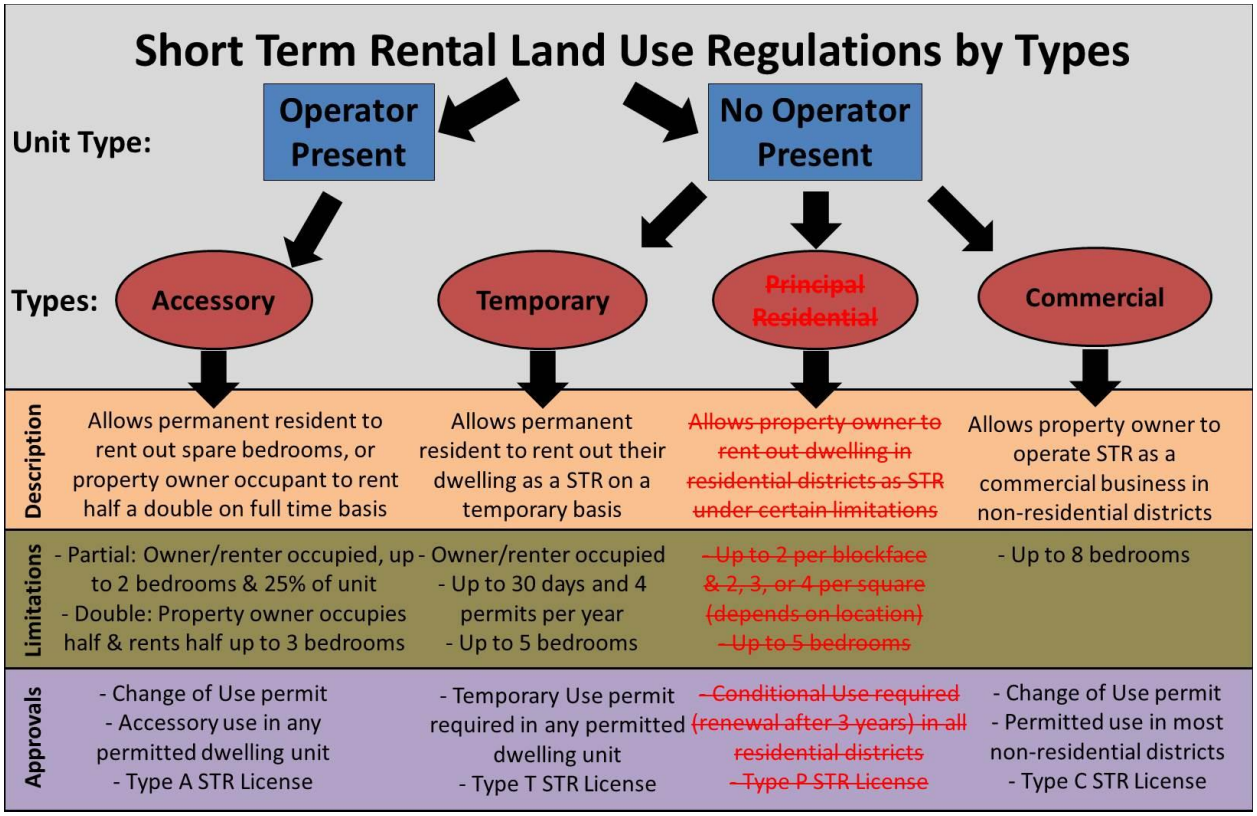
- Accessory Short Term Rental: required someone to be onsite at the time of the rental either as a partial dwelling unit or in one unit of an owner-occupied double;
- Temporary Short Term Rental: an occupied dwelling unit, the entire of which could be rented up 30 days per year when the permanent resident was not present;
- Principal Residential Short Term Rental: An entire dwelling unit in a residential district that could be rented year-round but required approval of a temporary conditional use and was limited in density to 2-4 per block; and
- Commercial Short Term Rental: an entire dwelling unit in a non-residential district that can be rented year-round with limited restrictions.

The CPC staff made recommendations for definitions, permitted and conditional use district permissions, use standards, temporary use standards, and parking requirements for these four types of proposed short term rentals. In addition, CPC staff suggested permitting and license requirements, a fee, tax and fine structure, and enforcement recommendations in City Code. The CPC staff submitted the study to the Planning Commission for its considerations. The Planning Commission recommended eliminating the proposed Principal Residential Short Term Rental type and recommended approval of the modified study at their January 26, 2016 meeting. The Planning Commission recommended eliminating the Principal Residential Short Term Rental type due to concerns about allowing whole-home short term rentals in residential districts where the operator

[2] Short term rentals were conditional uses in the C-2, MU-1, MC, MS, LS, CBD-1, CBD-2, CBD-3, and CBD-4 Districts, prior to the adoption of the current regulations.

is not present onsite to manage and monitor the short term rental. The Planning Commission's recommendations, including the elimination of the Principal Residential Short Term Rental, are summarized in the Figure below.

Figure 1: City Planning Commission's Original STR Recommendation



2017 City Council Adopted Regulations

On May 5, 2016, the City Council passed a motion directing the City Planning Commission to consider a text amendment to the Comprehensive Zoning Ordinance to implement the recommendations in the Short Term Rental Study. This request was considered by the City Planning Commission at their August 9, 2016 meeting, and went back to City Council for final consideration. At their December 1, 2016 meeting, City Council adopted multiple ordinances to enact the short term rental regulations in the Comprehensive Zoning Ordinance and City Code. City Council made a number of modifications to what was initially recommended by the City Planning Commission. While the City Council maintained the prohibition on the Principal Residential Short Term Rental type, they expanded the use of the Temporary Short Term Rental type. The limit on the number of days per year was increased from 30 days to 90 days, and perhaps more significantly, the Temporary Short Term Rental was no longer required to be someone's occupied dwelling unit, which allowed every dwelling unit to potentially become a short term rental without any limits on occupancy or density. In addition, City Council voted to eliminate the recommendation that short term rentals be allowed in the French Quarter (except for the VCE District along Bourbon Street), among other changes.

City Council also adopted an ordinance that established the permit and license requirements, fees, penalties, and platform data sharing requirements in City Code.[3] These City Code changes set up the licensing requirements for the short term rental types that were established in the CZO. These requirements allowed the applicant to attest to complying with the licensing requirements, which helped facilitate the "pass-through" registration process that was established with Airbnb where applicants could initiate the license application on Airbnb's website. Finally, City Council adopted an ordinance that established a $1 per night fee for the Neighborhood Housing Improvement Fund for affordable housing,[4] and authorized the Mayor to enter into a Cooperative Endeavor Agreement with Airbnb for the remittance of taxes.[5] The Short Term Rental regulations went into effect on April 1, 2017.

Modifications since the 2017 Short Term Rental Regulations were Adopted

Since the regulations went into effect on April 1, 2017, there have been a few relatively minor permanent modifications and a significant temporary change. When modifications to the Riverfront Design Overlay District were adopted on March 6, 2018, Commercial Short Term Rentals were prohibited in the Marigny and Bywater portions of the Riverfront Overlay District.[6] Another modification was adopted on April 11, 2018 which placed a "soft cap" on Commercial Short Term Rentals in the HU-B1 and HU-MU Districts, where only the first two Commercial Short Term Rentals per property are a permitted use and any more than two require a conditional use.[7]

In addition to the changes above, the City Council adopted Motion M-18-145 which created the Short Term Rental Interim Zoning District (IZD). This IZD prohibits the following uses in the

[3] Ordinance No. 27,204 MCS
[4] Ordinance No. 27,210 MCS
[5] Ordinance No. 27,218 MCS
[6] Ordinance No. 27,674 MCS
[7] Ordinance No. 27,726 MCS

Historic Core Districts, Historic Urban Districts, Central Business Districts, the MU-1 District, and the MU-2 District:

- Any issuance or renewal of a Temporary Short Term Rental permit or license.
- Any issuance of a Commercial Short Term Rental permit or license for STR-use on the first floor of a multi-story building that can or may contain residential uses on subsequent floors.

This IZD went into effect when the motion was adopted. The City Planning Commission considered this request at its July 10, 2018 meeting and recommended modified approval of the IZD.[8] The City Council voted to approve the City Planning Commission's recommendation at its September 6, 2018 meeting. This IZD is still currently in effect and is expected to lapse or be repealed once new, permanent regulations are adopted.

2018 Short Term Rental Study

In 2018, a newly-elected City Council passed Motion M-18-194, acknowledging the proliferation of the industry, and the unintended effects of the current short term rental requirements. The Motion directed the City Planning Commission to reexamine the current STR regulations, but with an emphasis on analyzing four specific cities' regulations in order to extract any successful policies that may influence new STR regulations in New Orleans. In the same meeting, the City Council introduced the *Short Term Rental Interim Zoning District* (IZD) covering all lots within the Historic Core and Historic Urban zoning districts, Central Business District zoning districts, MU-1 Medium Intensity Mixed Use and MU-2 High Intensity Mixed Use Districts. The IZD prohibited: (1) the issuance or renewal of a Temporary Short Term Rental permit or license, and (2) any issuance of a Commercial Short Term Rental permit or license for STR-use on the first floor of a multi-story building that can or may contain residential uses on subsequent floors.

Specific Requests from Motion M-18-194:

Motion M-18-194 directed the City Planning Commission to study the City's existing regulations and STR data to:

- Determine if amendments to existing laws are warranted and necessary;
- Reduce any unintended secondary effects of STRs relative to the residential fabric of the City;
- Ensure platform accountability;
- Amend categories and definitions;
- Make revisions to permitted/prohibited zoning categories;
- Update fee structure to more adequately address housing affordability;
- Create possible remedies to the illegal operation of STRs;
- Adopt the use of parcels, as opposed to municipal addresses, in issuing permits and permits;
- Modify Commercial STR licensing regulations that would encourage the development of multi-story commercial buildings containing retail or other commercial uses on the first floor and residential uses, including Commercial STR, on subsequent floors; and

[8] The City Planning Commission recommended some minor changes to clarify the applicability of the IZD for certain Commercial Short Term Rentals (Zoning Docket 086/18).

- Enforce additional/new prohibitions, if needed, including capping measures (such as limiting the number of permits or creating restrictions based on block-face, spacing, or census tract), compliance standards, the use of homestead exemptions in issuing permits and permits, data collection, enforcement mechanisms, and any applicable regulations that may be available relative to the internet platforms that provide STR listings.

2018 Short Term Rental Study Land Use & Zoning Recommendations

In the 2018 STR Study, the City Planning Commission proposed to modify the Short Term Rental definition to create two (2) types of Short Term Rentals: Residential (Partial and Whole Unit), and Commercial.

> *Short Term Rental.* Rental of all or any portion thereof of a residential dwelling unit for dwelling, lodging or sleeping purposes to one party with duration of occupancy of less than thirty (30) consecutive days. Hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated in this ordinance separately from short term rentals are not considered to be short term rentals. Common bathroom facilities may be provided rather than private baths for each guest bedroom. A short term rental is further defined as follows:
>
> A. *Short Term Rental, Residential.* A short term rental where the owner or resident has his or her permanent primary residential dwelling unit onsite and is present during the guest's stay.
> 1. *Partial-Unit Residential Short Term Rental*. An owner- or permanent resident-occupied dwelling with a principal use as a permanent dwelling unit and which rents a portion of the dwelling unit, no more than three (3) guest bedrooms and six (6) total guests, for overnight paid occupancy as an accessory use.
> 2. *Whole-Unit Residential Short Term Rental.* An owner-occupied lot with no more than four (4) dwelling units where one (1) unit is the owner's permanent residential dwelling unit and where only one (1) dwelling unit per lot is rented with no more than three (3) guest bedrooms and six (6) total guests for overnight paid occupancy as an accessory use.
> B. *Short Term Rental, Commercial.* An entire dwelling unit in a non-residential district that rents no more than five (5) guest bedrooms for overnight paid occupancy.

Permitted Districts Recommendations

The CPC recommended that the Residential Short Term Rental types should be allowed in any zoning district where dwellings are permitted by the Comprehensive Zoning Ordinance, provided that all requirements of the City Code and Comprehensive Zoning Ordinance are met. The CPC recommended that the French Quarter and Garden District should be treated similarly to the other historic neighborhoods in the City, especially given the recommendation effectively prohibiting whole-home STRs in residential districts.

- Residential Short Term Rentals shall be permitted in any district where dwelling units are permitted by the Comprehensive Zoning Ordinance.

The City Planning Commission noted that the impacts of Commercial STRs have proven more significant than many of the neighborhood-friendly uses authorized in neighborhood business zoning districts. This warranted a structure of zoning district permissions somewhat more restrictive than originally written.

- Prohibit Commercial Short Term Rentals in the least intensive neighborhood business districts.

To preserve ground floor commercial that is critical to the pedestrian environment in historic commercial corridors, the staff recommended a restriction on the first floor of multi-story buildings in certain zoning districts.

- Prohibit Commercial STR permits on the first floor of a multi-story building that can or may contain residential uses on subsequent floors, in commercial districts.

The CPC recommended there should be a limitation on the number of Commercial Short Term Rentals permitted in each building in certain districts to preserve long-term housing units and prevent the conversion of multi-family buildings to commercial uses. This cap should not apply to districts or areas where development on upper floors has been complicated, such as along Canal Street or in the VCE District.

- The staff recommended imposing a cap of 1 unit or 25% of all units per lot or within a single building constructed across lot lines, whichever is greater in certain zoning districts. The City should further explore using Commercial STRs above the cap as an incentive for the provision of affordable housing units within the same building or lot.
- The cap should not apply to the VCE District or properties with frontage along Canal Street between the River and Rampart Street.

Zoning Docket #26/19 – Permanent Changes to the STR Regulations based on the 2018 Study

After the establishment of the STR Interim Zoning District and the 2018 Short Term Rental Study was completed, the City Council introduced a motion to consider permanent changes to the CZO that were based on the 2018 Study. At its March 12, 2019 meeting, the CPC passed a motion to accept the staff's recommendation for modified approval. In addition to recommending text changes based on the 2018 Study, the CPC recommended changes to treat Bed & Breakfast facilities more similarly to STRs, as shown below.

Article 7 – Open Space District
7.2 Uses

Table 9-1: *Permitted and Conditional Uses*					
Uses	District				
	OS-N	OS-G	OS-R	NA	GPD
[…]					
COMMERCIAL USE					
[…]					
Hotel/Motel					C

Table 9-1: *Permitted and Conditional Uses*					
Uses	District				
	OS-N	OS-G	OS-R	NA	GPD
[…]					
[…]					
Short Term Rental, Commercial					C
[…]					

[…]

Article 8 – Rural Development Districts

8.2 Uses

Table 8-1: *Permitted and Conditional Uses*		
Uses	District	
	R-RE	M-MU
[…]		
RESIDENTIAL USE		
[…]		
Bed and Breakfast – Accessory	P	P
Bed and Breakfast – Principal		P
[…]		
Short Term Rental, Large		P
Short Term Rental, Small	P	P
[…]		
COMMERCIAL USE		
[…]		
Short Term Rental, Commercial		P

[…]

Article 9 – Historic Core Neighborhoods Residential Districts

9.2 Uses

Table 9-1: *Permitted and Conditional Uses*					
Uses	District				
	VCR-1	VCR-2	HMR-1	HMR-2	HMR-3
RESIDENTIAL USES					
Bed and Breakfast – Accessory	**Discussed in ZD027/19**		P	P	P
Bed and Breakfast – Principal			C	C	C
[…]					
Short Term Rental Large	**Discussed in ZD027/19**		C	C	C
Short Term Rental, Small			P	P	P
[…]					

[…]

Article 10 – Historic Core Neighborhoods Non-Residential Districts

10.2 Uses

Table 10-1: *Permitted and Conditional Uses*										
Uses	District									
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU
RESIDENTIAL USE										
[…]										
Bed and Breakfast – Accessory	**Discussed in ZD027/19**							P	P	P
Bed and Breakfast – Principal								P	P	P
[…]										
Short Term Rental, Large	**Discussed in ZD027/19**							P	P	P
Short Term Rental, Small								P	P	P
COMMERCIAL USE										
[…]										
Hostel	**Discussed in ZD027/19**								P	
Hotel/Motel									P	C
[…]										
Short Term Rental, Commercial	**Discussed in ZD027/19**								P	P
[…]										

[…]

Article 11 – Historic Urban Neighborhood Residential Districts

11.2 Uses

Table 11-1: *Permitted and Conditional Uses*					
Uses	District				
	HU-RS	HU-RD1	HU-RD2	HU-RM1	HU-RM2
RESIDENTIAL USE					
[…]					
Bed and Breakfast – Accessory	P	P	P	P	P
Bed and Breakfast – Principal				C	C
[…]					
Short Term Rental Large				C	C
Short Term Rental, Small	P	P	P	P	P
[…]					

[…]

Article 12 – Historic Urban Neighborhoods Non-Residential Districts

12.2 Uses

Table 12-1: *Permitted and Conditional Uses*			
Uses	District		
	HU-B1A	HU-B1	HU-MU
RESIDENTIAL USE			
Bed and Breakfast – Accessory	P	P	P
Bed and Breakfast - Principal	P	P	P
[…]			
Short Term Rental, Large	P	P	P
Short Term Rental, Small	P	P	P
[…]			
COMMERCIAL USE			
[…]			
Short Term Rental, Commercial			P
[…]			

[…]

Table 12-1 Footnotes

[…]

[8] Established Multi-Family Dwellings that comply with Section 20.3.W.1 are permitted uses while those that comply with Section 20.3.W.2 are conditional uses.

12.2.B USE RESTRICTIONS

[…]

Article 13 – Suburban Neighborhoods Residential Districts

13.2 Uses

Table 13-1: *Permitted and Conditional Uses*				
Uses	District			
	S-RS	S-RD	S-RM1	S-RM2
RESIDENTIAL USE				
[…]				
Bed and Breakfast – Accessory	P	P	P	P
[…]				
Short Term Rental, Small	P	P	P	P
[…]				

Table 13-1: *Permitted and Conditional Uses*							
Uses	District						
	S-LRS1	S-LRS2	S-LRS3	S-LDR1	S-LDR2	S-LRM1	S-LRM2
RESIDENTIAL USE							
Bed and Breakfast – Accessory					C	C	C
[…]							
Short Term Rental, Small					C	C	C
[…]							

[…]

Article 14 – Suburban Neighborhoods Non-Residential Districts

14.2 Uses

Table 14-1: *Permitted and Conditional Uses*								
Uses	District							
	S-B1	S-B2	S-LB1	S-LB2	S-LC	S-LP	S-LM	S-MU
RESIDENTIAL USE								
[…]								
Bed and Breakfast – Accessory			P	P	P			C
Bed and Breakfast – Principal			P	P	P			
[…]								
Short Term Rental, Large			P	P	P			
Short Term Rental, Small			P	P	P			P
[…]								
COMMERCIAL USE								
[…]								
Hotel/Motel					C		C	
[…]								
Short Term Rental, Commercial		P		P	P		P	
[…]								

[…]

Article 15 – Commercial Center & Institutional Campus Districts

15.2 Uses

Table 15-1: *Permitted and Conditional Uses*									
Uses	District								
	C-1	C-2	C-3	MU-1	MU-2	EC	MC	MS	LS
RESIDENTIAL USE									
Bed and Breakfast – Accessory				P	P	P			
Bed and Breakfast – Principal				P	P				
[…]									
Short Term Rental, Large				P	P				
Short Term Rental, Small				P	P	P			
[…]									
COMMERCIAL USE									
[…]									

Table 15-1: *Permitted and Conditional Uses*									
Uses	District								
	C-1	C-2	C-3	MU-1	MU-2	EC	MC	MS	LS
Hotel/Motel	P	P	P	P	P	P	P	P	P
[…]									
Short Term Rental, Commercial	P	P	P	P	P	P	P	P	P
[…]									

[…]

Article 16 – Centers for Industry

16.2 Uses

Table 16-1: *Permitted and Conditional Uses*				
Uses	District			
	LI	HI	MI	BIP
[…]				
COMMERCIAL USE				
[…]				
Hotel/Motel	P	C	P	P
[…]				
Short Term Rental, Commercial	P	C	P	P
[…]				

** Please note that Commercial Short Term Rentals are only permitted in the MI District's Commercial and Recreational Sub-District.*

[…]

Article 17 – Central Business Districts

17.3 Uses

Table 17-1: *Permitted and Conditional Uses*							
Uses	District						
	CBD-1	CBD-2	CBD-3	CBD-4	CBD-5	CBD-6	CBD-7
RESIDENTIAL USE							
Bed and Breakfast – Accessory	P	P	P		P	P	
Bed and Breakfast – Principal	P	P	P		P	P	
[…]							
Short Term Rental, Large	P	P	P		P	P	
Short Term Rental, Small	P	P	P		P	P	
[…]							
COMMERCIAL USE							
[…]							
Hotel/Motel	P	P	P	P	C	P	P
[…]							
Short Term Rental, Commercial	P	P	P	P	C	P	P
[…]							

[…]

Overlay Districts (Article 18)

18.13 RIV Riverfront Design Overlay District

18.13.H RIV-3 Bywater Sub-District Standards

18.13.H.3 Use Standards and Use Restrictions

[…]

c. Short-Term Rental Restriction

Commercial Short Term Rentals are prohibited within the RIV-3 Bywater Sub-District

[…]

18.13.I RIV-4 Marigny Sub-District Standards

18.13.I.3 Use Standards and Use Restrictions

[…]

c. Short-Term Rental Restriction

Commercial Short Term Rentals are prohibited within the RIV-4 Marigny Sub-District

[…]

Temporary Provisions (Article 19)

19.4 Temporary Prohibition

[…]

Article 20 – Use Standards

20.3 – Use Standards

[…]

20.3.I Bed and Breakfast

In addition to the regulations below, all bed and breakfasts shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.

20.3.I.1 Bed and Breakfast Accessory Standards

a. Proof of owner occupancy shall be established by submission of proof of a homestead exemption submitted to the Department of Safety and Permits. The owner-occupant's ownership interest must be at least fifty percent (50%).
b. The bed and breakfast shall appear outwardly to be a single-family dwelling, giving no appearance of a business use other than a permitted sign.
c. The bed and breakfast may have one (1) attached projecting sign not to exceed four (4) square feet in area. The sign shall complement the architecture of the structure.
d. The bed and breakfast is limited to a maximum of four (4) units for overnight accommodation.
e. Cooking facilities are prohibited in individual guest rooms.
f. If meals are provided, only registered guests may be served.
g. Leasing of a common dining area for social events is prohibited.

20.3.I.2 Bed and Breakfast Principal Standards

a. Proof of owner or operator occupancy shall be established by submission of proof of a homestead exemption (owner) or legal leasing agreement (operator) submitted to the Department of Safety and Permits.
b. All signs shall comply with applicable sign regulations for the zoning district.
c. The bed and breakfast is limited to a maximum of nine (9) units for overnight accommodation.
d. Cooking facilities are prohibited in individual guest rooms.
e. If the zoning district allows restaurants, meals may be served to guests other than those registered with the bed and breakfast, provided the facility meets all other applicable city and state codes for food service.
f. Leasing of common areas for social events shall be allowed, provided the facility meets all applicable off-street parking requirements and complies with the noise ordinance and all other provisions of the City Code.
g. In residential districts, only one (1) principal bed and breakfast or large residential short term rental is permitted per blockface.

[…]

20.3.LLL Short Term Rentals

20.3.LLL.1 Short Term Rentals General Standards

a. In addition to the use standards below, all short term rentals shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.
b. All short term rentals shall require a license. The license shall be prominently displayed on the front facade of the property in a location clearly visible from the street during all period of occupancy and contain the license number, the contact information for the owner or in-town property manager, the license type (Partial Unit Residential, Small Residential, Large Residential, or Commercial) and the bedroom and occupancy limit.
c. Short term rentals shall not be operated outdoors, in an accessory structure, or in a recreational vehicle.
d. Only one party of guests shall be permitted per short term rental unit.
e. Short term rentals shall be considered dwelling units for density purposes and subject to the minimum lot area per dwelling unit requirement of the applicable zoning district.
f. A short term rental license shall be secured prior to operation; and short term rental operators shall comply with all applicable license requirements provided in the Code of the City of New Orleans.
h. Only legally permitted guest bedrooms shall be used for the purposes of calculating the maximum number of guests. The rental of kitchens, dining rooms, living rooms, offices, and other common spaces may be used as a part of the short term rental but shall not be rented as guest bedrooms. Studio apartments and dwelling units shall be considered to have one (1) guest bedroom and allowed a maximum of two (2) guests.

20.3.LLL.2 Short Term Rental, Commercial Standards

a. The license shall be prominently displayed on the front facade of the property in a location clearly visible from the street or on the exterior of the front door of the dwelling unit being rented for multi-family dwellings, during all periods of occupancy and contain the license number, the contact information for the licensed operator, the license type (Commercial) and the unit, guest bedroom and occupancy limit.
b. Up to five (5) guest bedrooms may be rented to guests in each unit and occupancy shall be limited to two (2) guests per guest bedroom with a maximum ten (10) guests.
c. Commercial Short Term Rentals shall be prohibited on the first floor of a multi-story structure that contains or can contain residential uses on subsequent floors, but (1) does not apply to buildings that are single- or two-family dwellings; (2) does not apply to single-story structures; (3) does not apply to the CBD Central Business Districts, EC Education Campus, MC Medical Campus, LS Life Science, and M-MU Maritime Mixed Use Districts, nor the MI Maritime Industrial Commercial and Recreational Subdistrict.
d. A Commercial Short Term Rental shall submit the following impact management plans, to be reviewed by the Director of Safety and Permits, and all other relevant City agencies:
    i. Noise abatement plan.
    ii. A security and operation plan.
e. No more than one (1) unit or twenty-five (25) percent, whichever is greater, of total units on a lot or a single buildings constructed across lot lines shall be permitted as a Commercial Short Term Rental. This cap shall not apply to the VCE and VCE-1 Vieux Carré Entertainment Districts, to structures which front on Canal Street between the Mississippi River and Rampart Street, the EC Educational Campus District, MC Medical Campus District, LS Life Science District, or the MI Maritime Industrial District Commercial and Recreational Subdistrict.

20.3.LLL.3 Short Term Rental, Residential Standards (All Types)

a. A short term rental license shall be secured prior to operation; and short term rental operators shall comply with all applicable license requirements provided in the Code of the City of New Orleans.
b. The short term rental shall appear outwardly to be a residential dwelling.
c. Use of the short term rental for commercial or social events shall be prohibited.
d. The short term rental shall not adversely affect the residential character of the neighborhood.
e. The short term rental shall not generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person’s enjoyment of their residence.
f. No signs are allowed for a Residential Short Term Rental.
g. The license shall be prominently displayed on the front facade of the property in a location clearly visible from the street during all period of occupancy and contain the license number, the contact information for the owner, the license type (Partial, Small, or Large Residential) and the bedroom and occupancy limit.

h. Proof of owner occupancy shall be established by submission of proof of a homestead exemption submitted to the Department of Safety and Permits. The owner-occupant's ownership interest must be at least fifty percent (50%).

20.3.LLL.4 Short Term Rental, Partial-Unit Residential Standards

a. Only a portion of the dwelling shall be rented, which shall be limited to five (5) guest bedrooms, and occupancy shall be limited to two (2) guests per bedroom or ten (10) guests total. There shall be at least one bedroom for the fulltime owner-occupant.
b. The owner shall occupy the unit and be present during the party's stay. The owner shall be present to check guests into the short term rental, available to respond to complaints, and will sleep on premises during the guest's stay.

20.3.LLL.5 Short Term Rental, Small Residential Standards

a. If more than one (1) principal building exists on a lot, or two (2) or more contiguous lots have been historically acquired together and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the short term rental, it may be included in the operation of the short term rental.
b. Up to five (5) guest bedrooms may be rented to guests and occupancy shall be limited to two (2) guests per guest bedroom with a maximum ten (10) guests.
c. The owner shall occupy the unit on-site and be present during the party's stay. The owner shall be present to check guests into the short term rental, available to respond to complaints, and will sleep on premises during the guest's stay.

20.3.LLL.6 Short Term Rental, Large Residential Standards

a. If more than one (1) principal building exists on a lot, or two (2) or more contiguous lots have been historically acquired together and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the short term rental, it may be included in the operation of the short term rental.
b. Large Residential Short Term Rentals are limited to a maximum of three (3) dwelling units, nine (9) total guest bedrooms, and occupancy shall be limited to two (2) guests per bedroom with a maximum eighteen (18) guests.
c. The owner shall occupy the unit and be present during the party's stay. The owner shall be present to check guests into the short term rental, available to respond to complaints, and will sleep on premises during the guest's stay.
d. In residential districts, only one (1) principal bed and breakfast or large residential short term rental is permitted per blockface.

[…]

21.6 Accessory Structures and Uses

[…]

21.7 Permitted Encroachments into Required Yards

[…]

[…]

21.8.C.13 Temporary Telecommunications Cell on Wheels (COW)

[…]

21.8.C.14 Sidewalk Use

[…]

Article 22 – Off-Street Parking and Loading

22.4 Required Off-Street Vehicle Parking Spaces

22.4.A General Requirements

[…]

Table 22-1: Off-Street Vehicle and Bicycle Parking Requirements			
Use	Minimum Required Vehicle Spaces	Minimum Required Bicycle Spaces	
		Required Short-Term Bicycle Spaces	Percentage of Long-Term Bicycle Spaces
[…]			
Bed and Breakfast	1 per 2 guest bedrooms		
[…]			
Hotel/Motel	1 per 2 guest bedrooms	1 per 5 rooms	
[…]			
Short Term Rental, Commercial	1 space per 2 guest bedrooms	1 per 5 rooms	25%
Short Term Rental, Large Residential	1 per 2 guest bedrooms	1 per 5 rooms	25%
Short Term Rental, Partial-Unit and Small Residential	See applicable dwelling type		
[…]			

[…]

Article 26 – Definitions

26.6 Definitions

[…]

Bed and Breakfast. A single-family dwelling, or other structure that has been legally converted to a single-family dwelling, that provides sleeping rooms for overnight paid occupancy. Bed and breakfast is further defined as follows:

A. Bed and Breakfast, Accessory. An owner-occupied single-family dwelling, which provides no more than five (5) guest bedrooms for overnight paid occupancy of up to thirty (30) nights. Common bathroom facilities may be provided rather than private baths for each guest bedroom.

B. Bed and Breakfast, Principal. An owner- or operator-occupied single-family dwelling that provides no more than nine (9) guest bedrooms for overnight paid occupancy of up to thirty (30) nights. Common bathroom facilities may be provided rather than private baths for each guest bedroom.

[…]

Customary Lodging Services. Guest services provided by lodging facilities including hotels/motels, commercial short term rentals, and other lodging uses. Customary services include at a minimum 1) dedicated lobby space to adequately enable check-in/check-out procedures, and 2) personnel/staffing to assist guests at check-in/check-out.

[…]

Guest Bedroom. An enclosed room designed for, and outfitted to be used for sleeping and/or lodging of guests. A guest bedroom shall not be a shared space or a space designed for or outfitted to be used for any purpose other than sleeping or lodging of guests (e.g. kitchens, dining rooms, living rooms, parlors, attics, offices, game rooms, or utility rooms). Only legally permitted guest bedrooms shall be used for the purposes of calculating the maximum number of guests a short term rental is permitted.

[…]

Party of Guests. An individual or group renting or seeking to rent a Short Term Rental in its entirety. When occupied by a party of guests, the Short Term Rental shall not be separately rented to any other individual or party of guests.

[…]

Short Term Rental. Rental of all or any portion thereof of a residential dwelling unit for dwelling, lodging or sleeping purposes to one party of guests with duration of occupancy of less than thirty (30) consecutive days. Hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated in this ordinance separately from short term rentals are not considered to be short term rentals. Common bathroom facilities may be provided rather than private baths for each room. A short term rental is further defined as follows:

A. **Short Term Rental, Residential.** A short term rental where the owner has their permanent primary residential dwelling unit onsite and is present during the guest's stay. A short term rental owner shall be present to check guests into the short term rental, available to respond to complaints, and will sleep on premises during the guest's stay. Proof of ownership shall be established by submission of proof of a homestead exemption submitted to the Department of Safety and Permits. Only one type of residential short term rental is allowed per lot.
    - **Partial-Unit Residential Short Term Rental**. Rental of a portion of an owner-occupied dwelling unit with a principal use as a permanent dwelling unit with no more than five (5) guest bedrooms and ten (10) total guests, for overnight paid occupancy as an accessory use.

- **Small Residential Short Term Rental.** An owner-occupied lot with no more than four (4) dwelling units where one (1) unit is the owner's permanent residential dwelling unit and where only one (1) dwelling unit per lot is rented with no more than five (5) guest bedrooms and ten (10) total guests for overnight paid occupancy as an accessory use.
- **Large Residential Short Term Rental.** An owner-occupied residential structure that provides rental of up to three (3) dwelling units for paid occupancy, with no more than nine (9) guest bedrooms total.

B. **Short Term Rental, Commercial.** An establishment providing rental of one (1) or more dwelling units for overnight paid occupancy. Each dwelling unit is limited to five (5) guest bedrooms and no more than ten (10) occupants.

[…]

Zoning Docket 27/19

Zoning Docket 027/19 was a request by City Council Motion M-19-4 for a text amendment to the Comprehensive Zoning Ordinance to adopt certain City Planning Commission staff recommendations and initiatives as contained in the 2018 Short Term Rental Study. The City Planning Commission Short Term Rental Study analyzed the impacts of Short Term Rentals (STRs) in New Orleans and proposed a regulatory structure to be incorporated into the Comprehensive Zoning Ordinance and City Code. City Council Motion M-19-4 requested the City Planning Commission reconsider the original recommendation of permitting Short Term Rentals in both the Garden District and the French Quarter, and instead, redirected the City Planning Commission to consider:

- Establishing an outright STR prohibition in the French Quarter, except for the VCE zoning district.
- Establishing an outright STR prohibition in the Garden District.

The City Planning Commission recommended the following zoning district permissions for Articles 9 and 10, which include the Vieux Carre Districts.

Article 9 – Historic Core Neighborhoods Residential Districts

9.2 Uses

Table 9-1: *Permitted and Conditional Uses*					
Uses	District				
	VCR-1	VCR-2	HMR-1	HMR-2	HMR-3
RESIDENTIAL USES					
Bed and Breakfast – Accessory			P	P	P
Bed and Breakfast – Principal			C	C	C
[…]					
Short Term Rental Large			C	C	C
Short Term Rental, Small			P	P	P

Table 9-1: *Permitted and Conditional Uses*					
Uses	District				
	VCR-1	VCR-2	HMR-1	HMR-2	HMR-3
[…]					

[…]

Article 10 – Historic Core Neighborhoods Non-Residential Districts

10.2 Uses

Table 10-1: *Permitted and Conditional Uses*										
Uses	District									
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU
RESIDENTIAL USE										
[…]										
Bed and Breakfast – Accessory			P	P				P	P	P
Bed and Breakfast – Principal			P	P				P	P	P
[…]										
Short Term Rental, Large			P	P				P	P	P
Short Term Rental, Small			P	P				P	P	P
COMMERCIAL USE										
[…]										
Hostel									P	
Hotel									P	C
[…]										
Short Term Rental, Commercial			P	P					P	P
[…]										

[…]

City Council Action on Zoning Docket #26/19

The City Council considered Zoning Docket #26/19 at a special meeting on May 16, 2019. The Council passed a motion of modified approval accepting the CPC's recommendation subject to fifteen (15) amendments. The amendments concerned the following changes:

- In the HMC-1 Historic Marigny, Treme, Bywater Commercial District, Commercial STRs shall be a Conditional Use.
- In the HU-RM1 and HU-RM2 Historic Urban Multi-Family Residential Districts, Large Residential STRs shall be permitted by right.
- In the LRS-1 Lake Area Single Family Residential District, Accessory B&Bs and Small Residential STRs shall be permitted by right.
- In the MI Maritime Industrial District, Commercial STRs shall be a Conditional Use.
- In the HU-B1A and HU-B1 Historic Urban Neighborhood Business, the HU-MU Historic Urban Neighborhood Mixed Use, the S-LM Lake Area Marina, the MU-1 Medium Intensity Mixed Use, and the MU-2 High Intensity Mixed Use Districts, only 1 Principal B&B or Large Residential STR are allowed per block.
- In the CBD Central Business Districts, Commercial STRs shall be subject to the 1st floor prohibition; however, the prohibition shall apply only to structure that are new construction or being substantially renovated.
- Commercial STRs shall be required to submit a sanitation plan.
- Commercial STRs with 10+ units shall be required to have an on-site operator on the premises at all times during guest stays.
- Note in the use standards that no STRs are permitted in the Vieux Carre unless otherwise specifically authorized in the CZO.
- For Residential STRs, the owner shall not be required to sleep on premises during guest stays.
- Large Residential STRs shall not exceed 6 guest bedrooms and 12 guests for all units combined.
- One partial unit and 1 Small Residential STR shall be allowed on the same lot.
- STRs "licenses" shall be referred to as "permits." "In-town property managers" shall be referred to as "operators."
- The definition of "customary lodging services" shall not include any reference to Commercial STRs.
- The definition of "short term rental" shall be modified to mirror the definition in the City Code.

Zoning Docket #27/19

The proposed STR and B&B neighborhood prohibitions for the Vieux Carre and the Garden District were considered in a separate zoning docket, #27/19. At the special May 16, 2019 City Council meeting, the Council passed a motion of modified approval, subject to 2 amendments concerning the following:

- All types of B&Bs and STRs shall be prohibited in the VCE-1 Vieux Carre Entertainment District.
- Residential STRs and B&Bs shall be prohibited in the Garden District, defined as: the center line of St. Charles Avenue, downriver side of Jackson Avenue, center line of Magazine Street, and downriver side of Delachaise Street.

Current Short Term Rental Regulations

Comprehensive Zoning Ordinance Regulations

As amended by recent text amendments and the Short Term Rental Interim Zoning District, below are the current short term rental definitions, use standards, off-street parking requirements, permitted and conditional use permissions, and temporary provisions in the Comprehensive Zoning Ordinance:

Definitions (Article 26)

Short Term Rental. Rental of all or any portion thereof of a residential dwelling unit for dwelling, lodging or sleeping purposes to one party with duration of occupancy of less than thirty (30) consecutive days. Hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated in this ordinance separately from short term rentals are not considered to be short term rentals. Common bathroom facilities may be provided rather than private baths for each room. A short term rental is further defined as follows:

A. *Short Term Rental, Accessory***.** Either (i) an owner occupied dwelling with a principal use as a permanent dwelling unit and which rents no more than three (3) guest rooms and six (6) total guests for overnight paid occupancy as an accessory use, or (ii) an owner-occupied two-family dwelling in which one unit of the two-family dwelling is occupied by the owner with a principal use as the owner's permanent residential dwelling unit and which the other unit of the two-family dwelling is rented with no more than three (3) guest rooms and six (6) total guests as an accessory use. Only one accessory short term rental shall be permitted in any two-family dwelling. For either type of accessory short term rental, the owner shall occupy the unit and be present during the guest's stay.

B. *Short Term Rental, Temporary.* A residential dwelling which rents the entire unit with no more than five (5) guest rooms for overnight paid occupancy as a temporary use not to exceed ninety (90) days per year, except in the Vieux Carré, the area generally bounded by: Iberville St., N. Rampart St., Esplanade Ave., and the Mississippi River, where Temporary Short Term Rentals shall be prohibited. No owner or resident is required to be present during the guest's stay.

C. *Short Term Rental, Commercial.* An entire dwelling unit in a non-residential district that rents no more than five (5) guest rooms for overnight paid occupancy.

Use Standards (Article 20)

The use standards for Commercial Short Term Rentals are found in **Article 20** and listed below. The use standards for Accessory Short Term Rentals are in found in **Article 21, Section 21.6** *Accessory Structures and Uses* and the use standards for Temporary Short Term Rentals are found in in **Article 21, Section 21.8** *Temporary Uses,* both of which are in **Article 21.** The Commercial Short Term Rental use standards are listed below:

20.3.LLL SHORT TERM RENTALS

20.3.LLL.1 SHORT TERM RENTALS GENERAL STANDARDS

a. In addition to the regulations below, all short term rentals shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.
b. All short term rentals shall require a license. The license shall be prominently displayed on the front facade of the property in a location clearly visible from the street during all period of occupancy and contain the license number, the contact information for the owner or in-town property manager, the license type (Temporary, Accessory, or Commercial) and the bedroom and occupancy limit.
c. Short term rentals shall not be operated outdoors, in an accessory structure, or in a recreational vehicle.
d. Only one party of guests shall be permitted per short term rental unit.
e. There shall be an in-town property manager if the owner or operator is out of town during the time of the rental.
f. Short term rentals shall be considered dwelling units for density purposes and subject to the minimum lot area per dwelling unit requirement of the applicable zoning district.

20.3.LLL.2 SHORT TERM RENTAL, COMMERCIAL STANDARDS

a. A short term rental license shall be secured prior to operation; and short term rental operators shall comply with all applicable license requirements provided in the Code of the City of New Orleans.
b. The license shall be prominently displayed on the front facade of the property in a location clearly visible from the street during all period of occupancy and contain the license number, the contact information for the owner or in-town property manager, the license type (Temporary, Accessory, or Commercial) and the bedroom and occupancy limit.
c. Up to five (5) bedrooms may be rented to guests and occupancy shall be limited to two (2) guests per bedroom with a maximum ten (10) guests.
d. No signs are allowed for a Commercial Short Term Rental.

Accessory and Temporary Use Standards (Article 21)

The use standards for Accessory Short Term Rentals are in found in **Article 21, Section 21.6** *Accessory Structures and Uses* and the use standards for Temporary Short Term Rentals are found in in **Article 21, Section 21.8** *Temporary Uses*

21.6.II ACCESSORY SHORT TERM RENTALS

21.6.II.1 SHORT TERM RENTALS GENERAL STANDARDS

a. In addition to the use standards below, all short term rentals shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.

b. All short term rentals shall require a license. The license shall be prominently displayed on the front facade of the property in a location clearly visible from the street during all period of occupancy and contain the license number, the contact information for the owner or in-town property manager, the license type (Temporary, Accessory, or Commercial) and the bedroom and occupancy limit. But in no event shall any Accessory Short Term Rental license be issued in the Vieux Carré, the area generally bounded by: Iberville St., N. Rampart St., Esplanade Ave., and the Mississippi River.
c. Short term rentals shall not be operated outdoors, in an accessory structure, or in a recreational vehicle.
d. Only one party of guests shall be permitted per short term rental unit.
e. The short term rental shall appear outwardly to be a residential dwelling.
f. Use of the short term rentals for commercial or social events shall be prohibited.
g. The short term rental shall not adversely affect the residential character of the neighborhood.
h. The short term rental shall not generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her residence.
i. Proof of ownership shall be required via a valid homestead exemption.

21.6.II.2 SHORT TERM RENTAL, ACCESSORY STANDARDS

a. A short term rental license shall be secured prior to operation; and short term rental operators shall comply with all applicable license requirements provided in the Code of the City of New Orleans.
b. For partial unit accessory short term rentals, only a portion of the dwelling shall be rented, which shall be limited to three (3) guest bedrooms, and occupancy shall be limited to two (2) guests per bedroom or six (6) guests total. There shall be at least one bedroom for the fulltime owner-occupant.
c. For partial unit accessory short term rentals, the owner shall occupy the unit and be present during the party's stay.
d. For all Accessory Short Term Rentals, proof of owner occupancy shall be required with a homestead exemption.
e. Where the accessory short term rental occupies one unit of a two-family dwelling, occupancy shall be limited to two (2) guests per bedroom for a total of up to six (6) guests.
f. No signs are allowed for an Accessory Short Term Rental.

[…]

21.8.C PERMITTED TEMPORARY USES

Table 21-3: Permitted Temporary Uses				
Permitted Temporary Use	**District**	**Timeframe**	**Hours of Operation**	**Temporary Use Standards**
[…]				
Short Term Rental, Temporary	Any Zoning District where dwelling units are permitted*	Rentals shall be limited to a maximum of ninety (90) days per year, except in the Vieux Carré, the area generally bounded by: Iberville Street, N. Rampart Street, Esplanade Avenue, and the Mississippi River, where Temporary Short Term rentals shall be prohibited.		Section 21.8.C.14
[…]				

** In accordance with City Council Motion M-18-195, any issuance or renewal of a Temporary Short Term Rental permit or license is prohibited in the Historic Core Districts, Historic Urban Districts, Central Business Districts, the MU-1 District, and the MU-2 District.*

[…]

21.8.C.14 SHORT TERM RENTAL, TEMPORARY

21.8.C.14.a SHORT TERM RENTAL GENERAL STANDARDS

1. In addition to the use standards below, all short term rentals shall comply with the regulations of the Department of Safety and Permits and the Department of Finance, Bureau of Revenue.
2. All short term rentals shall require a license.
3. The license shall be prominently displayed on the front facade of the property in a location clearly visible from the street during all periods of occupancy and contain the license number, the contact information for the owner or in-town property manager, the license type (Temporary, Accessory, or Commercial) and the bedroom and occupancy limit.
4. Short term rentals shall not be operated outdoors, in an accessory structure, or in a recreational vehicle.
5. Only one party of guests shall be permitted per short term rental unit.
6. The short term rental shall appear outwardly to be a residential dwelling.
7. For temporary short term rentals, there shall be an in-town property manager available at all times if the owner or operator is out of town during the time of the rental.
8. Use of the short term rentals for commercial or social events shall be prohibited.
9. The short term rental shall not adversely affect the residential character of the neighborhood.

10. The short term rental shall not generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her residence.
11. If renter occupied and operated, proof of the property owner's consent and signature on the license application shall be required.
12. If renter occupied, the operator shall provide a current rental lease.

21.8.C.14.b SHORT TERM RENTAL, TEMPORARY STANDARDS

1. A short term rental license shall be secured prior to operation; and short term rental operators shall comply with all applicable license requirements provided in the Code of the City of New Orleans.
2. Rentals shall be limited to a maximum of ninety (90) days per year, except in the Vieux Carré, the area generally bounded by: Iberville Street, N. Rampart Street, Esplanade Avenue, and the Mississippi River, where Temporary Short Term rentals shall be prohibited.
3. Up to five (5) bedrooms may be rented to guests.
4. Occupancy shall be limited to two (2) guests per bedroom or ten (10) guests, whichever is less.
5. The entire dwelling can be rented and the permanent resident is not required to be present during the party's stay.
6. No signs are allowed for a Temporary Short Term Rental.

Off-Street Parking and Loading (Article 22)

The parking requirements for short term rentals depend on the permit type. As a temporary use, Temporary Short Term Rentals do not have any parking requirements. Accessory Short Term Rentals are required to have the same number of parking spaces as the dwelling unit. Commercial Short Term Rentals are required to have one parking space per 2 guest rooms, which is equivalent to the parking requirement for a bed and breakfast. In districts where parking is not required for any use, no off-street parking is required for the short term rental.

22.4 Required Off-Street Vehicle Parking Spaces

22.4.A General Requirements

[…]

Table 22-1: Off-Street Vehicle and Bicycle Parking Requirements			
Use	Minimum Required Vehicle Spaces	Minimum Required Bicycle Spaces	
		Required Short-Term Bicycle Spaces	Percentage of Long-Term Bicycle Spaces
[…]			
Short Term Rental, Accessory	see applicable dwelling type		
Short Term Rental, Commercial	1 space per 2 guestrooms	1 per 5 rooms	25%
[…]			

Permitted and Conditional Uses (Articles 7 to 17)

Below are the use tables that show the zoning districts where Commercial Short Term Rentals are permitted ("P"), conditional ("C"), and prohibited uses (blank space). Accessory and Temporary Short Term Rentals do not appear in these use tables below because these short term rental types are permitted in a dwelling unit in any zoning district, subject to the definition, use standards for each type, and the Short Term Rental Interim Zoning District. Commercial Short Term Rentals are not currently permitted in Open Space Districts (Article 7), Historic Core Neighborhoods Residential Districts (Article 9), Historic Urban Neighborhoods Residential Districts (Article 11), and Suburban Neighborhoods Residential Districts (Article 13), and thus the use tables for these districts are not shown below.

Use Table: Rural Development Districts (Article 8)		
Uses	District	
	R-RE	M-MU
[…]		
Short Term Rental, Commercial		P
[…]		

Use Table: Historic Core Neighborhoods Non-Residential Districts (Article 10)										
Uses	District									
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU
[…]										
Short Term Rental, Commercial			P*					P*	P*	P*
[…]										

** In accordance with Ordinance 27898 MCS, any issuance of a Commercial Short Term Rental permit or license for STR-use on the first floor of a multi-story building that can or may contain residential uses on subsequent floors is prohibited.*

Use Table: Historic Urban Neighborhoods Non-Residential Districts (Article 12)			
Uses	District		
	HU-B1A	HU-B1	HU-MU
[…]			
Short Term Rental, Commercial	C*	P, C[9*]	P, C[9*]
[…]			

** In accordance with Ordinance 27898 MCS, any issuance of a Commercial Short Term Rental permit or license for STR-use on the first floor of a multi-story building that can or may contain residential uses on subsequent floors is prohibited.*

[…]

Table 12-1 Footnotes

[…]

[9] Permitted Commercial Short Term Rentals are limited to two (2) on one property; any Commercial STR use greater than two is a conditional use.

[…]

Use Table: Suburban Neighborhoods Non-Residential Districts (Article 14)								
Uses	District							
	S-B1	S-B2	S-LB1	S-LB2	S-LC	S-LP	S-LM	S-MU
[…]								
Short Term Rental, Commercial	P	P	P	P	P	P	P	
[…]								

Use Table: Commercial Center & Institutional Campus Districts (Article 15)									
Uses	District								
	C-1	C-2	C-3	MU-1	MU-2	EC	MC	MS	LS
[…]									
Short Term Rental, Commercial	P	P	P	P*	P*	P	P		P
[…]									

** In accordance with Ordinance 27898 MCS, any issuance of a Commercial Short Term Rental permit or license for STR-use on the first floor of a multi-story building that can or may contain residential uses on subsequent floors is prohibited.*

Use Table: Centers for Industry (Article 16)				
Uses	District			
	LI	HI	MI	BIP
[…]				
Short Term Rental, Commercial			P*	
[…]				

** Please note that Commercial Short Term Rentals are only permitted in the MI District's Commercial and Recreational Sub-District.*

Use Table: Central Business Districts (Article 17)							
Uses	District						
	CBD-1	CBD-2	CBD-3	CBD-4	CBD-5	CBD-6	CBD-7
[…]							
Short Term Rental, Commercial	P*	P*	P*	P*	P*	P*	P*
[…]							

** In accordance with Ordinance 27898 MCS, any issuance of a Commercial Short Term Rental permit or license for STR-use on the first floor of a multi-story building that can or may contain residential uses on subsequent floors is prohibited.*

Overlay Districts (Article 18)

18.13 RIV Riverfront Design Overlay District
The recently-approved Riverfront Overlay District prohibits Commercial Short-Term Rentals in Sections 18.13.H.3 – RIV-3 Bywater Sub-District Use Standards and Use Restrictions, and 18.13.I.4 – RIV-4 Marigny Sub-District Use Standards and Use Restrictions.

Temporary Provisions (Article 19)

Short Term Rental Interim Zoning District
City Council Motion M-18-195 adopted an IZD that placed limitation of Temporary and Commercial STRs in certain districts, which went into effect when the motion was adopted. The City Planning Commission considered this IZD in Zoning Docket 086-18, which was subsequently approved by City Council resulting in a text amendment to **Article 19** of the CZO. The IZD prohibits the following uses in the Historic Core Districts, Historic Urban Districts, Central Business Districts, the MU-1 District, and the MU-2 District:

- Any issuance or renewal of a Temporary Short Term Rental permit or license.
- Any issuance of a Commercial Short Term Rental permit or license for STR-use on the first floor of a multi-story building that can or may contain residential uses on subsequent floors.

Current City Code Regulations

In 2017, the City Council also adopted a number of amendments to the City Code to establish the license regulations and fees. The license requirements can be found in Chapter 26 of the City Code. The affordable housing fee for the Neighborhood Housing Improvement Fund (NHIF) can be found in Chapter 70 of the City Code. Finally, there were some modifications made to Chapter 150 of the City Code to ensure that short term rentals were subject to the same sales and use tax as hotels. All of these modifications can be found in the sections below:

Chapter 26, Article XI of the Code of the City of New Orleans was amended as follows:

Article XI – Standards for Short Term Rentals

Sec. 26-613. – Permit and License – Created and Required.

(a) An annual Short Term Rental License Permit may be issued to eligible applicants by the Department of Safety and Permits, upon consultation with the Executive Director of the City Planning Commission. A Short Term Rental License Permit is a privilege, not a right, and may be revoked or not renewed based on non-compliance with the requirements of the Comprehensive Zoning Ordinance, or the requirements provided herein. There shall be three (3) license categories, as defined by the Comprehensive Zoning Ordinance.

1) Type A License for Accessory Short Term Rentals;
2) Type T License for Temporary Short Term Rentals; and
3) Type C License for Commercial Short Term Rentals.

(b) No property shall be utilized as a Short Term Rental, as defined by the Comprehensive Zoning Ordinance, without an authorized Short Term Rental License Permit. No Type A or Type T License Permit for Accessory or Temporary Short Term Rentals is valid or shall be issued in the Vieux Carré, the area bounded by: Iberville St., N. Rampart St., Esplanade Ave., and the Mississippi River.

(c) Any holder of a short term rental license permit issued pursuant to this article shall maintain on file with the department of safety and permits a current address of a natural person in Orleans Parish on whom service may be made, including without limitation the service of legal notices and lawsuits related to the operation of short term rentals and/or compliance with this article and/or applicable provisions of the Comprehensive Zoning Ordinance. Service upon the person on file shall be deemed effective service upon the holder of the short term rental license permit. Any juridical person holding a short term rental license permit shall be qualified to do business in the State of Louisiana. Failure to comply with this provision or to keep current the agent for service shall be grounds for revocation of the short term rental license permit.

Sec. 26-614. – Submission Documents and Requirements.

An applicant for a short term rental license permit shall:

(1) Attest to the following and furnish the necessary documentation upon request of the department of safety and permits:
   a. That the property has current, valid liability insurance of $500,000.00 or more;
   b. That each short term rental unit has working smoke detectors in every bedroom, outside sleeping area, and on all habitable floors;
   c. That each short term rental unit has a properly maintained and charged fire extinguisher in each short term rental unit;
   d. That in each short term rental unit there is a posting that provides emergency contact information and a floor plan indicating fire exits and escape routes. Posting shall be displayed in a prominent location;
   e. That the property is in compliance with applicable provisions of the city's Minimum Property Maintenance, Building, Electrical, Mechanical and Plumbing Codes;

f. That the property is in compliance with all of the standards and requirements for the License category as mandated in the Comprehensive Zoning Ordinance;
g. That the owner, or operator if applicable, has made best efforts to notify the properties immediately adjacent to the desired short term rental of the license application; and
h. That the property has no outstanding taxes or municipal code violation liens.

(2) Furnish the following documentation upon request of the department of safety and permits:

a. A floor and/or site plan that indicates the location of the required smoke detectors, fire extinguisher, and emergency contact/fire-exit posting, as attested to in subsection (1).
b. A completed application for a change of use or building permit, as determined by the department of safety and permits, for Type C, commercial short term rentals.
c. The contact information for the owner of the short term rental unit, which includes the owner's primary physical mailing address, cell phone number, and email address. Additionally, the same contact information for the operator, or a local property manager that is able to respond on premises to complaints, if required by the Comprehensive Zoning Ordinance.
d. For a Type A license, proof of ownership via a valid homestead exemption, as required by the Comprehensive Zoning Ordinance.
e. A copy of the Conditional Use Ordinance, if required by the Comprehensive Zoning Ordinance.
f. A list of the short-term rental hosting platform(s) that will be utilized to advertise or solicit the property for use as a short-term rental.
g. Verification that the property has no outstanding taxes or property liens.
h. A current address of a natural person in Orleans Parish upon whom service may be made.

Any fraud, material misrepresentation, or false statements contained in the attestations, required documentation, or correlating application materials shall be grounds for immediate revocation of a short term rental license permit. Furthermore, all requirements herein shall be continuously maintained throughout the duration of the permit

Sec. 26-615. - Permit and license issuance.

(a) Upon satisfactory submission of the required attestations and requested documentation in section 26-614, the department of safety and permits may issue an annual short term rental license permit. Said permit shall contain:

(1) The address of the short term rental;

(2) The permit holder's name;

(3) The type of license, permit number, and rental limitations, including bedroom limit and guest occupancy limit;

(4) Contact information (name, phone and e-mail) for complaints by guests or neighbors the listed contact information shall be of an individual able to respond on-premises to complaints;

(5) Dates the permit is valid.

(b) The permit holder shall prominently display the permit on the front façade of the property, in a location clearly visible from the street.

(c) The permit holder shall provide the valid permit number on any listing advertising or soliciting the property for use as a short term rental. The permit holder shall only advertise the short term rental as allowed by their short term rental permit.

(d) The permit holder shall post the following information in a prominent location in the interior, clearly visible to guests:

(1) The permit number;
(2) The name and contact information of the owner/operator;
(3) The name and contact information of the property manager, if applicable;
(4) Occupancy limit;
(5) Trash and recycling collection rules and dates; and
(6) Additional short term rental rules and operational standards as provided in the Comprehensive Zoning Ordinance, including but not limited to: prohibition on the use of the rental for commercial or social events and noise limitations.

Sec. 26-616. - Permit and license renewal.

The short term rental license permit shall be valid one year from the date of issuance. Renewal permits shall be issued in the same manner as initial permits, and requires:

(1) Providing the department an updated copy of any of the documents required by section 26-614, if applicable.
(2) A revised attestation, indicating continued compliance with the requirements in section 26-614.
(3) A revised list of short-term rental platform(s) that will be utilized to advertise or solicit the property for use as a short-term rental.
(4) Proof of payment of all applicable taxes and fees as required by law.

Sec. 26-617. - Permit and license fees.

(a) Fees for the initial issuance and renewal thereof shall be as follows:

Type A license for accessory short term rentals: $200.00.
Type T license for temporary short term rentals: $50.00, for each filed application with a valid homestead exemption. $150.00 for each filed application without a valid homestead exemption.
Type C license for commercial short term rentals: $500.00.

(b) A $1.00 fee for each night of occupancy of a residential dwelling unit used for dwelling, lodging, or sleeping purposes pursuant to a short term rental, shall be remitted to the city to offset the cost of the enforcement and other costs borne by the city.

Sec. 26-618. - Penalties.

Any violation of this article and the correlating provisions in the Comprehensive Zoning Ordinance may subject a violator to any remedy, legal or equitable, available to the city. Violations include but are not limited to: advertisement or rental of a short term rental

without proper permitting and licensure, operation outside the scope of any of the applicable short term rental regulations provided by law, failure to include the license number or property address of a short term rental unit in any advertisement, and advertising a short term rental outside the permitted scope of a short term rental license permit. Remedies include, but are not limited to: revocation of a short term rental license permit, daily fines, property liens, and the discontinuance of electrical service. Nothing contained herein shall be construed to limit the legal remedies available to any other person for the correction of violations of this article and the correlating provisions in the Comprehensive Zoning Ordinance.

Sec. 26-619. - Registration created.

The city will maintain a registry of information regarding short term rentals based upon data provided by short term rental hosting platforms. Each short term rental hosting platform shall provide the city the following information regarding short term rentals on a monthly basis:

(1) The name of the person issued the license-permit and their contact information (e-mail address/phone number);
(2) The listing address;
(3) The tax assessment address (if different than the listing address); and
(4) License-permit type (A, C, or T).

Sec. 26-620. - Platform data sharing.

(a) Short term rental hosting platforms that list short term rentals in the City of New Orleans must provide certain information about activity on the platform on a monthly basis. This information includes:

(1) The total number of short term rentals listed on the platform during the applicable reported period;
(2) The total number of nights that each listing on the platform was rented to guests during the applicable reporting period;
(3) A cumulative tally to date of the number of nights that each listing on the platform is booked for rental during the remaining months of the applicable calendar year;
(4) A notation indicating the permit type for each listing; and
(5) The total amount of tax collected by the platform and remitted to the city.

In providing the information required by this subsection, the short term rental hosting platform is not required to provide personally identifiable information.

(b) The city shall have the authority to subpoena information from short term rental hosting platforms. Any such administrative subpoena shall:

(1) Be submitted in writing by the city attesting that the city has a reasonable belief based on evidence that a short term rental may be in violation of this article or of applicable provisions of the Comprehensive Zoning Ordinance;
(2) Be sent to the short term rental hosting platforms via regular and certified mail; and
(3) Be related to a specific investigation by the city relating to a single short term rental that is specifically identified in the subpoena, and alleges the specific

violations of this article or of the applicable provisions of the Comprehensive Zoning Ordinance.

The platform shall notify their user of the information requested in the subpoena within ten days of receipt of the subpoena and produce the responsive records within 21 days of providing notice to the user, except to the extent that the user has sought relief in a court of competent jurisdiction.

(c) For purposes of this article, short term rental hosting platforms are defined as any marketplace that facilitates short term rentals, as defined in the Comprehensive Zoning Ordinance, through advertising, matchmaking or other means, from which the platform derives revenues, including booking fees or advertising revenues, from or maintaining the marketplace.

Secs. 26-621—26-625. - Reserved.

Chapter 70, Article III of the Code of the City of New Orleans was amended as follows:

Division 17 – Neighborhood Housing Improvement Fund (NHIF)

Sec. 70-415.1. - Created.

There is hereby created a special fund designated as the City of New Orleans Neighborhood Housing Improvement Fund (hereinafter "NHIF"), into which shall be deposited all proceeds of the special tax authorized by Proposition D of R-91-100; and any other funds designated by lawful authority for deposit in the fund, including $1.00 of revenues collected relative to the nightly occupancy of short term rentals, as defined in the Comprehensive Zoning Ordinance.

Chapter 150, Article VI of the Code of the City of New Orleans was amended as follows:

Sec. 150-441 - Definitions.

***

Dealer includes every person who:

***

(7) Sells or furnishes any of the services subject to tax under this article or who is engaged in the collecting the amount required to be paid by a transient guest as a condition of occupancy at a residential location as provided herein. For purposes of this article, dealer shall not include persons leasing apartments of single-family dwellings on a month-to-month basis.

***

Hotel means and includes any establishment or person engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of sleeping rooms, cottages, or cabins at any of the following: (1) a single business location; (2) a residential location, including but not limited to a house, apartment, condominium, camp, cabin, or other building structure used as a residence. For purposes of this article, hotel shall not mean or include any establishment or person leasing apartments or single-family dwellings on a month-to-month basis.

Short Term Rental Data 2018-2019

One year after a similar map was produced for the 2018 Short Term Rental Study, CPC staff mapped the locations of Accessory, Commercial and Temporary STR permits. Both of these – Maps 1 and 2, are shown below. As expected, the number of Temporary permits fell 54% from 2,304 on March 24, 2018 to 1,052 on March 29, 2019. This number has dropped due to the STR Interim Zoning District, as Temporary STR permits cannot be issued or renewed in the areas of the city where they had been prevalent. During the same period of time, the number of Accessory STR permits increased from 1,234 to 1,399, a modest rise of 13%. Finally, the number of Commercial STR permits increased from 848 to 1,113, a moderate upsurge of 31%.

Between March 29, 2019 and the end of May 31, 2019, there has been a decrease in the number of short term rental permits of each type, as shown in Map 3. The number of Accessory STR permits decreased 24%, to 1,134. Issuance of new Commercial STR permits decreased by a modest amount of 8%. Whereas the Temporary STR license type that was most prevalent in March, 2018 has reduced to only 293 permits. Since March of 2018, there has been a 44% decrease in the number of STR permits over all, with 2,453 permits issued as of May 31, 2019. The May 31, 2019 permits are shown in the map below. Commercial STR permits are the only subtype to have increased overall since March 29, 2018. While Accessory STR permits are still slightly more prevalent, the number of licensed commercial short term rentals has increased 21% since March of 2018, with 1,026 thousand permits issued.

Figure 2: STR Permits from March 24, 2018 to May 31, 2019

	Permits Issued		Percent Change	Permits Issued		Percent Change	Permits Issued		Percent Change
	3/24/18	3/29/19	3/24/18 - 3/29/19	3/29/19	5/31/19	3/29/19 - 5/31/19	3/24/18	5/29/19	3/24/18 - 5/31/19
Accessory	1,234	1,399	13%	1,399	1,134	-24%	1,234	1,134	-8%
Commercial	848	1,113	31%	1,113	1,026	-8%	848	1,026	21%
Temporary	2,304	1,052	-54%	1,052	293	-72%	2,304	293	-87%
Total STR Permits	4,386	3,564	-19%	3,564	2,453	-31%	4,386	2,453	-44%

City Planning Commission
City of New Orleans

Map # 1

Findings

Licenses Issued by 03/24/2018

License Subtype

- Accessory STR (1,234)
- Commercial STR (848)
- Temporary STR (2,304)

Short-Term Rental Licenses

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1 inch = 0.61 miles

Date: 4/29/2019

City Planning Commission
City of New Orleans

Short-Term Rental Licenses & STR IZD

Map # 2

Findings

Licenses Status on 03/31/2019

License Type

- Accessory STR (1,393)
- Commercial STR (1,137)
- Temporary STR (1,046)
- Short Term Rental IZD

0 0.325 0.65 1.3 Miles

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Date: 6/4/2019

City Planning Commission
City of New Orleans

Short-Term Rental Licenses & STR IZD

Map # 3

Findings

Licenses Status on 05/31/2019

License Type

- Accessory STR (1,135)
- Commercial STR (1,026)
- Temporary STR (293)
- Short Term Rental IZD

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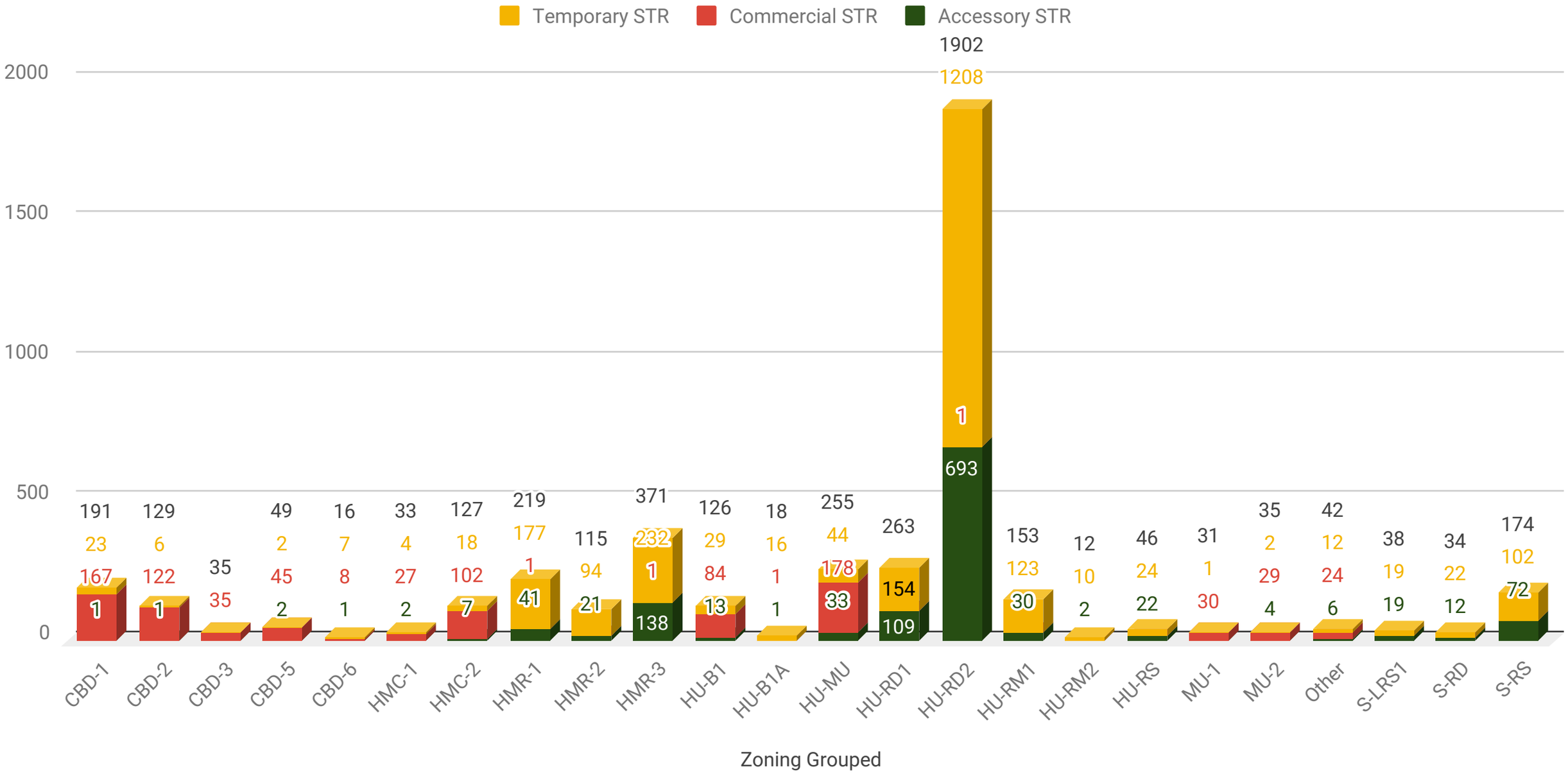
Date: 6/4/2019

0 0.325 0.65 1.3 Miles

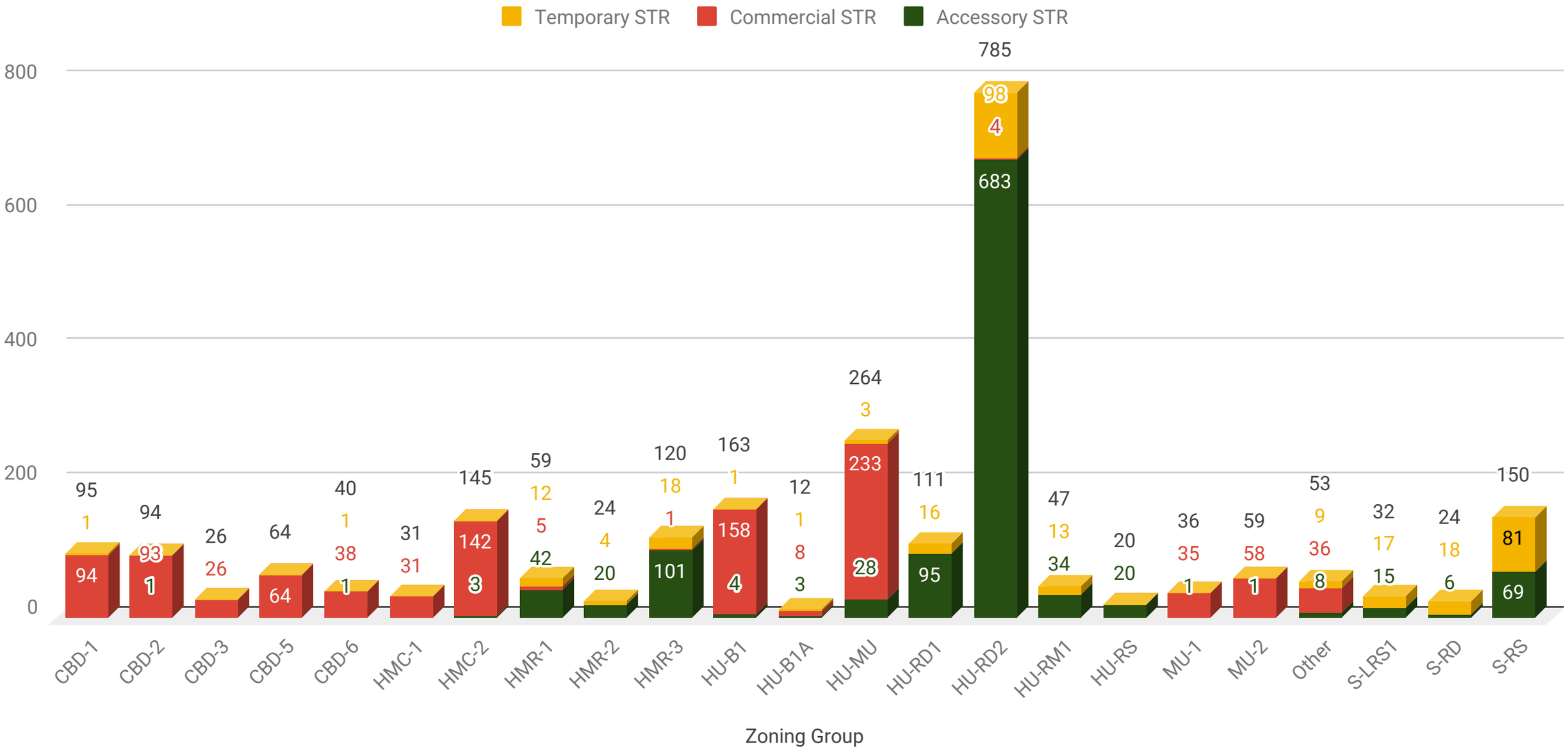
Permit data shows STRs have been concentrated in New Orleans' historic urban and historic core residential neighborhoods, a trend which has persisted since the implementation of the Short Term Rental Interim Zoning District. In March of 2018, nearly seventy percent of all STR permits were Accessory or Temporary permits utilized in Historic Urban Residential Districts Uptown, Lower Garden District, and Mid City neighborhoods (HU-RD1, HU-RD2 and HU-RM) or Historic Core Residential Districts in the Marigny, Tremè, and Bywater neighborhoods (HMR-1, HMR-2 and HMR-3). The greatest proportion of all STR permits have been concentrated in neighborhoods zoned HU-RD2 (Historic Urban Two-Family Residential). This makes sense considering a majority of the city's residential neighborhoods are classified as Historic Urban, and the most common classification in those areas is HU-RD2. These neighborhoods are characterized by single family and two-family residential development, with limited non-residential uses. HU-RD2 zoning districts most impacted by STRs span neighborhoods that are adjacent to the Central Business District and French Quarter or along major transportation corridors that connect to these areas. Over the last year, no more than six percent of all STR Permits have been utilized in neighborhoods zoned Suburban Single-Family Residential, the most prominent residential zoning classification in Gentilly, Lakeview and New Orleans East. The location of Historic Urban Residential Districts, the historic quality, and walkable development patterns make these areas highly desirable to residents and tourists alike. However, these are also areas that have been most prone to gentrification and displacement in recent years.

Prior to the implementation of the STR Interim Zoning District in October 2018, approximately one third of all STRs were Temporary STRs operating in the HU-RD2 District. Since the IZD on whole-home, Temporary STR permits was enacted, the impact on Historic Urban and Historic Core neighborhoods has been significantly diminished. While about 47% of STR permits are still concentrated in Historic Urban neighborhoods, with the greatest concentration in HU-RD2 neighborhoods, there has been a 44% decline in the number of active STR permits overall, and permits are more evenly dispersed across residential neighborhoods, mixed use and commercially zoned areas. As of March, 2019, there were more active STR licenses in in HU-B1, HU-MU and HMC 1 and 2 zoning districts than in March 2018. Further, as of May 31, 2019, about thirteen percent of all STR permits are in the CBD and nearly 48 percent of all active permits are in zoning districts where Commercial STRs are a permitted use (CBD, HU-B1 and 2, HMC 1 and 2, HU-MU, MU-1 and MU-2). Bar graphs on the next pages show the STR permit trends in zoning districts from 2018 before the IZD to May 31, 2019 after the IZD has eliminated most Temporary STR permits.

Active STR Licenses on 03/31/2018



Active STR Licenses on 05/31/2019



Best Practices – STR Grandfathering and Economic Development

Motion No. M-19-6 directs the City Planning Commission staff to consider the possibility of a "grandfather" provision to allow any existing or prior Temporary Short Term Rental license holders whose license lapsed during the pendency of the Short Term Rental Interim Zoning District to regain one or more licenses for use in the Economic Incentive STR Zone, if one were to be created. To assess feasibility and compatibility in New Orleans, the CPC staff researched other cities that have incorporated grandfathering provisions with the adoption of their new or modified STR regulations. This is discussed later in the section. In order to understand the grandfather consideration, it is important to understand the events leading to Motion No. M-19-6.

The Temporary Short Term Rental license, the license in question, was initially proposed by the City Planning Commission in the 2016 STR Study that was intended to be a minimally impactful Short Term Rental type utilized only during major events, such as Mardi Gras or Jazz Fest, for permanent residents. The City Planning Commission originally recommended allowing a resident to rent out a whole unit for a pre-determined time via the Temporary Use Permit process. A permanent resident would be allowed to obtain up to four Temporary Use Permits totaling 30 days each year. However, the final regulations ultimately adopted by City Council allowed temporary rentals for up to 90 days per year, and it was no longer required to be an owner-occupied dwelling unit, which greatly expanded the pool of potential Short Term Rental units. Unlike the accessory license type, which has a one license per building limit, the temporary license type had no density limit. As a result, a person could have an unlimited number of temporary permits in a building, and throughout the city, further increasing the number of permits.

The CPC heard individuals at public hearings, through public comments, and in meetings with CPC staff who live in certain neighborhoods with higher densities of Temporary STRs lamenting the loss of full-time neighbors who look out for one another and engage with one another in ways that establish lasting relationships. Moreover, some of the housing stock closest to the city's jobs and transportation that was once utilized for long-term rentals or home-owners was converted into short term rentals. Another concern the CPC heard is that the loss of long-term neighbors makes the neighborhoods less safe, as those neighbors know the signs of potential crime when conditions seem awry.

STR owners and opponents seemed to acknowledge that this license type does not lead to the temporary use of a unit as an STR, but rather tends to be the unit's *only* use year-round. Many temporary operators were likely not complying with the 90 day limit. Additionally, enforcing the 90-day limit was incredibly difficult for the STR administration staff, especially without cooperation of the platforms.

The lack of a permanent resident requirement, the generous 90-day limit, and the absence of density restrictions led to a proliferation of temporary STR permits. The Temporary Short Term Rental license type became a de facto whole-home rental, without a permanent resident or owner present. This sometimes led to quality of life issues, such as noise, loss of neighborhood character, litter and other impacts. These negative impacts of Temporary STRs were exacerbated in residential areas, where most of the temporary permits were located.

In 2018, City Council Motion M-18-195 adopted an IZD, the *Short Term Rental Interim Zoning District,* which placed a limitation of Temporary and Commercial STRs in certain districts, which went into effect when the motion was adopted. The City Planning Commission considered this IZD in Zoning Docket 86/18, which was subsequently approved by City Council resulting in a text amendment to **Article 19** of the CZO. The *Short Term Rental Interim Zoning District* (IZD) covers all lots within the Historic Core and Historic Urban zoning districts, Central Business District zoning districts, MU-1 Medium Intensity Mixed Use and MU-2 High Intensity Mixed Use Districts. The IZD prohibits the issuance or renewal of a Temporary Short Term Rental permit or license, and any issuance of a Commercial Short Term Rental permit or license for STR-use on the first floor of a multi-story building that can or may contain residential uses on subsequent floors.

STR Operators, especially those who own or operate the Temporary STR type, have expressed concerns and frustrations about regulations being quickly changed after they have already invested in STR properties. They state that government regulations should not be a moving target and that it is unfair to legalize and then make illegal the same types of uses.

Commercial STRs on the first floor of a multi-story building operating prior to the implementation of the IZD were still allowed to renew their permits, unlike the Temporary STR license which were prohibited from either renewal or issuance. Commercial STR permits, a type of license codified in the CZO, are a vested right. In other words, all previously issued commercial STR permits could continue to operate even if located on the first floor of a multi-story building, as a legal nonconforming use. Therefore, these permits are grandfathered when and if regulations change.

In Motion M-19-6, the question of grandfathering seems to be in relation to the Temporary STR license in an Economic Incentive STR District, if one is created. The boundaries of this district, however, have yet to be determined. If council does adopt a grandfathering provision for certain Temporary STR permits located within a proposed Economic Incentive STR District, a different term would more accurately describe this privilege. These permits do not have a vested right or a permanent entitlement, and are not eligible for grandfathering when regulations change, beyond the expiration date of the license. Even if they were eligible for grandfathering, most Temporary STR permits would have lapsed 180 days without use due to the Short Term Rental Interim Zoning District, precluding these properties from receiving the grandfathered legal non-conforming status.

Grandfathering in the case of the Temporary STRs would essentially be a system of new Temporary STRs with a preference given to those who formerly held a valid Temporary STR permit. Additionally, the Council would be advised to create a policy that ensures only those license holders who were *legally* operating could be grandfathered, or granted the privilege of operating with a new Temporary STR permit. This would mean scrutinizing the STR's past operation to verify the past STR was only operating 90 days of the year, that the operator was not in arrears with his/her taxes, and that the STR had a permit and had not been in violation of any standards and laws. If non-owner occupied STRs are allowed in residential areas by any of the methods described in the Study, measures should be put in place to mitigate the issues identified with such uses. Heightened penalties such as a one violation leading to permit revocation could

be used. Additionally, response time to complaints of noise and trash must be quick. A noise meter may be required to monitor the sound levels since no supervision would be on site.

Although the staff does not believe a grandfathering provision, or a "special entitlement" for certain Temporary STR operators or areas is equitable, the motion directed the City Planning Staff to research if other cities have implemented a grandfathering provision with the implementation of new or modified STR regulations. The following cities have some form of a grandfathering statute.

San Antonio

San Antonio recently codified its first Short Term Rental regulations which went into effect November 1, 2018. Prior to the implementation of these regulations, San Antonio did not regulate STRs. Although the new STR regulations went into effect immediately, the City granted existing STR operators a 90 day grace period to legalize their Short Term Rentals by creating an account with the Finance Department to pay their Hotel Occupancy Taxes, and apply for an STR permit through the Department of Development Services, which would effectively grandfather their use.

The new regulations created two types of STRS: Type 1 and Type 2. Type 1 STRS are owner-occupied, and Type 2 STRs are non-owner occupied. San Antonio does not differentiate their STR permits by residential and commercial. Under the new regulations, Type 1 STRs have no density limitation, but Type 2 STRs must follow a density limitation restricting them to 12.5% per blockface, one Type 2 STR allowed in a multi-family structure with 1 to 7 units, and any multi-family structure with more than 7 units must also adhere to the 12.5% restriction. Once the limit for Type 2 STRs has been met, a special exception must be applied for and granted by the Board of Adjustments to allow more. Type 2 STRs are allowed in all residentially and commercially zoned districts except those that permit hotels, and are prohibited in industrially zoned districts.

With the implementation of San Antonio's new STR regulations, the City grandfathered in all existing STRs provided that the operators establish an account with the City Finance Department to pay any applicable Hotel Occupancy Taxes (HOT). The city is restricted in its ability to claw-back regulations as there is a Texas law that states the City cannot retroactively enforce any regulation. Existing operators had a 90 day grace period to register but couldn't be grandfathered unless their HOT have been paid, indicated by providing written confirmation from the City of San Antonio Finance Department showing proof of registration and proof that their account is not in arrears with the City of San Antonio Finance Department for Hotel Occupancy Tax collection. Paying the HOT was the only requirement the City mandated to receive grandfathered status. The grandfathered STRs must also register as Short Term Rental by applying for a permit through the Department of Development Services. Registration is not transferable to another owner, operator, or location, signifying the grandfathered status runs not with the land, but with the license holder.

In total, San Antonio grandfathered 519 STRs as of April 11, 2019. Since the implementation of the new regulations, 1,100 new STR permits have been issued. The City believes approximately 1,500-2,000 STRs are still operating illegally, but uses Host Compliance, a STR compliance monitoring system, to help find illegally operating Short Term Rentals. Subsequent to implementation of the new STR policies, the regulations will be reviewed in June to determine

what was learned and if changes are needed to the regulations, similar to the stage in which New Orleans is currently in.

Nashville

Nashville, Tennessee enacted the first of their Short Term Rental (STR) Regulations July 1, 2015. Nashville updated and amended these regulations on January 23, 2018. Short Term Rental Property in Nashville is defined as a residential dwelling unit containing a maximum of four sleeping rooms that is used for transient occupancy by guests for less than 30 days. The new regulations aimed to phase out non-owner-occupied whole-home STRPs in residentially zoned neighborhoods by June 28, 2020. The new regulations allow operators to continue operating whole- home rentals in residentially zoned districts and renew their permits until this sunset date. Additionally, non-owner-occupied STRPs and multi-family dwelling STRPs may still exist in non-residentially zoned districts, and owner-occupied short term rentals may continue to operate regardless of the zoning district in which they are located. The new regulations also restrict the number of guestrooms allowed per STRP to four and the number of individuals allowed in an STRP to two for each sleeping room, plus four other individuals. The ordinance is an attempt by the City of Nashville to curb displacement of long-term residents and mitigate negative impacts oftentimes associated with STRPs.

When the ordinance was passed, it included a phase out, or a "sunset" provision that would eventually eliminate existing non-owner occupied short term rentals located in single and two-family zoning districts. Subsequently, Airbnb and other host platforms lobbied the State of Tennessee to restrict City control of STRPs and courted the state to pass the "Short Term Rental Unit Act" bill on April 24th, 2018, which blocked important aspects of Nashville's ordinance passed in January of 2018. The bill grandfathers whole-home STRPs located in residential districts past the sunset date as long as the operator continues to renew their license. The exemption would last only until the whole-home STRP is sold or is no longer listed on rental sites like Airbnb or VRBO. Similar to San Antonio, the grandfathering status would run with the license holder, not with the land itself. The zoning code has not been changed to reflect this state law and therefore the phase out provision is still included but not enforceable.

Non-owner occupied STRPs, are classified as commercial uses and are only permitted in zoning districts where multi-family residential and hotels are permitted. Existing permit holders in these districts may be eligible to apply for renewals, but those permits are not transferable if the property is sold. No new permits for non-owner occupied houses will be issued. At the time of the New Orleans' 2018 STR Study, the City of Nashville had issued 3,840 STRP permits with approximately 50-60% compliance.

Seattle

Seattle adopted its first Short Term Rental regulations in December of 2017. Prior to this date, the City did not regulate the operation of Short Term Rentals. Although new regulations were adopted, they didn't come into effect until January 1, 2019, giving operators a full year to legalize their STR. The new regulations allow any *individual* to rent out their own residence plus one additional unit. If an individual was operating STRs prior to September 30, 2017, they are allowed to legally operate three Short Term Rentals: two pre-existing STRs plus the individual's primary residence.

In the process of codifying new regulations, Seattle grandfathered certain Short Term Rentals if located within specific areas of the City and if in operation prior to September 30, 2017. STR operators (Legacy operators) in Seattle's downtown Urban Center (north of Cherry Street and south of Olive way) and certain buildings in the First Hill and Capitol Hill Urban Center were allowed to continue operating all preexisting STRs regardless of number, plus their primary residence as well as one additional unit. The area grandfathered by the City Council is much smaller than first proposed, which originally contained Chinatown. If located in the First Hill/Capitol Hill Urban Center, an existing STR unit within a multi-family building constructed after 2012 containing no more than five dwelling units may also obtain a Short-Term Rental operator license to continue operation and to operate an additional unit plus their primary residence. This type of building in uncommon in this area.

To qualify for grandfathering status, the operator must provide evidence of a business license tax certificate issued by the Department of Finance and Administrative Services, and documents demonstrating all applicable local, state and federal taxes have been remitted in the year prior to September 30, 2017. The operator will also need to provide a registry listing all the dates the unit was used as a Short Term Rental in the year before September 30, 2017. In addition, the state of Washington levies a tax on STRs that raises a few million dollars per year. This money is transferred back to the City of Seattle specifically for the purpose of providing affordable housing.

The newly adopted regulations also require short-term rental platforms like Airbnb, HomeAway, and VRBO to obtain a special "platform license" to facilitate bookings in Seattle.

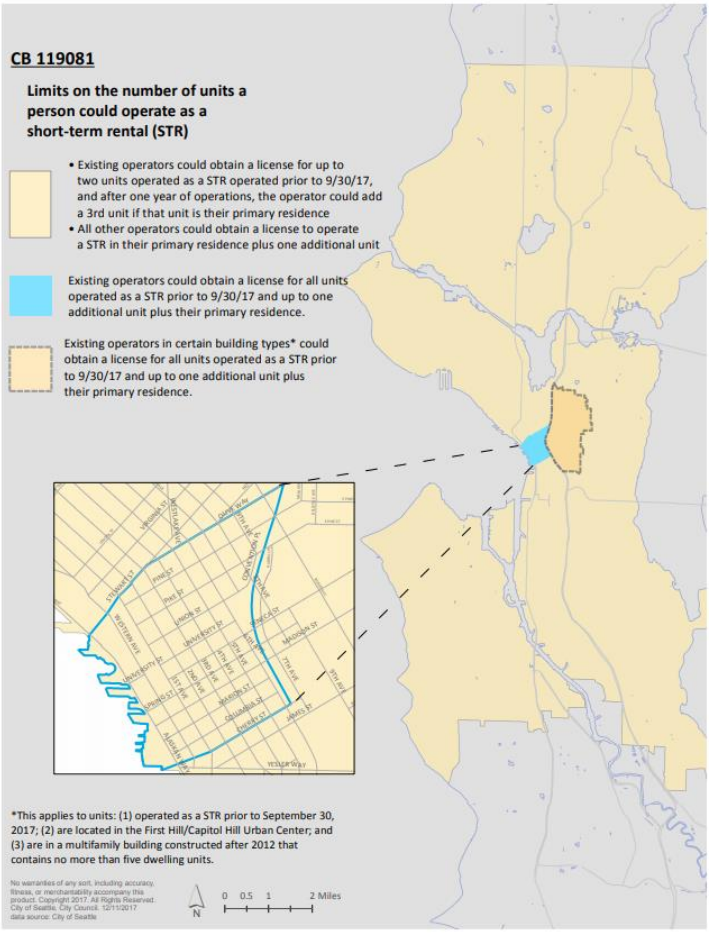


Figure 2: Seattle Grandfathering

Pacific Grove, CA.

Pacific Grove, California utilizes a lottery system to determine the sunsetting of short-term rental permits. The results of this one-time lottery determined that 51 STR permits would sunset on April 30, 2019. For objectivity and transparency, the lottery was administered by an independent firm according to procedures established by the city. Sunsetting determinations were based on two consecutive levels of screening criteria to winnow down the number of candidates: a block density limit of 15 percent and a distance criterion of 55 feet. The 15% density limit mandated that if the total number of STR's on a block accounted for 15% or more of the total number of parcels, then

that block was selected as a sunset lottery candidate. For example, a block containing 10 parcels with two STR permits would be selected for the lottery because the block density of 20% exceeds the 15% limit established by ordinance. Secondly, each block exceeding the density limit was screened against the City's 55 feet radius limit. If each STR on the identified over-dense block was at least 55 feet away from another STR, then that whole block was exempted from the sunset lottery. However, if an STR on an identified over-dense block did not meet the distance criterion of 55 feet, that STR was subjected to the sunset lottery. Pacific Grove manages a public-facing database tabulating all short-term rental permits by category, including those required by regulated lottery status to sunset.

Boston

Boston promulgated a new short-term rental ordinance in June 2018, which delineates definitions, ineligible units, exempted units, enforcement, requirements and registration processes and fees for short-term rentals. Prior to the passing of this ordinance, property owners were allowed to list more than one unit on short-term rental platforms and short-term rentals were effectively unregulated and not required to register with the City. However, the new ordinance established a registry to document all legal and licensed operators in the city. As of January 1, 2019 all short-term rentals must be registered with the City of Boston. Although registration has reportedly been low, the database was designed to enable the City to monitor compliance and other trends.

The new ordinance's permitting regime established three short-term rental unit types: Limited Share Units, Home Share Units and Owner-Adjacent Units. All such types must be an owner-operator's principal residence and classified as a residential use; this criterion excludes hotels, motels, executive suites and other non-residential uses. The new ordinance was also coupled with a sunset regime, which is delineated in Chapter IX of Boston's city code. Non-owner-occupied, or "investor" units with executed leases for Short-Term Rentals as of June 1, 2018 and that are not identified on an Ineligible Units List may continue operating until the completion of the lease term or until September 1, 2019, whichever date is first. The sunset provision applies to "investor units" which were not owner-occupied or the primary residence of the owner-operator. The three types of permitted STRs are defined below.

> *Home Share Unit.* A Residential Unit offered as a Short-Term Rental that is the Operator's Primary Residence. Occupancy shall be limited to five bedrooms or ten guests in a Home Share Unit, whichever is less.
>
> *Limited Share Unit.* A Residential Unit that is the Operator's Primary Residence, a portion of which is offered as a Short-Term Rental while the Operator is present. Occupancy shall be limited to three bedrooms or six guests in a Limited Share Unit, whichever is less. One bedroom must be reserved for the Operator.
>
> *Owner-Adjacent Unit.* A residential unit offered as a Short-Term Rental that is not the Owner's Primary Residence but that is located within the same dwelling as the Primary Residence of, and is owned by, said Owner; provided that, Owner-Adjacent Units used as Short-Term Rentals shall only be allowed in two-family or three-family dwellings where all units are owned by the same unique owner-occupant who serves as the Operator; provided further that, for the purposes of owner-occupied three-family residential

dwellings, in addition to the unit in which they reside and use as a Home Share or Limited Share Unit, an Operator of an Owner-Adjacent Unit may only register and use one Owner-Adjacent Unit as a Short Term Rental.

Analysis of Other Cities

The above examples of grandfathering or sunsetting differ from a prospective grandfathering provision in New Orleans. Prior to San Antonio and Seattle's new regulations, all operating STRs were unregulated. Conversely, the new regulations New Orleans' City Council recently considered are modifications to existing regulations. Regardless of the unregulated nature of STRs in San Antonio and Seattle, both cities extensively grandfathered operating STRs as a provision of their new STR regulations. San Antonio grandfathered all operating STRs that paid their Hotel Occupancy Taxes and received the proper STR permitting after regulations went into effect. However, only 519 short term rentals were grandfathered. San Antonio contains over 1.5 million residents, so only a small fraction of the housing units were utilized as a Short Term Rental prior to the new regulations taking effect. In contrast, New Orleans has a population of less than 400,000 and had a proliferation of Temporary Permits in the areas closest to the French Quarter. According to the City Planning Commission's 2018 STR Study, New Orleans had a total of 4,210 active Short Term Rental permits as of May 23, 2018. This roughly equated to 2.17% of total housing units in New Orleans. Over half of the permits active at this time were Temporary permits. Therefore, the grandfathering of existing STRs in San Antonio ostensibly has a lesser impact than the grandfathering of whole-home, Temporary STRs in New Orleans, as the impact is disproportionately greater in New Orleans. It is also worth noting that the platforms had a seat on the taskforce that helped craft the new regulations in San Antonio.

Counting the 519 grandfathered short term rentals, San Antonio now has approximately 1,600 licensed Short Term Rentals out of approximately 540,000 housing units, or .02% of the housing stock. New Orleans has approximately 192,000 housing units, and 154,000 occupied housing units. On Airbnb alone, there are 6,508 STR listings (which contains both legal and illegal listings) in Orleans Parish, or 4.2% of the occupied housing stock as of April of 2019.

Both Seattle and San Antonio adopted their first STR regulations while other major cities were in the process of refining and modifying previously implemented STR regulations. New Orleans adopted its first expansive STR regulations in 2016, providing the City with a full year to assess the impact of legalizing Short Term Rentals prior to the 2018 STR Study and the STR IZD. The regulations Seattle adopted are substantially different than those currently in place and even those proposed in New Orleans. Seattle does not differentiate between residential and commercial STR permits and only issues permits to individuals. Therefore, Short Term Rentals can be located anywhere in the city regardless of the zoning designation, and larger operators such as Sonder or StayAlfred would be unable to obtain additional STR permits under the current regulations. Seattle also allows whole-home Short Term Rentals, the type of Short Term Rental New Orleans' found to be the most problematic, and which are currently banned in the majority of New Orleans' residential zoning districts under the Short Term Rental Interim Zoning District.

Further, Seattle fully grandfathered STRs in a manner opposite to that proposed by New Orleans' City Council. Seattle opted to grandfather in those STRs in the areas closest to where tourists frequent, specifically in the downtown and the hospitality district. Accordingly, STRs in Seattle

aren't used as a way to incentivize development or investment; they're simply concentrated in the areas that already are zoned to allow hotels in which visitors most often visit. The subject of this study, Motion No. M-19-6, indicates any potential grandfathering provision in New Orleans would need to be within the Economic Incentive Zone. This zone, if implemented, would presumably be in parts of the city that are in distress or in the process of revitalizing, not in the areas that already receive an influx of investment and tourism.

Pacific Grove, CA, and Boston provide examples of cities that allowed a short continuation of STR activity for permitted locations prior to prohibition. Pacific Grove provides a unique system for reducing the number of STRs to a legal maximum through a lottery system that determines which STRs have to ultimately cease operations.

Lastly, Nashville's grandfathering example represents the power of the STR platforms. Nashville lost its ability to fully regulate the proliferation of STR use when the State intervened after the platforms lobbied for grandfathering regulations.

New Orleans Best Practices

The Economic Incentive Zone could act as an overlay district presumably located in certain areas of New Orleans that are distressed and/or in the process of revitalization. The Economic Incentive Zone would provide additional permissions to incentivize redevelopment and investment in specific areas of the city deemed in need of revitalization. New Orleans has a history of loosening restrictions for specific uses in hopes of spurring revitalization, or using overlay districts to provide less restrictive uses than allowed under the base zoning district. In the 1990s, the City allowed Bed and Breakfasts as a by-right use in specific areas of the city stating the extra revenue generated could help maintain and renovate historic single-family structures. Similarly, Arts and Cultural Overlay and Residential Diversity Overlay Districts were implemented in certain areas of the City in need of unique regulations that cater to the distinctive characteristics of the neighborhood or corridor in which they are located.

The supporters of loosening restrictions on Bed and Breakfasts in the 1990s had arguments similar to those of present-day STR operators when discussing their rehabilitation of properties and their contribution to the City. Many Temporary STR operators note their significant investment into their non-owner occupied STR property, stating the structure was blighted and restored for STR use, or that the property was significantly renovated for this use. The history of Bed and Breakfasts is relevant to this study as the uses of B&Bs and STRs are similar: temporary stays for transient individuals in a residential dwelling. The difference, however, is significant. Bed and Breakfasts require either a homestead exemption, or an operator-lease agreement where the operator lives on-site. The Temporary Short Term Rental permit does not require an owner or an operator on-site to oversee operations, and is only allowed to operate as an STR 90 days of the year. The lack of on-site operator was the cause for some of the negative impacts associated with this type of use. Despite the professed investment by Temporary STR operators, the use was still only allowed a 90 day a year limit. The remaining 275 days of the year were supposed to be used as a primary dwelling.

Overlay Districts are another tool New Orleans has used to help incentivize investment in specific areas of the City. The Arts and Cultural (AC) Overlay Districts were intended to create less

restrictive barriers for live entertainment and other uses such as indoor amusement facilities. The Arts and Cultural Overlay Districts were intended to promote arts and cultural uses along corridors suitable for these types of activities. The Residential Diversity Overlay (RDO) District, another type of overlay district the City implemented to encourage investment, was developed to provide a straightforward path for historic commercial structures to return to commerce without having to go through a spot zoning request or a conditional use. The Residential Diversity Overlay Districts were initiated to allow a limited number of commercial activities and multi-family residential uses in existing non-residential structures. They are intended to encourage compatible re-use of existing non-residential structures in residentially zoned districts.

B&Bs in Historic areas of the City

Long before the concept of Short Term Rentals in its current form was considered in New Orleans, the City grappled with a policy surrounding Bed and Breakfasts (B&Bs). Similar to Short Term Rentals, neighbors were skeptical their residential neighborhoods would turn into a tourist commercial district with the addition of B&Bs. Despite this concern, the City took note of historic homes falling into disrepair in some of the historic areas of the city and created relaxed B&B provisions so owners could benefit from the inherent profit involved by utilizing a historic structure as a B&B. Maintaining historic homes can be expensive; converting a single-family residence into a B&B allowed an owner to continue living in their residence while generating the additional income necessary to upkeep their home. Despite the owner living on the premises, B&Bs were still subject to the skepticism of adjacent neighbors. To mitigate some of the concern and the impact of the larger Bed and Breakfast uses, conditional use permits were required in residential areas for B&B establishments between three rooms and five rooms maximum. The only exception to this rule was in the case of *historic* homes located in residential areas. These large homes were required to operate with at least three rooms and were limited to a maximum of 9 rooms. However, authenticity of the homes' historic status had to first be determined by the Historic District Landmarks Commission (HDLC). At minimum, the house needed to have 3,000 square feet of floor area and be at least 50 years old. The intention was the added income generated from a B&B Historic home could be used for structural renovations and general maintenance that would improve the appearance and value of historic residential districts. If an historic home was in disrepair, utilizing the structure as a bed and breakfast would be a preferable alternative to demolition.

In 1990, City council passed an ordinance to change B&Bs in the area known as Esplanade Ridge Historic District for those properties fronting Esplanade Avenue from conditional uses to permitted uses, following the same logic that permitting this use would help restore and maintain historic structures. Bed and Breakfasts had to have an annual inspection of Use, and Occupancy certificates were needed to provide a more thorough and ongoing check by city zoning inspectors for illegal operations.

Arts and Cultural Overlay Districts

New Orleans created its first Arts and Cultural (AC) Overlay District on Frenchmen Street in 2004. City Council Motion M-04-632 directed the City Planning Commission to consider providing a new section – Arts & Cultural Overlay District (ZD 95/04) pursuant to the recommendations of the Frenchmen Street Arts & Cultural Overlay District study. Originally, the AC Overlay was

created in response to problematic development issues, such as non-permitted live entertainment and an abundance of cocktail lounges, related to Frenchmen Street in the Marigny. After a neighborhood-supported public planning process, the original overlay district text amendment was introduced and approved by the City Planning Commission and the City Council. The proposed text amendment was introduced to revitalize the historic commercial street with a mix of daytime and nighttime and cultural uses, particularly arts-related uses that were not permitted as-of-right in the underlying zoning district to help redevelop the area in an arts oriented direction. The need was realized after an analysis indicated only a few zoning districts then permitted live entertainment, and none of these districts were located on Frenchmen Street. The AC Overlay District established new permitted uses such as larger coffee shops, art galleries and museums, and established uses authorized to provide entertainment, including cocktail lounges, standard restaurants and theaters. The AC Districts were subsequently expanded to cover Freret Street in 2007, St. Claude Avenue in 2013, and St. Bernard Avenue, Broad Street, LaSalle Street, Treme, and Old Algiers in 2015, although the respective overlays catered to each corridor's unique characteristics.

Zoning Docket 90/07 expanded the AC Arts and Cultural Diversity Overlay District to include those lots fronting on Freret Street between Napoleon and Jefferson Avenues, although a new zoning section was created specifically for Freret's unique circumstances. This became the AC-2 Arts and Cultural Diversity Overlay District. This overlay district was intended to continue and support revitalization efforts that had been in effect since Freret began losing its commerce in the mid-1990s and was exacerbated by Hurricane Katrina. Freret Street became a designated "main street' in 2001. In the process of crafting this overlay District, the city planners and community stakeholders researched the existing structures along the corridor to determine appropriate uses. There were several existing structures that could be redeveloped for new uses over 5,000 square feet, such as theaters and art galleries, which could complement the existing uses.

Zoning Docket 67/13 expanded the arts and cultural overlay district to include the properties that generally front St. Claude Avenue between Homer Plessy Way (formerly Press Street) and Poland Avenue, which was also to assist in the corridor's revitalization by preserving the area's small to medium-scale commercial uses, encourage a balance of daytime and nighttime uses, and foster development of arts-related uses. This overlay district was called the AC-3 Diversity Overlay District to differentiate it from those on Frenchmen and Freret Street. Although the St. Claude Avenue proposal was modeled after the Freret Overlay with modifications based on St. Claude Avenue's unique circumstances and vision. The proposed St. Claude Avenue Overlay District is a much wider corridor and the length of the overlay exceeds the Frenchmen and Freret Streets overlay districts combined. An indoor amusement facility was found to be compatible with the uses and character of Frenchmen Street, but was restricted to allow only a movie theater.

Residential Diversity Overlay Districts

The Residential Diversity Overlay (RDO) Districts were created to sustain the historic character of residential neighborhoods that contain a few small shops serving the immediate neighborhood and a few small multi-unit buildings situated among low density residential uses, when low-intensity commercial uses or multi-family uses may not be permitted in the base zoning district. New Orleans neighborhoods have unique blends of historic residential and commercial uses which the neighborhood may wish to preserve, but which are not adequately supported by traditional

zoning classifications. The RDO Diversity Overlay District allows non-residential structures, such as historic corner stores, but can also apply to warehouse-style structures, former firehouses or community facilities, gas stations or other historic commercial structures, to be returned to commerce after restoring the structure as much as practical to its prior commercial appearance. Such structures may have been it deteriorated condition at the time the RDO was implemented because there had been no viable use that conformed to the residential zoning regulations. The RDO makes the continued use of vacant non-residential structures easier; owners do not have to apply for a change in zoning, or change of non-conforming use to go from one business to another, and they do not lose their right to open one of the authorized commercial uses if they experience more than 6 months vacancy. The RDO Districts are intended to encourage compatible re-use of existing non-residential structures in residential areas, to reduce commercial and residential non-conformities, and to prevent the use of spot zones to authorize commercial or higher density residential uses.

The RDO evolved to include different areas of the City with distinctive characteristics. The first Residential Diversity Overlay District applied first to the Marigny neighborhood and subsequently expanded to Bywater, Tremé, and the Sixth and Seventh Wards. The boundaries of all overlay districts are defined in **Article 18** of the Comprehensive Zoning Ordinance.

The RDO was intended as a neighborhood revitalization tool as well as a blight remediation tool, bringing back commercial neighborhood uses to residential neighborhoods. The permitted uses under the RDO were not only to help remove blight, but also to restore neighborhoods. A vibrant neighborhood needs residents and commerce that caters to the individuals who live in those neighborhoods.

Information Sources/Studies on STRs

Over the course of studying STR issues over several years, the CPC staff considered numerous media reports and studies relevant to the issues which are briefly described below.

Inside Airbnb

According to its website, "Inside Airbnb" is an independent, non-commercial, set of tools and publicly available information data that allows the exploration of Airbnb listing in cities around the world. "Inside Airbnb provides filters and key metrics so you can see how Airbnb is being used to compete with the residential housing market." It contains information such as a City's percentage of entire homes/apartments being listed on the Airbnb website and estimated annual number of nights a listing is rented short term. It is funded by an individual named Murray Cox and many others volunteered time. The website accepts donations but states that it is not associated with any of Airbnb's competitors.

Many groups use this interactive website to help inform their public policy positions with data. Specifically, Inside Airbnb hopes to help local people determine: (1) whether the number of bookings makes it impossible for a listing to be used for residential purposes; and (2) the impact of renting to tourists full-time rather than residents in neighborhoods and cities.

"Short Term Rentals, Long Term Impacts"

Jane Place Neighborhood Sustainability Initiative produced a report called "Short Term Rentals, Long Term Impacts". The report states that its recommendations are based on "data collected from the City's publicly available permit database, reports on monthly usage from STR platforms, and scrapes of Airbnb listings available through Inside Airbnb. The report concludes that the City's short term rental regulations "accelerate gentrification and the displacement of residents by permitting the limitless removal of homes from the housing market". The report makes a number of recommendations including: (1) Require permits for STR platforms; (2) Streamline the data-sharing process across platforms; (3) One host, one home – limiting STR permits to residents with a homestead exemption; (4) Giving a six-month grace period for existing STRs to come into compliance with new regulations; (5) Increasing STR fees and dedicating those funds for the development of affordable housing.

Local News Coverage

In 2017 after STRs became legal in many zoning districts, local news coverage used City permit data to call attention to the numbers, distribution, and ownership. Numbers of permits were similar to the estimates of illegal STRs prior to legalization. The large number of the Temporary STR locations and the displacement of renters gained some of most intense coverage. The news called attention to the concentrations of STRs in the Historic Core zoning districts around the Vieux Carré. They drew correlations between concentrations of STRs and higher rents and property assessments.

University of New Orleans Study

The Alliance for Neighborhood Prosperity funded a study by the University of New Orleans Hospitality Research Center that estimated the economic impact of the New Orleans area STR industry in 2017. They found a rapid increase of the STR industry from when they last studied the industry in 2013. The report concluded that:

- Approximately 595,000 visitors stayed in STRs
- The average number of STR days was 4.8
- 70% of STR visitors arrived by airplane
- 43% of STR visitors were 25-34 years old
- Economic impact estimated at $899 million
- Estimated to create or support nearly 10,200 full and part time jobs
- Estimated to generate $63.9 million in tax revenue for the state and local governments: $38.9 million to the State and $24.9 to local governments in the New Orleans area

Economic Impact of Commercial Short-Term Rentals in New Orleans

This report was prepared by Dr. James A. Richardson, Alumni Professor of Economics and Public Administration, Louisiana State University, for Responsible STR NOLA. Noting the distinctions of Commercial STRs from other STR license types, the report analyzes the economic impact of Commercial STRs and concludes that the Commercial STRs do not "negatively affect the city's overall housing market, based on information regarding housing prices and rental rates." Based on tax collections by the Louisiana Department of Revenue, the report states that Commercial STR visitors are estimated to:

- Spend "$350 million in 2018 on lodging, restaurants and bars, recreational and entertainment enterprises, retail stores, local transportation and other places in the city.
- Be responsible for "4,140 jobs and $47 million of the state and local taxes based on information from the U.S. Department of Commerce."

The report also promotes Commercial STRs' ability to encourage and facilitate new construction projects.

Environmental Study – Hazardous Sites Inventory

In response to City Council Motion M-17-440, the City Planning Commission conducted a comprehensive environmental study in 2018. Significantly, in addition to an inventory and land use history of contaminated sites, and a review of the regulatory framework for brownfields, this study highlighted the many ways in which economic development of contaminated sites is often stymied due to the prohibitive costs of assessment and remediation of environmental contaminants. Consequently, contaminated sites can languish without development for decades.

The study proposed numerous recommendations designed to redress economic distress. In particular, the study identified deficiency relating to economic development: the lack of City professional brownfields personnel to collaborate with established organizations and other stakeholders to focus on the intersection of brownfields remediation and economic development.

To remedy this deficiency, the Environmental Study recommended the designation of brownfields personnel to collaborate with state and federal environmental agencies, to perform outreach to educate property owners as well as the general public of the urgency to consider the environmental conditions of certain sites, to focus on the redevelopment of city-owned sites in need of remediation and appropriate reuse, and to ensure consistent reporting and stewardship of existing resources and grants. Moreover, the study recommended the revitalization of the City's Brownfields Program to obtain area-wide planning grants on areas of former industrial use, as well as workforce development grants and brownfield assessment grants and the reestablishment of a Revolving Loan Fund for the remediation of contaminated sites. The primary relevance of the Environmental Study to the STR Study is simply to note that there are a variety of conditions for which incentives may be necessary and available to encourage redevelopment.

The Economic Costs and Benefits of Airbnb

The Economic Policy Institute produced a report by Josh Bivens on January 30, 2019 analyzing the costs and benefits of short term rentals in a community. The study found:

- The economic costs STRs impose likely outweigh the benefits.
- STRs might suppress the growth of travel accommodation costs, benefiting travelers and encouraging travel, but the costs are not a first-order problem for American families.
- Rising housing costs are a key problem for American families, and evidence suggests that the presence of STRs raises local housing costs.
- Surveys indicate that 2 to 4 percent of those using STRs would not have taken the trip were STRs unavailable.
- Property owners do benefit from STRs capacity to lower the transaction costs of operating short term rentals, but the beneficiaries are disproportionately white and high-wealth households.
- The shift from traditional hotels to STR lodging leads to less-reliable tax payments to cities.
- City residents suffer when STRs circumvent zoning laws that ban lodging businesses from residential neighborhoods.
- Because STRs are clearly a business competing with hotel lodging, it should be subject to the same taxation regime as hotels.

Shared Prosperity (or Lack Thereof) in the Sharing Economy

The study produced by Mohammed Alyakoob and Mohammad Rahman of Purdue University examines the economic spillover effects of Airbnb on the growth of restaurants. The study seeks to determine if Airbnb visitors go beyond simply staying in an area and actually contribute to a neighborhood economically by spending their tourism dollars locally, and additionally, if this is true, are these economic spillover effects consistent across neighborhoods with different demographics? To evaluate this, the study focuses on the impact of Airbnb on the employment growth of New York City restaurants by utilizing Airbnb activity data, restaurant reviews on Yelp written by visitors to NYC, and restaurant employment data from the year 2005 to 2015. The study also applies the research model to Austin, TX; Chicago, IL; Los Angeles, CA; Portland, OR; and San Francisco, CA.

The results of the study indicates that if the intensity of Airbnb activity increases by 2%, the restaurant employment in that neighborhood grows by approximately 3%, signifying that, in general, Airbnb visitors do have a positive economic impact on local restaurants. In reference to Airbnb, the report states that "The platform's capacity to redistribute visitors to areas that would otherwise not have had access to these visitor dollars can act as a local economic engine supporting these local restaurants."[9] The study also briefly looks at New Orleans as a case study utilizing the 2017 policy shift that banned Airbnb in most of the French Quarter while simultaneously permitting short term rentals in the CBD. The case study concludes that, while restaurant activity (Yelp reviews) post-policy shift decreased in the French Quarter, activity simultaneously increased in the CBD, thus, strengthening the notion that increased Airbnb activity is an economic boon to nearby restaurants.

However, the study also finds that the spillover economic effects of short term rentals do not proportionally benefit all areas of a city and that demographics play a role in how short term rentals benefit certain neighborhoods. The study finds that restaurants in areas with high concentrations (more than 50%) of residents who identify their race as Black or Hispanic do not benefit from the economic spillover effect on local restaurants, while restaurants in areas that are majority white categorically do benefit from the increase in Airbnb activity. Possible rationales offered for these findings include the perception of crime and lack of safety in these areas and/or the lack of generic food options preferred by tourists available in many minority/immigrant neighborhoods. Therefore, while the study asserts that increased short term rental activity generally benefits local restaurants, this assumption cannot be applied universally and it is important to take into consideration social and demographic factors when attempting to determine how increased short term rental activity will affect (or will not affect) a particular area.

Main Street Resilience Plan

The Main Street Resilience Plan was a collaborative effort between public, private and non-profit team members that began in 2015 and sought to improve the resilience of business operations and businesses along New Orleans' main street corridors. The plan was designed to target public and private investment for long term economic and physical recovery in the event of natural or man-made adversity by identifying and focusing on the areas of greatest vulnerability. The plan focuses on six designated main street corridors throughout Orleans Parish (Alcee Fortier Boulevard, Broad Street, Newton Street, Oretha Castle Haley Boulevard, St. Bernard Avenue, and St. Claude Avenue) and includes assessments of threats and vulnerabilities to community, as well as recommendations for how to address these threats and move towards resiliency.

In addition to making a number of corridor-specific recommendations, the plan also recommends specific cross corridor actions that would benefit all existing or potential main street corridors around New Orleans. Cross corridor actions include:

- Coordinated Small Business Support – provide case workers to small business owners and entrepreneurs to help expedite the permitting process, convene and coordinate the small

[9] Alyakoob, Mohammed and Rahman, Mohammed Saifur, Shared Prosperity (or Lack Thereof) in the Sharing Economy (May 17, 2018), available at: http://dx.doi.org/10.2139/ssrn.3180278

business ecosystem to coordinate transactions and business mentoring and preparedness, incentivize owner and tenant rehabilitation of outdated structures through subsidized financing, educate hold-out property owners in order to expedite sales or leases of underutilized property.

- Resilient Commercial Buildings Program – expand programs like façade improvement and renovation loans, encourage more shade and shelter by reducing costs and regulatory barriers to balconies and overhangs.
- Corridor-Funded Improvements – Utilize Tax Increment Finance (TIF) Districts, Improvement Districts, and Competitive City Funds to leverage funding to finance resilience improvements along main streets corridors.
- Public Gathering Space Initiative – consider implementing a formal initiative to develop public spaces that will reinforce the vibrancy of commercial corridors.

New Orleans Citywide Commercial Corridor Revitalization Strategy

The New Orleans Citywide Commercial Corridor Revitalization Strategy Study completed in 2017 had two core goals: (1) strengthening commercial corridors as community and commercial centers while leveraging their potential to advance key city policy and planning goals including improved resiliency, resident access to goods and services, and an increased supply of affordable housing; and (2) ensuring that expanded economic and racial equity is central to corridor revitalization initiatives and that these initiatives address corridors across the city.

The plan recommends a number of strategies in several categories including business development, planning/management, real estate development, public realm/infrastructure, and safety/services. One key strategy is to explore establishing a city community benefits policy where development projects make financial contributions into a community benefits fund and/or establish specific programs to link the project's development benefits to the corridor and surrounding neighborhoods.

1. City Support Program for Community-Based Corridor Initiatives and Partnerships
2. Corridor Business Growth and Stabilization Fund
3. Support for Development and Ownership of Small Commercial Properties
4. Corridor Housing Development Plans
5. University Partnership for Commercial Corridor Revitalization
6. Create Sustainable Corridor Revitalization Funding with Economic Development Districts and New State Authorized Tools
7. Expand New Market Tax Credit Resources Targeted to New Orleans
8. Explore Establishing a City Community Benefits Policy

Plan for the 21st Century – the New Orleans Master Plan

There are a number of recommendations in the New Orleans Master Plan that could provide guidance on economic development. Volume 2 Chapter 9 *Enhancing Prosperity and Opportunity* focuses on the goal of 'preservation and expansion' of the tourism and arts and culture industries as economic development strategies in Goal 3. **Sections 3.A.2 and 3.B.6** encourage investment and policies to support cultural activities and 'heritage tourism' throughout the City, and suggest marketing Arts and Culture Overlay Districts and state-designated Cultural Product Districts. Volume 2, Chapter 6 *Cultural Resource Management and Historic Preservation* builds on these recommendations. Goal 2 explores strategies to "support and invigorate neighborhood regeneration." **Section 2.A** suggests that the City "supports and develops cultural heritage destinations in less-traveled areas and expand visitor areas." The section cites studies from the early 2000s that found heritage tourists, who seek "authentic experiences 'off the beaten path'" are more likely to stay longer and spend more money than those staying in typical tourist areas. This section suggests considering New Orleans 6 Main Streets and designated cultural districts as potential heritage tourism destinations.

Chapter 9: Enhancing Prosperity and Opportunity
Goal 3: Recommended Strategy 3.A Preserve and enhance the tourism industry

- **Recommended Action 3.A.2** Invest in new forms of tourism and attractions that complement current offerings to increase the tourism market
    - Invest in heritage tourism, such as in Tremè district as a center of African-American history and cultural tourism
    - Expand the numerous festivals and other special event to include more events in the slower tourism months
    - Support zoning and other policies that support cultural activities throughout the City

Goal 3: Recommended Strategy 3.B Preserve and expand the arts and culture industries

- **Recommended Action 3.B.6** Market and invest in Arts and state-designated Cultural Product Districts
    - Market the Arts and Culture Overlay Districts as destinations to experience New Orleans culture
    - Support development of diverse uses in the districts , including live entertainment venues, live performance spaces, art galleries, and restaurants
    - Help maintain these districts through regular enforcement of district regulations
    - Support cultural product districts which provide tax incentives for sale of cultural products within its boundaries

Chapter 6: Cultural Resource Management and Historic Preservation
Goal 2: Recommended Strategy 2.A Support and develop cultural heritage destinations in less-traveled areas and expand visitor access

Considering the challenges of retaining the city's indigenous cultural talent, connecting citizens equitably to employment opportunity, and limiting impact of Short Term Rentals on the residential fabric of neighborhoods, the goals outlined by the master plan mentioned above may be balanced by other relevant recommendations in the Master Plan. Recommendations in Chapter 8 and 9 both

emphasize the importance of inclusivity and support for citizens, so that they may participate in growing economies and historic preservation efforts. Chapter 5: *Housing and Neighborhoods* provides considerations for strong neighborhoods and affordable housing. Recommendations under Goal 1 focus on "enhancing character and livability for all neighborhoods, with investments to improve quality of life," by establishing fair processes for responding to blight and nuisance. Additionally, the Master Plan recommends providing resources to long-term residents and low income property owners to maintain their properties, so they are able to maintain their homes, as housing costs increase in neighborhoods with increasing property values and market activity. Many low to moderate income homeowners in New Orleans have a strong desire to participate in the short term rental market and heritage tourism economy, but may require some assistance or economic incentive in order to do so. The following sections of the Master Plan provide some guidelines for these important equity issues.

Chapter 9: ***Enhancing Prosperity and Opportunity***
Goal 8: Recommended Strategy 8.A Sustain and Grow the city's small- and micro- business base

- **Recommended Action 8.A.1** Improve coordination of small business assistance services
- **Recommended Action 8.A.2** Organize and streamline comprehensive business permitting process through the One Stop Shop

Chapter 6: ***Cultural Resource Management and Historic Preservation***
Goal 1: Recommended Action 1.B Ensure that historic preservation values and interests are coordinated with economic development groups, affordable housing developers and advocates and ethnic and cultural groups

- **Recommended Action 1.B.1** Ensure cross-representation of historic preservation, cultural development and economic development interests initiatives that promote either of these interests to leverage historic assets as part of the city's competitiveness as a place to live, visit, invest and do business

Chapter 5: ***Housing and Neighborhoods***
Goal 1: Strategy 1.B Establish systems to conduct code enforcement activities while providing low-income residents with resources that assist them to comply. Enforce quality of life regulations and eliminate blight and nuisance businesses.

- **Recommended Action 1.B.1** Create a warning and ticketing system with fines for quality of life offenses
- **Recommended Action 1.B.3** Prioritize and promote home repair for low-income and senior homeowners to help residents who do not have the means to repair their properties avoid displacement due to poor conditions or code enforcement fine

Goal 1: Strategy 1.C Develop a protocol for dealing with businesses that are incompatible with residential uses and neighborhood complaints about 'nuisance businesses' while appropriately protecting due process

- **Recommended Action 1.C.1** Convene meetings between business owners and neighborhood residents to seek resolution of issues

- **Recommended Action 1.C.2** Ensure industrial and commercial performance standards in the zoning code and city codes are culturally and neighborhood appropriate
    - Performance standards (limits on impacts such as noise, dust, vibration and so on) can be changed in the zoning code or other city ordinances
    - Occupancy permits and business permits should be subject to sanctions in the case of proven criminal activity
- **Recommended Action 1.C.3** Disseminate information to neighborhood associations and business owners about potential legal approaches and inform all parties on what is currently allowed under the law

Goal 2: Strategy 2.A Focus investment strategies to meet neighborhood needs and promote equity and access to opportunity

- **Recommended Action 2.A.1** Provide and expand home repair programs for low-income and senior homeowners and persons with special needs

Goal 2: Strategy 2.B In neighborhoods and areas with increasing market activity, prevent displacement of existing residents while continuing to invest in improvements

- **Recommended Action 2.B.1** Work with neighborhood groups, non-profits, faith-based organizations, and affordable housing developers to create new opportunities for affordable ownership and rental housing
    - Integrating income-restricted development into neighborhoods, where on average, income levels are high or rising has proven to be an effective way to ensure generational benefits for residents

Public Input Received

Public Hearing Comments

On February 26, 2019, the City Planning Commission held a public hearing to listen to the public's testimony in regards to the impacts of STRs – both good and bad – specifically pertaining to Motion M-19-6 and the potential impact of the an STR-related economic development district. Twenty-eight people made public comments that largely concerned promoting the elimination of most STRs or allowing them to grandfathered. Additionally, the CPC has received written public comments, all of which are posted on the CPC website and attached to this report. In this section, the CPC staff attempts to group and summarize the many points made about STRs in their various types.

Fostering Economic Development

Proponents of allowing STRs argue they contribute to economic development and expand the tourist center of New Orleans. STRs require significant investment, maintenance, and often, renovation. Homeowners argue that their investment in those properties drives up the property values of the homes in the surrounding area. The higher property value benefits all people who are impacted by the investment in the aesthetic quality of the neighborhood. Businesses will pop up to accommodate the new pockets of the hospitality industry. If there are a higher concentration of STRs in neighborhoods that are adjacent to the French Quarter (where all STRs are banned), like Tremé, the commercial activity in those neighborhoods will stimulate business growth. Further, STR owners argue that they are job creators; they employ housekeepers and maintenance staff that are paid at a rate higher than most hotel employees and must consistently perform upkeep on the short term rentals.

Grandfathered into Legal Nonconforming Uses

Ten of the commenters at the public hearing understood the need for greater regulations on STRs, but want to be allowed to continue operations because they had made significant investments at a time when it was legal. These people cited that they both rely on the income to live, but also to pay for the investment in their properties. Most of these speakers acknowledged some of the detrimental impacts of STRs on the neighborhood, but felt that if their license was revoked, they would be forced to sell their properties immediately.

STRs Are Detrimental to Neighborhood Development

Many speakers were concerned that using STRs to incentivize economic development is counterproductive to the neighbors and homeowners that actually reside in these neighborhoods. They do not want resources in the area to be redirected to tourists and to further eliminate the residential neighborhood culture that is already being stressed by STRs. One speaker said that "larger and younger groups" are coming in more frequently and they are "less compatible with neighborhoods." Another speaker pointed out that there is no promise of neighborhood development because most guests are using Uber and Lyft to go into tourist destinations and are only returning to the neighborhood after a long night, often being noisy and leaving garbage on the streets.

There Should Be an Extended Phase-Out

One speaker suggested the idea of an extended phase-out, or sunset provision, giving current license holders some number of years to recoup the cost of their investments. One of the advocates for grandfathering permits to legal nonconforming uses mentioned that this would be a friendly compromise between the seemingly opposed groups. Under this recommendation, the speaker who suggested this saw no reason to grant the Economic Development Overlay Zone, but to take a different approach to accommodating everyone's needs and to cap any additional Short Term Rental Permits.

Eliminate all STRs Immediately

Ten of the commenters advocated the elimination of all STRs immediately. They cited the impacts on the neighborhood culture and on the long-term rental market. Neighborhood culture, and specifically the idea of a stable community, is vulnerable when so many of the homes have rotating tenants that are largely transient, and have no intention of contributing to the community. One of the most marketable aspects of STRs is that a visitor is able to have a more authentic experience in a city, but if STRs are allowed to proliferate, they turn all neighborhoods into a collection of small hotels, and remove the authenticity the guests are seeking. They can turn the neighborhoods into parties or ghost towns. Many also noted anecdotally that operators who did not live on site were not as present to manage the property, which meant that residents' complaints were not able to be addressed immediately. All of this compromises the character of the neighborhood and justifies the elimination of whole-home STRs in residential neighborhoods.

STRs Cause Displacement of Most Vulnerable Communities

Five advocates spoke about the impacts of STRs on the housing and rental market. They expressed concerns that gentrification disproportionately impacts minority residents of New Orleans. Black people and low income people in New Orleans have been displaced, and while New Orleans is in the middle of a housing crisis, the stock of permanent housing should not continue to be reduced. People who have lived in neighborhoods their entire lives are being forced to move because of price increases and supply decreases. Further, the advocates stated when these locations are listed on STR websites, they are often reviewed with racially coded language. This is seen as hostile to the nature of the neighborhood and unfair to the longtime residents. The housing shortage in New Orleans alone justifies the elimination of STRs to most of these speakers, but the disproportionate impact on people of color and low income people motivates that course of action even more so.

Stakeholder Meetings Held for the 2019 Short Term Rental Study

City Planning Commission staff met with the following groups or individuals during the development of the 2019 Short Term Rental Study:

- Safety & Permits Department, Law Department, City of New Orleans
- Andreanicia Morris, Stacy Horn Koch, Greater New Orleans Housing Alliance
- Jeff Schwartz, Broad Community Connections
- Melissa Heuer, Sonder Public Policy Manager, and Bob Ellis, Consultant
- Ellen Lee, Courtney Stuckwisch, Nicole Heyman, Mayor's Office of Economic and Community Development
- Webre Consulting, representing STR interests
- City of Seattle Planning Department
- City of San Antonio Planning Department and Development Services Department
- New Orleans Business Alliance
- New Orleans Redevelopment Authority
- Councilmember Kristin Palmer and staff
- Councilmember Jay Banks staff
- Danielle Delsol, Nathan Lott, and Jean H. Boughton, Preservation Resource Center
- Short Term Rental Committee, including representatives from Faubourg Marigny Improvement Association, Vieux Carre Property Owners & Residents Association, French Quarter Citizens, and the Garden District Association
- Will Bradshaw, Green Coast Enterprises
- Stacy Dejan, Jonathan Shaver, Eli Bailey, Sonder New Orleans Real Estate Division
- Tracey Jackson, Restoration Tax Abatement program
- Councilmember Cyndi Nguyen
- Code Enforcement staff
- Councilmembers Moreno, Williams, Brossett, and Giarusso staff

Economic Development Districts and Programs

Since Motion M-19-6 asks the City Planning Commission to study STRs in the context of economic development, this section provides a summary of programs that provide economic incentives or funding for development in furtherance of City goals. Even in New Orleans' strong markets, a combination of incentives is often needed to facilitate the development or redevelopment of a property. Any future adjustment of STR regulations for the purpose of economic development should be considered in the context of market strength and other available incentives.

Federal Opportunity Zones

Through the federal Opportunity Zones Program, banks, communities and others may create Opportunity Funds to direct tax-advantaged investments to 25 federally designated Opportunity Zones in Orleans Parish. The U.S. Department of the Treasury granted certification for 150 lower-income census tracts to be Opportunity Zones in Louisiana. To attract new investment to underdeveloped areas, the federal government created the Opportunity Zones Program as part of the Tax Cuts and Jobs Act of 2017. With a public comment period in March 2018 and collaboration with local, parish and state partners, Gov. John Bel Edwards nominated 150 Louisiana census tracts, with representation in every region of the state. Eligible census tracts were those with poverty rates of at least 20 percent, or those with median family incomes of no more than 80 percent of statewide or metro area family income. Investor and Opportunity Funds will qualify for favorable federal tax treatment through the U.S. Treasury Department, which will certify Opportunity Funds and their investments. Eligible investments will be those made for ownership of business real estate, capital and other assets by a partnership or a corporation formed for the purpose of investing in qualified Opportunity Zone property. The primary attraction for investing in Opportunity Zones is deferring and lowering federal taxes on capital gains. For a qualified Opportunity Zones investment, capital gains taxes may be deferred the first five years; after Year 5, taxes may be cancelled on 10 percent of the original capital gains investment and deferred for the remainder. In Year 7 through Year 10, taxes may be cancelled on 15 percent of the original capital gains investment, and the remainder may be deferred through 2026. For Opportunity Zones investments lasting longer than 10 years, investors are exempt from capital gains taxes on the Opportunity Zones investment itself, in addition to the other benefits for capital gains carried into the investment.

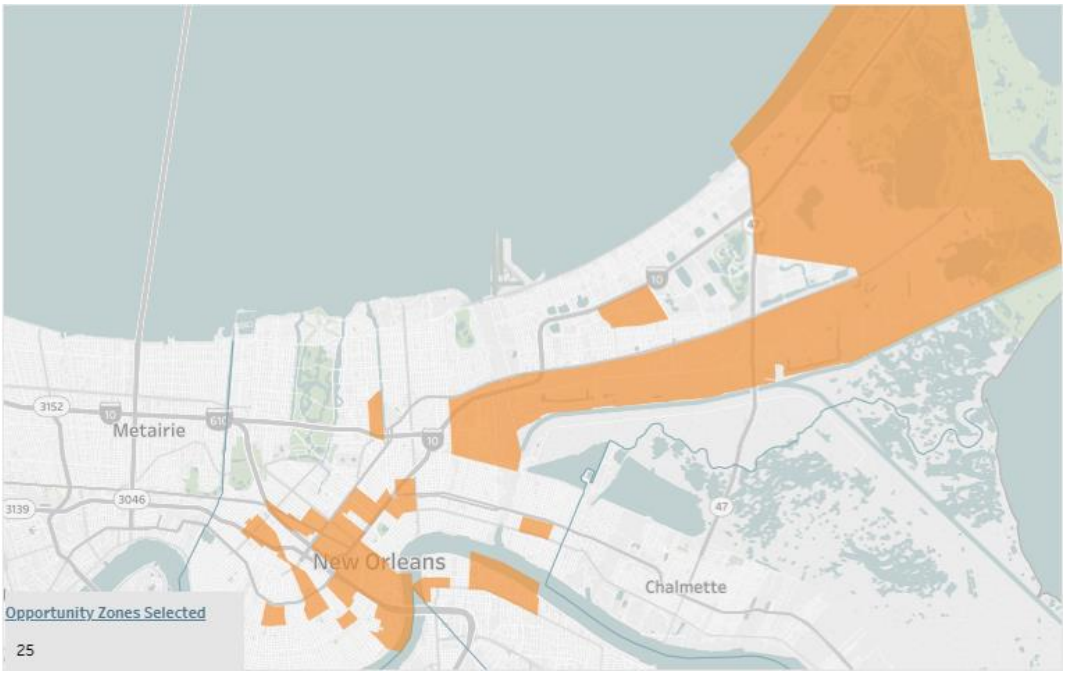


Figure 3. Federally designated Opportunity Zones in New Orleans

Enterprise Zones

The Enterprise Zone (EZ) program is a State of Louisiana incentive program targeting census block groups in the bottom 40% based on three criteria: unemployment, per-capita income, and the percent of people receiving public assistance. The EZ program incents job creation through state income and franchise tax credits to businesses offering employment to target populations. The tax credit program provides a one-time $2,500 tax credit per certified new job, and either a 4% sales/use tax rebate on capital expenditures or an investment tax credit equal to 1.5% of qualifying expenses. The EZ program is designed to stimulate employment in areas with high unemployment, low income and public assistance dependency. Businesses creating jobs for individuals either residing in an enterprise zone or that demonstrate one of the following may qualify: a lack of basic skills, public assistance dependency, or physical challenges. Additional information about specific eligibility requirements and the application process can be obtained through the Louisiana Economic Development office.

Figure 4. State of Louisiana designated Enterprise Zones in New Orleans

Federal New Market Tax Credits

The federal New Markets Tax Credit Program (NMTC Program) helps economically distressed communities attract private investment capital by providing investors with a federal tax credit. The NMTC Program helps to offset the perceived or real risk of investing in distressed and low-income communities. In exchange for investing in Community Development Entities (CDEs), investors claim a tax credit worth 39% of their original CDE equity stake, which is claimed over a seven-year period. Investments made through the NMTC Program are used to finance businesses and real estate projects, revitalizing neglected and underserved low-income communities.

Federal Historic Tax Credits

The Federal Historic Tax Credit (HTC) program provides preservation and rehabilitation incentives to private sector investors and property owners. The program is administered by the National Park Service and Internal Revenue Service in partnership with State Historic Preservation Offices. The program provides a 20% tax credit, which is available for the rehabilitation of historic, income-producing buildings that are determined by the Secretary of the Interior to be "certified historic structures" (buildings individually listed on the National Register or architecturally contributing to a National Register District). To receive HTCs, property owners must complete the three-part application process for historic preservation certification, which is managed by the National Park Service and State Historic Preservation Office (SHPO). The Internal Revenue Service defines what qualifies as a rehabilitation expense. Owner-occupied residential properties do not qualify for the credit.

State Historic Tax Credit

The 20% State Commercial Tax Credit Program was created in 2002 by the Louisiana Legislature to encourage the redevelopment of income-producing historic buildings located in a Downtown Development District or in a state certified Cultural Products District.[10] The Louisiana Division of Historic Preservation (DHP) certifies whether buildings qualify for the tax credit. If deemed to meet all of the requirements, property owners are awarded a 20% credit for the cost of rehabilitating (restoring or improving) an historic structure, including cost of materials, fixtures, mechanical equipment, labor, and fees. Credits are awarded to commercial, industrial, or rental-residential depreciable properties. Only income-producing properties are eligible for the credit.

State Cultural Products Districts

The Cultural Products District program is a place-based cultural economy initiative created by the Louisiana Legislature through Act 298 (R.S. 47:305.57) to revitalize communities by building on and creating new cultural opportunities. To become a Cultural District, an area is designated by a Local Governing Authority and certified by the Louisiana Department of Culture, Recreation, and Tourism in accordance with the state statute. The program offers specified tax incentives for qualifying original, one-of-a-kind works of visual art and the ability to apply for the 20% State Commercial Tax Credit Program for renovations to commercial historic structures.

Payment in Lieu of Tax (PILOT)

The New Orleans Industrial Development Board, the IDB, is a non-profit political subdivision authorized by the City Council since 1972 to stimulate economic development and improve the business climate of New Orleans through the issuance of tax-exempt bonds and authorization of a Payment in Lieu of Tax, or PILOT. A PILOT arrangement allows the IDB to freeze or reduce (abate) property taxes for a determined period of time for eligible projects. The IDB considers PILOT applications based on several economic benefit factors, including employment creation, quality of life, improvements in a targeted area, affordable housing creation, economic impact on an area, and whether the project facilitates the City's goals. PILOT applications are reviewed on a case-by-case basis to determine whether the project's benefit to the City exceeds the costs of the incentive.

Restoration Tax Abatement

The Restoration Tax Abatement (RTA) provides a 5 year tax abatement to commercial property owners and homeowners who expand, restore, improve, or develop an existing structure. For the 5 year period, the tax remains based on assessed valuation of property prior to beginning of improvements. Properties must be located in the Downtown Development District, an historic district, or in an economic development district.

Eligible expenses for an RTA include, building and materials, machinery and equipment, and labor. Acquisition costs and movable property are not eligible expenses. An RTA application is

[10] Properties located in a national and/or local historic district are not automatically eligible for the credit as the property must meet the location requirements listed above.

subject to approval by the local governing authority, the State Board of Commerce and Industry, and the Governor. The RTA may be eligible for renewal, subject to the same conditions, for an additional five years. If the property is sold, the exemption may be transferred for the remainder of the term to the new owner, provided the transfer is approved by the approving entities listed above.

Neighborhood Housing Improvement Fund (NHIF)

In 1991, New Orleans' voters passed Proposition D of R-91-100, which established a city fund through a thirty-year tax millage to create the Neighborhood Housing Improvement Fund (NHIF) that would combat blight and improve housing in neighborhoods.[11] From its time of adoption, the NHIF was generally used to address blight remediation through the Office of Code Enforcement, which included paying inspector salaries and attorney costs to address blighted structures throughout the city. In 2015, the City Council voted to amend the NHIF ordinance, which was codified in Sections 70-415.1 through 70-415.7 of the City Code, to restrict the funds spending to the creation and rehabilitation of housing for low- to moderate-income residents while removing language that restricted rental development by size and location in certain neighborhoods.[12] The amendments to the ordinance went into effect in 2017.

The mission of the Office of Community Development (OCD), which administers the NHIF, "is to improve neighborhoods by providing economic opportunities, decent housing and suitable living environments, particularly for persons of low and moderate income, to improve their quality of life." The OCD is tasked with distributing four formula grants provided by the Federal Government for community development and affordable housing. These grants include the Community Development Block Grant (CDBG), the HOME Investment Partnership Program (HOME), the Housing Opportunities for Persons with AIDS Grant (HOPWA), and the Emergency Solutions Program Grant (ESG). The NHIF has provided additional financing for projects utilizing the above mentioned formula grants or other financing mechanisms, such as the Low Income Housing Tax Credit (LIHTC). OCD has set the parameters for obtaining NHIF funds, most recently tying the funds to a 2018 Notice of Funding Availability (NOFA).

The 2018 City Planning Commission Short Term Rental Study recommended increasing the $1.00 nightly fee for each night of occupancy of a residential dwelling unit used for dwelling, lodging, or sleeping purposes pursuant to a short term rental (STR). The fee assessed by the City of New Orleans is intended to benefit the NHIF. The City Planning Commission recommended that the nightly fee be increased to $8.00 and $10.00 per night for residential and commercial STRs, respectively. NHIF fees are outlined in the City Code.

Environmental Protection Agency Brownfield Program

A robust brownfield assessment program is a recommendation of the City Planning Commission's 2018 Environmental Study to enhance economic development in the City. Competitive grants are annually awarded by the Environmental Protection Agency to eligible jurisdictions to fund Phase I and Phase II site assessments and remediation planning. Eligible entities may apply for up to $200,000 in funds for the assessment of hazardous materials and $200,000 in funds for the

[11] Ordinance No. 14,630 MCS
[12] Ordinance No. 26,644 MCS

assessment of sites with petroleum contamination. A Phase I assessment is a report examining the site's land use history, chain-of-title, environmental liens and other records reviews of standard environmental data sources such as state and federal databases, city directories, Sanborn maps, historical topographic maps and site reconnaissance in order to generate a site profile prior to sampling. A Phase II assessment requires original sampling of soil, groundwater, building material, and other medium suspected of contamination; such media are scientifically sampled, shipped to a certified lab using standardized shipping and handling protocols, and analyzed for quantitative values of contaminants. These analytical results are then used in the determination of contamination and designed a cleanup protocol. In addition to assessment grants, such brownfields programs can leverage Revolving Loan Funds for cleanup activities, area-wide planning grants for planning activities related to the assessment, cleanup and subsequent reuse of catalyst brownfield sites, and workforce development grants.

The brownfields paradigm is particularly expedient wherever there is overlap between brownfield contamination and market demand or development pressure, which may include short-term rentals. A vigorous and actively managed brownfields program can leverage federal grant funds to allay the prohibitive costs of assessment and remediation which often stymie redevelopment of contaminated sites.

Residential STR Regulation Issues and Analysis

The One + One Proposal and Creating a new Residential STR Type

The Motion asks the CPC to consider a way that would allow the issuance of two or more Residential STR permits to a single license holder in certain areas. The name for this proposal indicates that the owner has one home where they are entitled to operate a Residential STR and one other property where they would also be allowed to operate a Residential STR. The CPC has recommended a definition of Residential STR specifying that the property "owner has their permanent primary residential dwelling onsite and is present during the guest's stay." Therefore, allowing one owner to obtain more than one Residential STR license would require a new type with a different definition. Additionally, the City Planning Commission's 2018 STR Study found that STRs without on-site supervision are inherently damaging to a residential neighborhood fabric. Therefore, unless the STR is ameliorating some even more harmful condition, any loosening of STR regulations allowing one owner to hold permits in multiple residential districts should provide some sort of nearly equivalent supervision. This could be living adjacent to the STR, either immediately adjoining the side of the STR property or within the same or opposite blockface. Penalties would also need to be stronger, such as revocation of the permit for a judgement of even one violation.

Since the motion asks the CPC to consider a way that would allow the issuance of two or more Residential STR permits to a single license holder in certain areas, the question is how would certain areas of the city be selected? The motion states that the purpose should be "to incentivize economic development in certain areas of the city, without imposing secondary effects relative to its residential fabric." In determining which areas of the city are most in need of economic development, there are a couple of readily available metrics: (1) numbers of vacant lots; and (2) code enforcement fines. Greater numbers of these are indicators of neighborhood instability.

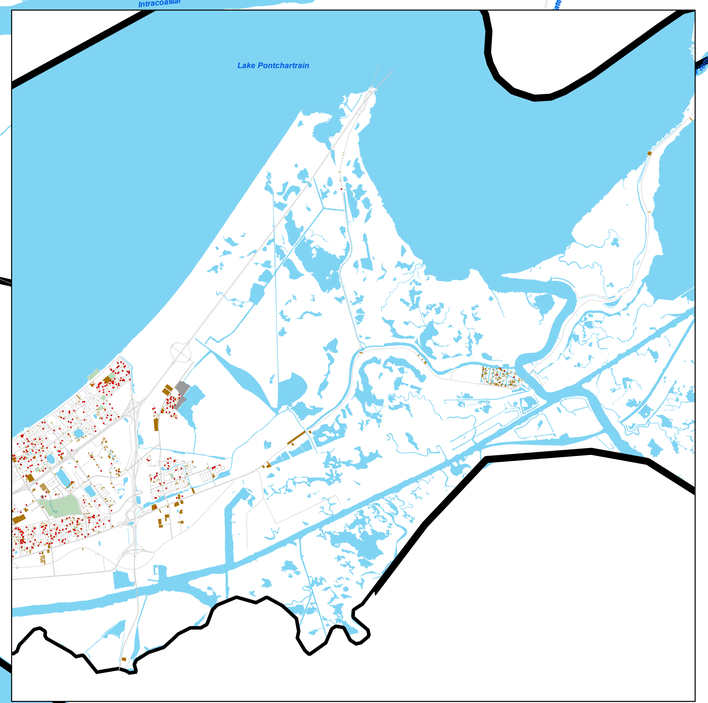
Map 4 combines vacant parcel information from the Orleans Parish Communication District (OPCD) and code enforcement judgements data from the Department of Code Enforcement (DCE) to help show where concentrations of properties that could benefit from additional investment opportunities.

According to OPCD's dataset, there are 16,452 vacant parcels in the city, which is 11 percent of the approximately 151,088 total parcels in New Orleans. Vacant parcels can be found in all neighborhoods throughout the city, but there are significant concentrations in the Lower Ninth Ward, the Desire and Florida neighborhoods, and, to a lesser extent, Central City, Hollygrove, and parts of Gentilly and New Orleans East. Many of these neighborhoods also suffered some of the most severe flooding in the wake of Hurricane Katrina.

Map 4 also shows current code enforcement judgements throughout the city. The Department of Code Enforcement suggested to City Planning staff to limit its focus to those judgements with outstanding fines greater than $500, which would provide a better idea of some of the worst offenses. There is a total of 3,598 outstanding code enforcement judgements with fines greater than $500. These judgements are spread across the city, with most neighborhoods having at least a few properties with judgements that meet this threshold. There are also noticeable concentrations of these judgements in many of the same neighborhoods with significant concentrations of vacant

Short-Term Rental Study (2019)

Code Enforcement Violations and Vacant Parcels



Legend **Map #4**

- Code Enforcement Judgements Over $500 (4,545)
- Vacant Parcels (15,483)

0 0.3 0.6 1.2 Miles

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Date: 6/11/2019

properties including the Desire, Lower Ninth Ward, Hollygrove, Hoffman Triangle, and Seventh Ward neighborhoods. Code enforcement judgements in areas with few vacant properties tend to be isolated to one or a few properties, and are rarely clustered. On the other hand, clusters of code enforcement judgements are often coupled with clusters of vacant properties.

Legal, Policy, and Permitting Concerns

The main policy concern with this type of proposal is that it would not provide on-site supervision. Even if that were satisfied through an owner or manager in an adjacent property, an unwieldy situation could arise with family members or company partners being involved as partial owners. The City Planning Commission has recommended that the owner-occupant's interest in a Residential STR be at least 50%. That same percentage of ownership would be required if the owner-operator lived within the block. There would be challenges for the Department of Safety & Permits to distinguish and properly limit the number of STRs.

Permanent Resident-Renter as Onsite Manager

The 2018 STR Study included a recommendation that would allow renters to be Residential Short Term Rental operators. While this was not considered in the 2019 zoning STR text amendments, it remains an option that could expand the pool of properties eligible for Residential STR use. Presumably, a permanent resident-renter would reach an equitable agreement with the property owner that gives the renter a financial benefit, either through income or reduced rent. If this option is considered, there needs to be application submittal requirements to show proof of permanent residency. This should include at least one Louisiana state-issued identification (i.e. driver's license), and should include a second form that could include voter registration, bank statement, pay stub, W2 form, or utility bill mailing address. In addition, if the renter is operating a Partial-Unit Residential Short Term Rental, then there needs to be a permission form that is signed and notarized by the property owner. This form should be provided by the Department of Safety and Permits and should note that the property owner grants permission for the renter to operate a Partial-Unit Short Term Rental, that the renter will reside in the dwelling unit for the term of the license, and notifying that the property owner could be held responsible for any violations associated with this short term rental.

Legal, Policy, and Permitting Concerns

There are a few concerns with the approach where the permanent renter-resident is allowed to be the on-site supervision for a residential STR. As brought up in the 2018 Short Term Rental Study public hearings, there is a concern about a "straw" or fake renter acting as the on-site manager; therefore, the Department of Safety & Permits would need to require the information described above to verify residency. There should also be substantial penalties for making false statements. Both the owner and the operator should be subject to fines for violating the STR regulations and creating a nuisance. If this type of STR operation were allowed, compliance with the Equal Protection Clause would dictate that the owner not be required to own the home that they live in elsewhere. Finally, if this type of STR supervision is allowed in certain areas, there should be clear boundaries so that permit intake staff have no questions about whether a property is eligible.

Keeping Small Residential STRs Regulations as Adopted

The Residential STR type is defined as an owner-occupied lot with no more than four (4) dwelling units where one (1) unit is the owner's permanent residential dwelling unit and where only one (1) dwelling unit per lot is rented with no more than five (5) guest bedrooms and ten (10) total guests for overnight paid occupancy as an accessory use. This type of Residential STR, which will be authorized in most parts of the city, provides opportunities for property owners to supplement their income. In New Orleans, first-time homeowners have often made two-family dwellings their starter home, benefiting from rental income to help pay the mortgage. With this Residential STR type, perhaps more people can qualify for a mortgage loan based on income that would be generated from renting out a room or unit in the building. By not allowing property owners to have multiple Residential STR permits, there may be more opportunities for small-time operators with a single Residential STR, thus spreading the benefits of STRs in a more equitable manner. City Planning staff recommends that in residential areas, the City should monitor the effect of the new regulations. The best outcome may be that more new owner-occupants are able to provide STR opportunities, thus establishing a more equitable system.

Commercial STR Issues and Analysis

Commercial Corridors

New Orleans has a history of creating zoning tools that encourage a particular commercial land use(s) greater flexibility. The impetus for using such a tool can be neighborhood disinvestment, building vacancies, and demolitions that occur over the course of many years. The purpose of such tools has generally been to revitalize an area, encourage investment, and foster a particular environment. For example, Arts & Cultural overlays have been developed to give live entertainment venues an easier path to approval. One of the most notable revitalizations was achieved along the Freret Street Arts & Cultural Overlay District between Napoleon and Jefferson Avenues.

Commercial STRs have the potential to revitalize commercial corridors through infill development of vacant lots and rehabilitation of vacant structures. In commercial areas, STR guests may also provide a customer base for bars, restaurants, and live entertainment venues in the immediate area. Likewise, the STR guests may also be more tolerant of being in close proximity to such uses, which can have noise and parking issues. On the other hand, being close to commercial uses, jobs, and transit is also desirable for permanent New Orleans residents who most need affordable housing and who may not have access to a private automobile.

As citywide policy, the CPC recommended a 25% cap on the number of Commercial STR units allowed on any one lot. Noting the longstanding vacancies on the upper floors of buildings in the Canal Street local historic district, the CPC recommended that the cap not apply in this area. A similar strategy for Commercial STRs can be enacted along other commercial corridors with a high number of vacancies. To alleviate concerns about the displacement of long-term residents, lifting the 25% cap should apply only for commercial, industrial, institutional, new construction, or long-term vacant residential.

In speaking with those who seek to revitalize commercial corridors as well as Commercial STR operators, City Planning staff notes that there are some commercial corridors that are both in need of further revitalization while still being close enough to amenities and tourist attractions to make the area desirable for tourist lodging. In these areas, there could be a mutually beneficial relationship between STRs and commercial revitalization efforts. However, the benefit of exceeding the 25% Commercial STRs cap on a lot should be reserved for corridors where the stabilization of the building stock and infill development is not assured relying on regular market forces.

Map 5 shows a number of commercial corridors with differing amounts of vacant lots, residential, and commercial structures. Each are somewhat close to the city's core and tourism attractions, but could still be considered "off the beaten path." Each may also have historic or budding cultural attractions could benefit from additional patronage. Several of the corridors are also within Arts & Cultural Overlay Districts, as shown in Map 6, which may be the best areas to encourage a larger percentage of Commercial STRs, providing a customer base for bars, restaurants, and live entertainment venues, which the community has supported through the establishment of Arts & Cultural Overlay Districts.

Further study into the number of vacant structures in these corridors would give a better baseline for determining the need for additional incentives, which may include STRs. The presence of a main street or merchants' organization would also be helpful in providing perspective, weighing strategies, and monitoring impacts. The mapped corridors are shown as examples; each local community should be involved in the decision whether further encouraging Commercial STRs is a desirable strategy for their commercial corridor.

Commercial/Non-Residential Buildings within Neighborhoods

New Orleans has many neighborhoods with a mixed use development pattern that includes old corner stores, commercial and industrial structures within residential neighborhoods. A Commercial or Large Residential STR strategy could also be used for these residential areas. In the 2018 STR Study and in Zoning Docket # 26/19, the CPC recommended that Commercial STRs be prohibited in the lowest intensity commercial districts and that Large Residential STRs be prohibited in the lowest intensity residential districts. If an STR strategy is desired for to help revitalize vacant commercial or industrial buildings within residential neighborhoods, the CPC staff recommends that Large Residential and possibly Commercial STRs be considered for additional permissions in those areas. One way to enact such a strategy would be to use the existing framework of the Residential Diversity Overlay Districts, expanding their coverage and including Large Residential or Commercial STRs as permitted uses in those Districts. Map 7 shows the two existing Residential Diversity Overlay Districts.

Properties Adjacent to Commercial Corridors

A complementary idea to further support commercial corridors in need of revitalization is to give additional district permissions to Large Residential STRs within residential districts in the same squares as the commercial corridor. Typically, many residential lots adjoin the commercial uses along a corridor. There is sometimes a different development pattern adjacent to commercial uses, where there may be non-conforming multi-family dwellings or additional commercial structures.

Vacant Properties and Code Enforcement Judgements on Commercial Corridors

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1 inch = 0.29 miles

Legend

Map # 5

- Parcels Occupied by a Structure with no Code Enforcement Judgement >$500 (2,981)
- Code Enforcement Judgements >$500 (69)
- Vacant Parcels (499)
- Vacant Parcels and Code Enforcement Judgements >$500 (48)
- Commercial Corridors (7)

Date: 6/4/2019

AC Overlay Districts

Name **Map # 6**

- AC-1 Arts and Culture Diversity Overlay District
- AC-2 Arts and Culture Diversity Overlay District
- AC-3 Arts and Culture Diversity Overlay District
- AC-4 Arts and Culture Diversity Overlay District
- LAS LaSalle Street Overlay District
- Council_Districts

A B C D E

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0 0.25 0.5 Miles

Date: 5/21/2019

RDO Overlay Districts

A

B

C

D

E

Name

- RDO-1 Residential Diversity Overlay District
- RDO-2 Residential Diversity Overlay District
- Council_Districts

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Date: 5/20/2019

Map # 7

0 0.075 0.15 0.3 Miles

If there are a number of vacancies and the community is seeking greater support for commercial uses along the corridor, Large Residential STRs could be authorized.

Methodology to Enact

Incentive strategies are best enacted with the support of the immediate business community and residential neighborhoods; this has been the case with the establishment of Arts & Cultural and Residential Diversity Overlays. Communities should weigh for themselves whether there are high and persistent concentrations of vacant, underutilized or blighted properties and whether other approaches to revitalize the area are insufficient. The costs and benefits of an STR strategy will not be seen with the same perspective in every area.

At this point, the number of exceptions to the 25% cap for commercial STRs is very limited. The exceptions are simply listed in the recommended Article 20, Section 20.3.LLL.2. standards for Commercial STRs. Listing numerous future exceptions within this section may become unwieldy. There are a number ways to remove the cap for certain areas:

- List the exemption in the Commercial STR standards section of Article 20.
- Include the exemption in an existing Residential Diversity Overlay District.
- Include the exemption in an existing Arts & Cultural Overlay District.
- Create new Residential Diversity Overlay Districts that includes an STR exemption.
- Create new Arts & Cultural Overlay Districts that includes an STR exemption.
- Create a new overlay district addressing only STR use.

Minimum Size of a District to allow Greater STR Flexibility

In its Administrative Rules, Policies, and Procedures, the City Planning Commission has a policy against "spot zoning." This is defined as "zoning changes that have the effect of singling out a lot or other relatively small tracts of land for treatment different from similar surrounding parcels." The policy also includes an exception where the physical character and historic use of the parcel(s) are significantly dissimilar from surrounding properties. Any district established to allow STR regulations different from the consistent citywide regulations of the Comprehensive Zoning Ordinance should be in keeping with the spirit of the spot zoning policy.

In establishing the first Arts & Cultural and Residential Diversity Overlay Districts, minimum sizes of the districts were stated, as these were intended to be tools that could be replicated across the city. For the Arts & Cultural Overlay, a minimum of two (2) blocks was designated as the minimum length for a commercial corridor. For the Residential Diversity Overlay (RDO), the minimum size stated was six (6) blocks and containing at least three (3) structures meeting the criteria.[13]

If a zoning tool is desired to alter the Commercial STR cap or to allow STRs where they would otherwise not be allowed, City Planning staff recommends keeping with the spirit of the spot zoning policy and the longstanding minimum sizes of these overlay districts. For a commercial

[13] The RDO is intended to apply to a residential area, but only structures with a commercial appearance and history would meet the criteria for allowance of certain commercial uses.

corridor, the staff recommends a minimum length of two blocks, including both sides of the street. For a residential neighborhood with scattered commercial structures, the staff recommends a minimum area of six full squares.

STRs as a Blight Remediation Tool

As mentioned earlier, allowing a non-owner-occupied STR in residential areas would require either a new Residential STR definition, or it would require allowing a Commercial STR in a residential district. For this to be a desirable option for a neighborhood, there would need to be an enticing community benefit. One benefit may be the remediation of a blighted historic structure. The 2018 Short Term Rental Study recommended further study of a concept to use short term rentals as a tool for blight remediation. The Study included some initial criteria suggestions as shown below.

- The structure must have been vacant for the past 5 or 10 years;
- The structure must be a contributing structure located in a national or local historic district, or be designated an historic landmark;
- If the structure is not already located in a full-control local historic district or is not a locally designated historic landmark, renovations to the exterior must be approved by the staff of the appropriate Historic District Landmarks Commission.
- This tool might also be applied to historic structures in residential areas, but with a sunset clause on the length of use as an STR, such as 5 years.

While "blight" is legal terminology described by State law, many people use the term more generally for any structure that is vacant and in serious disrepair. In many cases, the cost to rehabilitate a dilapidated structure may exceed the value of the structure or it may not be economically feasible to repair due to an area's weak housing market. One idea to encourage the redevelopment of dilapidated residential historic properties is to allow a non-owner-occupied structure to operate as an STR in a residential area for a limited amount of time.

Code enforcement of minimum building standards is a major issue in the city with over 5,000 properties currently cited for violations. Below is a description of the process that ultimately leads to code enforcement fines, adjudication and potentially lien foreclosure/sheriff's sale or demolition.

Code Enforcement Process

Reporting of the Violation
Citizens call 311 or go to the 311 website to report properties as blighted. Code Enforcement inspectors also sweep their assigned areas for buildings and lots in violation of the City's housing code.

Input
If an active code violations case does not already exist for a reported property, Code Enforcement creates a case in LAMA, the City's parcel-based case management system, and citizens can follow the status of that case using BlightStatus or by calling back to 311 for updates.

Inspection
Code Enforcement inspectors follow a work queue in the LAMA system to perform detailed inspections of building exterior and lot conditions, with digital photography and clear lists of violations of City ordinances. The target for the average time from a complaint and creation of a case to inspection is 30 days.

Research
After an inspection is completed and violations have been documented, the Hearings Bureau performs extensive title research to identify every person who is an owner or has a legal interest in the property. Once defendant parties are identified, further research locates possible addresses where notice must be sent.

Notice
A hearing date and time is set 30 to 45 days from the completion of thorough title research, and a Notice of Hearing is sent to all interested parties at every identified address, via regular and certified mail. In addition, the property address, case number, and the date and time of hearing are posted in the official journal of the City of New Orleans, currently the Times-Picayune.

Code Enforcement Hearing
Owners are commanded by law to appear for a hearing at the Code Enforcement Hearings Bureau and bring printed evidence of any work in progress or completed work to bring the property into compliance with the City code. If owners cannot attend the hearing, they may appoint a representative to appear on their behalf and are advised to seek professional legal counsel.

Concerned citizens may attend the hearings and may also bring recent photos and share testimony indicating continued conditions of public nuisance and blight. Code Enforcement inspections and photographs will be used as evidence of violations. Hearing costs may be issued to the defendant(s) even if the violations have been corrected prior to the hearing.

Judgment
A hearing officer may reset the case (continue to a future hearing date) for evidence presented of substantial work in progress or dismiss the case based on evidence presented at the time of hearing. A property brought into full compliance may have minimal fees due, but this is the best case outcome and closes the case without further City action. If a property remains in violation of the City ordinances, a Notice of Judgment will be issued to the owner(s) and if not appealed, remediated and/or paid in full will be filed with the recorder of mortgages 30 days after the hearing. This filing will constitute a lien on the property and will give the City the authority to remediate the violations and/or seize the property for Sheriff Sale.

Post Judgment Actions
If a guilty judgment is recorded and a lien is placed on the property, Code Enforcement evaluates the property through an administrative review process to determine the best approach to remove the hazardous conditions of public nuisance and blight. The City has three paths for abatement, and a single property may undergo more than one of these processes over time.

Sheriff's Sale/Lien Foreclosure
Properties approved for lien foreclosure will have writs filed with the Civil District Court and will be subsequently turned over to the sheriff's office to be sold at auction. Sale proceeds will first pay off liens, taxes, and sale costs and any other recorded liens to a third party. Any remaining funds will go to the original property owner(s). The City's larger goal in this process is to transfer blighted properties to new owners who will make repairs and abide by the City code.

Demolition
Blighted properties may be selected by Code Enforcement for demolition. Once a building is demolished, if the remaining lot remains in a blighted condition it may be sold at sheriff's sale and/or could be maintained through the lot clearing program.

Analysis of Short Term Rentals as a Blight Remediation Tool

For properties with very serious violations, transferring the property to another party willing to invest and make major renovations to develop the structure as a short term rental may be a beneficial strategy. Since there are downsides to allowing STRs in residential areas, eligible areas should only be weak markets where it may not be economically feasible to rehabilitate the structure. If the market is strong enough that a renovator would buy the property at a sheriff's sale, then there would be no need to introduce a new short term rental incentive. Strong and weak markets can be judged by a number of available statistics such as numbers of vacant parcels, Code violations/guilty findings, and construction permits issued, among others.

To allow an STR use as an incentive, the City must ensure that the legislation advances a substantial and legitimate government interest. Historic preservation goals constitute a legitimate government interest, and requiring a developer to meet historic preservation standards to preserve a historically or architecturally important structure is rationally related to that interest. Only historic or architecturally significant properties should be eligible for the program. If a structure is dilapidated and not historic or architecturally significant, there is no reason to use this tool. The tool should be used only for properties where demolition would remove a historically contributing building. Some standards should be in place beyond the minimal investment amount for remediation of the violations. The new owner should submit documentation of the conditions and the renovations to be performed. For instance, the criteria could include:

- The structure must be vacant.
- The property owner responsible for the code violations shall not be eligible to own or operate the short term rental.
- The short term rental shall be limited to 5 years of operation without owner occupancy.
- A minimum of $100,000 or 50% of the value, whichever is higher, shall be invested into the structure's rehabilitation. The minimum dollar figure shall be adjusted for inflation each year.
- Establish a program similar to the Restoration Tax Abatement to review proposals.
- The structure must be a contributing structure located in a national or local historic district, or be designated an historic landmark.

- If the structure is not already located in a full-control local historic district or is not a locally designated historic landmark, renovations to the exterior must be approved by the staff of the appropriate Historic District Landmarks Commission.
- The number of guest bedrooms shall be limited to 5 per unit for a single-family dwelling structure, 4 per unit for a two-family dwelling structure, and 2 per unit for a multi-family dwelling structure.
- Limit the non-owner-occupied STRs to 1 per block face.
- If the structure is in a district that allows Commercial STRs, the benefit may be allowing 100% of the units to operate as Commercial STRs.

Legal, Policy and Permitting Concerns with this Approach

The preservation and rehabilitation of historic structures is in the City's interest. However, there is also an interest in properties being returned to regular residential commerce at the end of any temporary entitlement period. Interior renovations planned for short term rental use may be different than would be performed for long term residential. Short term rental operators may favor an unusually high number of bedrooms or other floor plans that would not be the choice of long term residents. Should this option be of interest, it may be advisable that there be a level of review for interior renovations and floor plans, or at least limit the number of bedrooms.

There is also a question of whether the STR Certificate of Occupancy could be transferred to another owner. The license should be subject to revocation if found in violation of regulations or creating a nuisance. However, it may not be possible to revoke the entitlement if the property is transferred to another new owner.

Finally, determining reuse of blighted properties goes well beyond whether the use is consistent with land use regulations or fits into a regulatory scheme, such as STR. The proposed use of a blighted structure, and how it will be designed and operated, should be that which makes the greatest contribution to both the short- and long-term vitality of the site, its surroundings, the neighborhood, and the community as a whole. Any consideration in regards to the reuse of blighted property should incorporate the City's short- and long-term neighborhood revitalization and stabilization goals of addressing code violations, decreasing poverty concentration, arresting crime, and increasing homeownership.

Commercial STRs and Housing Affordability

The City Council adopted Motion M-19-4 at the same meeting they adopted Motion M-19-6 directing this study. As part of M-19-4, the Council directed the City Planning Commission to utilize research from a forthcoming inclusionary zoning feasibility analysis to make recommendations as to how the City could leverage commercial STRs to create affordable housing. This request was based upon two factors that emerged during the course of the CPC's 2018 STR Study: (1) that commercial STRs have impacted the availability of housing in certain neighborhoods by converting and replacing existing permanent housing units; and (2) that commercial STRs generate significantly more revenue than market rate permanent housing. Accordingly, the request was based upon a presumption that the revenue generated by commercial STRs can easily absorb a requirement to provide permanent affordable units and mitigate the impacts of STRs on affordability without inhibiting development opportunities.

The findings of the CPC's 2018 STR Study support this presumption. CPC staff met with numerous STR operators, including local residents, out of state investors, and corporations operating STRs in cities around the world. Corporate STR operators explained that there are certain instances in New Orleans where development projects were made viable when all or some of a building's residential units were set-aside through a multi-year lease for STR use. In at least one example, an affordable housing development (the Pythian) was stabilized by the inclusion of a handful of commercial STR units and the guaranteed rent they could provide. There have been ongoing conversations about ways to leverage STRs, either for gap financing or to incentivize public benefits, particularly affordable housing, blight remediation, and historic preservation.

The 2018 STR Study addressed the imposition of a cap on the concentration of commercial STRs on a lot. This issue stems from concern over the numerous conversions of buildings or portions of buildings that were formerly permanent multifamily housing into commercial STRs – particularly in the CBD, but in other areas as well. Such conversions have removed significant numbers of permanent housing units. Additionally, many participants in the Study expressed concerns that if commercial STRs were permitted by right without any such cap, the City would effectively be "giving away" the very thing that could be used to leverage affordable housing units – the commercial STR licenses. In other words, if a property owner were already entitled to utilize 100% of units as commercial STRs, there would be no way for the City to incentivize that developer to create affordable units by offering STR licenses.

Based upon the above findings, the 2018 STR Study included the following recommendations:

- Establishment of a cap on the issuance of commercial STR licenses at 25% of the total number of dwelling units on a lot. The CPC recommended that certain areas be exempted from the cap, notably the Canal Street Local Historic District and the VCE Entertainment District.
- Consideration of leveraging commercial STRs above the cap amount to provide affordable housing units at a 1:1 ratio, or to provide assistance to homebuyers in securing gap financing.

HR&A New Orleans Inclusionary Housing Study

The City Council directed the CPC in Motion M-19-4 to recommend provisions that would create affordable housing by leveraging commercial STRs "using research that includes the forthcoming inclusionary zoning financial feasibility study." The referenced study was requested by the City Council when it adopted Motion M-18-320 on August 9, 2018, directing the CPC to consider a text amendment to the CZO for the inclusion of mandatory inclusionary zoning in accordance with the CPC's 2017 Smart Housing Mix Study. Motion M-18-320 specifically directed the City Planning Commission to work with the Office of Community Development to procure a financial feasibility analysis to determine the viability of a mandatory inclusionary zoning program and the potential market of a mandate in the multi-family housing market. In October 2018, the City selected HR&A Advisors, a national real estate and economic development-consulting firm based in Washington D.C., and Urban Focus, LLC, a local real estate development-consulting firm to conduct the financial feasibility and market analyses.

HR & A presented the findings and recommendations in the *New Orleans Housing Study* to the City Council Community Development Committee on February 26, 2019. Based on the analysis of the multi-family residential housing market, the study found certain markets could absorb an affordable housing mandate when accompanied by financial and developmental incentives. The Study recommended setting aside 10% of units in any multifamily development in the CBD and French Quarter (the "Core Market") as affordable units (5% in the Strong Market neighborhoods). Following the City Planning Commission and the City Council public hearings, the Council adopted Ordinance No. 28,036 (ZD 112/18) on March 28, 2019 incorporating the Mandatory Inclusionary Zoning (MIZ) and Affordable Housing Planned Development (AHPD) initiatives into the Comprehensive Zoning Ordinance.

Notably, the HR&A scope did not include any specific focus on Commercial STRs or how they may be used to leverage the construction of affordable units since the *New Orleans Housing Study* considered the feasibility of a mandate in the context of the multi-family residential housing market. The HR&A Study identifies the real estate markets in the City that are the strongest in terms of being able to support MIZ.[14] They are generally the same neighborhoods where housing availability and affordability have been most impacted by STRs. This is not surprising since market strength and housing impacts are both outcomes of strong real estate demand.

As conversations have evolved regarding using STR regulations as leverage or as an incentive for the development of affordable housing, the Administration along with input from the City Council decided to extend the contract with HR & A and Urban Focus. The understanding was that the additional analysis could assist the Administration, the City Council, the public, and developers in further understanding how STR regulations could create affordable housing in Commercial STRs. In terms of the MIZ requirements, CPC staff recommended 2 possible approaches to leveraging Commercial STRs for affordable housing that can be considered:

- Study the possibility of utilizing Commercial STRs as leverage to provide affordable housing units. Such a study should include the same type of analysis that HR&A utilized with respect to market rate permanent housing, and should provide recommendations on how the City can effectively leverage the Commercial STR market to reasonably provide permanent affordable housing.

- Study the possibility of including Commercial STRs as additional incentive in support of an MIZ requirement. Such a study should include the same type of analysis that HR&A utilized with respect to market rate permanent housing, and should provide recommendations on how the City can effectively leverage the commercial STR market to help offset the financial burden of an MIZ requirement.

The HR & A team was recently re-engaged by the Administration to assess housing affordability and to provide an analysis of the STR market. More specifically, HR & A has been engaged to evaluate STR policies with an aim to improve the City's housing affordability. HR & A is looking at existing conditions, speaking with STR operators, conducting a market scan, and developing a

[14] The implementation of the MIZ will be considered by the City Planning Commission and City Council through a separate mapping process.

metric for valuing STRs. This study is on a tight timeline for which HR & A will provide a summary of findings and policy recommendations to the City Council in mid-July, 2019.

STRs as an Additional Incentive

The HR & A financial analysis suggests that the New Orleans multi-family housing market is stable, but is showing signs of plateauing. Moreover, even in its strongest markets, incentives will be necessary to help offset the costs of the MIZ requirement. Accordingly, if the City wants to increase the production of affordable housing, it will need to commit to providing incentives to make such developments financially viable. HR&A recommended that a number of incentives be made available to multifamily developments in the Core and Strong sub-markets, including Payments In Lieu of Taxes (PILOTs), Restoration Tax Abatements (RTAs), density bonuses, and parking reductions. Adding STR licenses to this menu of available incentives could add even more to help offset the MIZ requirement. While it may seem intuitive – more available incentives means more viability – the CPC staff recommends waiting until the ongoing HR & A analysis is completed to obtain a clearer picture of the actual financial benefit of the incentive and to ensure that a public interest is being achieved.

Requiring Additional Affordable Units for STR Developments

Given the high profitability of Commercial STRs, many have suggested that the issuance of licenses should be predicated on the provision of affordable permanent housing. In the context of an MIZ program, this could mean that STR developments would not only have to meet the MIZ requirement for affordable units (5-10%), but would have to provide additional units in order to receive any STR licenses. Again, the City should wait for the analysis by HR & A on the valuation of STRs to determine a specific offset. By way of example, the HR&A study analyzed the current multifamily market to determine what the differential would be between market rate and affordable rents over the recommended 99 year affordability term. Using this information, HR&A was able to make recommendations about the number of units that would trigger the MIZ requirement, the number of units that should be set aside, the affordable rent levels that should be targeted (i.e., 60% AMI), a potential fee-in-lieu, the scale of a PILOT that would be needed, and the size of density bonuses and parking reductions that should be considered.

Throughout the course of the City's consideration of STR regulation, there have been several suggestions as to what such a requirement could look like. The CPC's 2018 STR Study suggested that a 1:1 ratio (one required affordable unit for every STR unit) should be considered for any additional Commercial STRs over a 25% cap. This would result in an affordable housing requirement of up to 37-1/2%, depending upon the number of Commercial STR licenses sought. A number of housing advocates suggested an even higher requirement of a 1:1 ratio for the entire development. By contrast, the HR&A study suggested that without any consideration of STRs, a 5-10% requirement would be supportable. Until the ongoing analysis by HR & A is provided, it is difficult to say whether or not the profitability of commercial STRs can justify increasing the affordable housing requirement to 37-1/2 or 50% of the units. Setting the bar too high could stifle development activity; setting it too low could result in a giveaway of entitlement without achieving a desired public benefit.

Density Limitations on Commercial STRs

The CPC staff continues to support the concept of a density limitation on commercial STRs. Within the use standards for Commercial STRs, CPC staff recommends a cap of one unit, or twenty-five percent (25%) of all units, whichever is greater, on the number of units that could be licensed for STR use. In addition to mitigating the impacts of Commercial STRs, such a cap will provide the necessary leverage upon which a future affordability requirement would be based. In other words, if commercial STRs were permitted for 100% of units with no limitations, the City would not be able to leverage an affordability requirement. As described in the 2018 STR Study, the staff's recommendation is that the cap would not apply to the VCE or VCE-1 Entertainment Districts, any structure fronting on Canal Street between the Mississippi River and Rampart Street, nor to the EC Educational Campus, MC Medical Campus, and LS Life Science Districts and the MI Maritime Industrial Commercial and Recreational Subdistrict.

"Grandfathering" Short Term Rentals and the Issue of Vested Rights

"Grandfathering" refers to the ongoing legality of a use once laws have changed making the use non-conforming. The permitted continuation of a nonconforming use is designed to avoid the hardship, injustice and doubtful constitutionality of compelling the immediate removal of objectionable uses that have been legally established. In accordance with the Comprehensive Zoning Ordinance (CZO), any non-conforming use that has terminated for 180+ days must be stopped. The Director of Safety and Permits interprets the CZO and has consistently opined that this rule is absolute.

The majority of Temporary STR permits issued before the Short Term Rental Interim Zoning District (STR IZD) will have been expired for more than 180 days when the new legislation is adopted into the CZO. The STR IZD prohibited both the issuance and renewal of Temporary Short Term Rental permits in the parts of the city where they were most prevalent, effectively modifying Article 21, Section 21.8.C. Permitted Temporary Uses. Allowing for the grandfathering of those permits expired for more than 180 days would be in direct conflict with the CZO.

Accessory (owner-occupied) STRs were not subject to the STR IZD and the issuance of Commercial STR permits was still allowed, subject to certain conditions. In cases where the Commercial STR would no longer be allowed by new permanent regulations of the zoning district, the Commercial STR would be "grandfathered" and allowed to renew its license, so long as it did not discontinue use for more than 180 days.

Temporary STRs were never permitted as the permanent, full-time use of a dwelling. By definition, the Temporary STRs had a limited operation of only 90 days per year (approximately 25% of the year). During the other 275 days of the year, the use was supposed to be a dwelling unit. In cases where the City knew that the property owner exceeded 90 days of short term rental, the owner would be cited for a violation of the law. Article 25 Nonconformities provisions of the CZO are not intended to provide ongoing legality to a "temporary use." CZO Section 25.3.C.4. states: "(t)he casual, intermittent, temporary, or illegal use of land or structures is not sufficient to establish and maintain the existence of any nonconforming use, whether the use is a main or accessory use. In order to provide for the continuation of any established nonconforming commercial use, the business occupying the land or structure shall be in operation a minimum of

four (4) hours per day, five (5) days per week." Therefore, Temporary STR permits do not have a vested right or a permanent entitlement and are not "grandfathered" when regulations change, beyond the expiration date of the permit.

Property owners may have invested in the renovation or purchase of buildings for Short Term Rental use. However, in performing due diligence before their investment, the definition and limitations of Temporary STR permits could not have been more obvious. Allowing for grandfathering of a temporary permit would confer a vested property right that on its face was meant to be temporary. Additionally, grandfathering a permit in a residential area to a person who does not have a homestead exemption would undermine the basis for requiring the homestead exemption in residential areas. In any of these cases in residential districts, the property owner will still have the option to rent to a full-time tenant. Given New Orleans' residential rental rates, this should still be a profitable option.

When the City Council's STR IZD blocked the renewal of Temporary STR permits, it made its intention clear not to allow the continuation of Temporary STRs. Should the City Council have wished to give Temporary STR license holders a longer period to adjust to new regulations, it could have blocked only the issuance of new Temporary STR permits. To allow the continuation of expired, non-conforming Temporary STRs at this point, the Council would need to delay the permanent prohibition of Temporary STRs in residential districts, which is pending in Zoning Docket #26/19. The Council could then pass a new STR IZD that allows the renewal of previously issued Temporary STR permits. An Interim Zoning District is initially approved for a term of one year and may be renewed for two additional 180 day periods.

Although there are numerous disadvantages to reintroducing the Temporary STR permits to areas where they are currently prohibited, there is one advantage. Namely, the Temporary STR permit holders who did operate legally would be able to recoup their investments more quickly. The period of time could sunset (end) after 1 to 2 years, in accordance with typical Interim Zoning District effectiveness periods. Such a provision would not only allow the recoupment of the initial investment, but the property would be returned to a long-term tenant or homeowner after the sunset date. A sunset provision would provide a definite end date to a use with negative neighborhood impacts in a way grandfathering could not. If such a scheme were adopted by the City Council, consideration could be given to allowing the STR to operate more than 90 days per year, to allow for a faster recoupment of investment; however, the number of days must be kept under 180 per year to ensure that the use does not establish a legal non-conforming use (grandfathered status.)

Re-creating a Temporary Residential STR license so owners could recoup their investments is fraught with potential complications. Ownership may have changed. New permanent renters might now occupy the structure. Given that the Council did not allow the renewal of the Temporary STR permits in the Interim Zoning District, the STR disruption has already happened and it may not be in the residential market's interest to go through that process for a second time. Additionally, with the new regulations requiring a homestead exemption, grandfathering in a permit in a residential area to a person who does not have a homestead exemption would undermine the basis for that requirement and would harm the City's ability to survive a legal challenge.

Summary and Recommendations

Residential STR Economic Development "Zones"

The City Council Motion asks the CPC to study a way that would allow the issuance of "two or more Residential STR permits to a single license holder to incentivize economic development in certain areas of the city, without imposing secondary effects relative to its residential fabric." The STR regulations adopted by the City Council in 2017 allowed a property owner to have unlimited Temporary STR permits in residential areas. In its 2018 STR Study, the CPC reviewed the impact of these regulations and heard vociferous public comments indicating that unsupervised short term rentals in residential areas are problematic due to issues of noise, trash, over-concentrations, loss of neighbors, loss of neighborhood character, excessive loss of permanent residential housing, dramatic housing cost increases in certain areas, and increased property taxes from living in neighborhoods of concentrated STRs. Accessory STR permits, which required owner-occupancy on the same lot as the STR and which also limit an owner to one permit, were largely accepted and did not create the same issues. Essentially, the Study found that the Temporary STRs were inherently harmful to the residential fabric of neighborhoods. Any greater allowance of non-owner occupied STRs in a residential neighborhood would need to provide a benefit to the area that is greater than its detrimental effects.

As the Motion states, the purpose of allowing non-owner-occupied STRs would be to incentivize economic development. Areas in need of economic development could be measured by a number of metrics including concentrations of vacant lots and concentrations of code enforcement fines. There are over 16,000 vacant lots in the city. There are several options that could be employed if a policy judgement is made that STRs are a needed tool for development. These could include:

- Allow renters to serve as on-site operators, as recommended in the CPC's 2018 STR Study, but only within the "economic development zones."
- Allow permanent residents either immediately adjacent to or within the same blockface (either side) of the STR to serve as the owner-operators.
- Authorize Large Residential STRs as permitted uses within such zones, but only for new construction.
- Apply a Residential Diversity Overlay District that authorizes Commercial STRs as well as neighborhood-friendly commercial uses in historic commercial and other non-residential structures (note: this type of overlay only applies to historic non-residential structures zoned residential.) Any Residential Diversity Overlay should cover a minimum of six squares.

Residential STRs Economic Development Zones Recommendation

With the STR regulations soon changing that will prohibit property owners from having multiple Residential STR permits for different properties, there may be more opportunities for small-time

operators with a single Residential STR, thus spreading the benefits of STRs in a more equitable manner.

- The City should monitor the effects and realignment of conditions in residential areas for at least one year prior to implementing new strategies.

Blight Remediation and Historic Preservation

For historic properties with significant code violations, transferring the property to another party willing to invest and make major renovations to develop the structure as a short term rental may be a beneficial strategy. To allow an STR use as an incentive, the City must ensure that the legislation advances a substantial and legitimate government interest. Historic preservation goals constitute a legitimate government interest, and requiring a developer to meet historic preservation standards to preserve a historically or architecturally important structure is rationally related to that interest. If a policy judgement is made that such an incentive is a needed tool, only historic or architecturally significant properties should be eligible for the program. The tool should be used only for properties where demolition of a seriously dilapidated structure is not a good option. The new owner should submit documentation of the conditions and the renovations to be performed. Some standards should be in place beyond the minimal investment amount for remediation of the violations. For instance, the criteria could include:

- The structure must be vacant.
- The property owner responsible for the code violations shall not be eligible to own or operate the short term rental.
- The short term rental shall be limited to 5 years of operation without owner occupancy.
- A minimum of $100,000 or 50% of the value, whichever is higher, shall be invested into the structure's rehabilitation. The minimum dollar figure shall be adjusted for inflation each year.
- Establish a program similar to the Restoration Tax Abatement to review proposals.
- The structure must be a contributing structure located in a national or local historic district, or be designated an historic landmark.
- If the structure is not already located in a full-control local historic district or is not a locally designated historic landmark, renovations to the exterior must be approved by the staff of the appropriate Historic District Landmarks Commission.
- The number of guest bedrooms shall be limited to 5 per unit for a single-family dwelling structure, 4 per unit for a two-family dwelling structure, and 2 per unit for a multi-family dwelling structure.
- Limit the non-owner-occupied STRs to 1 per block face.
- If the structure is in a district that allows Commercial STRs, the benefit may be allowing 100% of the units to operate as Commercial STRs.

Commercial Corridors Economic Development

As citywide policy, the CPC recommended a 25% cap on the number of Commercial STR units allowed on any one lot. Noting the longstanding vacancies on the upper floors of buildings in the Canal Street local historic district, the CPC recommended that the cap not apply in this area. A similar strategy for Commercial STRs can be enacted along other commercial corridors with a high number of vacancies. In speaking with those who seek to revitalize commercial corridors as

well as Commercial STR operators, City Planning staff noted that there are some commercial corridors that are both in need of further revitalization while still being close enough to amenities and tourist attractions to make the area desirable for lodging. In these areas, there could be a mutually beneficial relationship between STRs and commercial revitalization efforts. Arts & Cultural Overlay Districts could be the most amenable commercial areas to allow higher percentages of Commercial STRs. STR guests may provide a customer base for bars, restaurants, and live entertainment venues. The STR guests may also be more tolerant of being in close proximity to such uses, which can have noise and parking issues.

If a policy judgement is made that encouraging Commercial STRs is desirable for Arts & Cultural (AC) Overlay Districts, there are opportunities to tailor the additional allowances in different ways, according to the characteristics of the corridor and the input of the businesses and residents nearby. There are 5 sets of AC Overlay regulations that apply to 7 different areas. The benefit of exceeding the 25% Commercial STRs cap should be reserved for corridors where either (1) the stabilization of the building stock and infill development is not assured by depending on regular market forces; and/or (2) the encouragement of tourist lodging will assist in creating a district of live entertainment and cultural attractions.

- Increase the percentage cap of Commercial STR units per lot in the Arts & Cultural Overlay Districts, as appropriate. Allow the increased percentage only for new construction or redevelopment of long-term vacant and non-residential structures.
- Consider authorizing Large Residential STRs in the residential districts of squares within an Arts & Cultural Overlay District.
- Consider increasing the percentage cap of Commercial STR units per lot in corridors that aren't part of an Arts & Cultural Overlay District, but have high numbers of vacant lots. Allow the increased percentage only for new construction or redevelopment of long-term vacant and non-residential structures.
- Consider authorizing Large Residential STRs in the residential districts of squares adjacent to commercial corridors with high numbers of vacant lots.
- Any greater percentage allowance for Commercial STRs should be applied to a minimum 2 block area.
- Consider any strategy for a greater Commercial STRs percentage allowance in the context of other available incentives, the presence of advisory Main Street or merchants' organizations, community input, and the forthcoming HR&A analysis on leveraging STRs for affordable housing.

"Grandfathering" Options

The CPC staff notes first that "grandfathering" of the Temporary STR permits is not possible; as temporary permits for an intermittent use, they were not permits that vested a right. Most would also have been expired for more than 180 days, which is the time frame after which a legal non-conforming loses its legal status. Grandfathering in the context of the Temporary STR permits would really be a new temporary permit system of preferential treatment only for properties formerly issued a Temporary STR permit. This is fraught with potential complications as there would be issues of ownership changes, new permanent tenants, and potential legal challenges based on the new system. The following "grandfathering"-type options arose in the course of study, none of which are recommended by CPC staff.

- Establish a new temporary STR permit allowing 1 to 2 years continued use as an STR and give preferential treatment to locations previously issued a Temporary STR permit. Consider allowing additional days per year, as the purpose of the permit is to allow owners to recoup their investments. The number of days must remain below 180 days per year so that it does not gain permanent status.
- Establish a new temporary STR permit allowing 1 to 2 years continued use as an STR only to previous permit holders at locations previously issued a Temporary STR permit. Such permits shall not be available if the property has changed ownership or, once issued, shall not be transferable to a new owner.
- Establish an overlay district to authorize a new non-owner occupied residential STR in "economic development" areas and authorize only locations previously issued a Temporary STR permit as alluded to in the City Council Motion M-19-6. Areas may be deemed in need of economic development based on metrics easily available and updatable by the City, such as number of vacant parcels, code enforcement fines/judgements, and building permits issued.
- If any of these options were implemented, stronger enforcement mechanisms should also be implemented, such as permanent revocation of the STR permit for any violation of the law.

Next Steps

The City Planning Commission will hold a public hearing and consider the 2019 Short Term Rental Study at its June 25, 2019 meeting. At this meeting, the CPC may vote to forward the Study to the City Council with or without modifications. The CPC may choose to endorse particular components of the Study's recommendations, or merely forward to the Council for its information and fulfillment of Motion M-19-6. If additional time, information, or analysis is desired, the CPC could also defer final consideration to its July 9, 2019 meeting. The CPC can ask the staff to amend the Study or report back with additional information or analysis at that subsequent meeting. The CPC could also refer the Study to its Planning & Special Projects Committee, although there is a tight timeline with the Council's deadline of July 15, 2019.

Once the City Council receives the Study, they may take as long as needed to read and consider their options. The Council is under no legal obligation to act upon the Study. They may choose to consider the recommendations in a Committee meeting or they may take steps to consider zoning text changes and program development options that are discussed in the Study. If the Council passes a motion to implement any text changes based on the Study, an additional round of public hearings would be triggered. The City Planning Commission would docket the proposal, write a staff report recommending specific zoning text changes, and hold a public hearing before making recommendations to the City Council. The Council must hold its own public hearing before adopting amendments to the Comprehensive Zoning Ordinance.