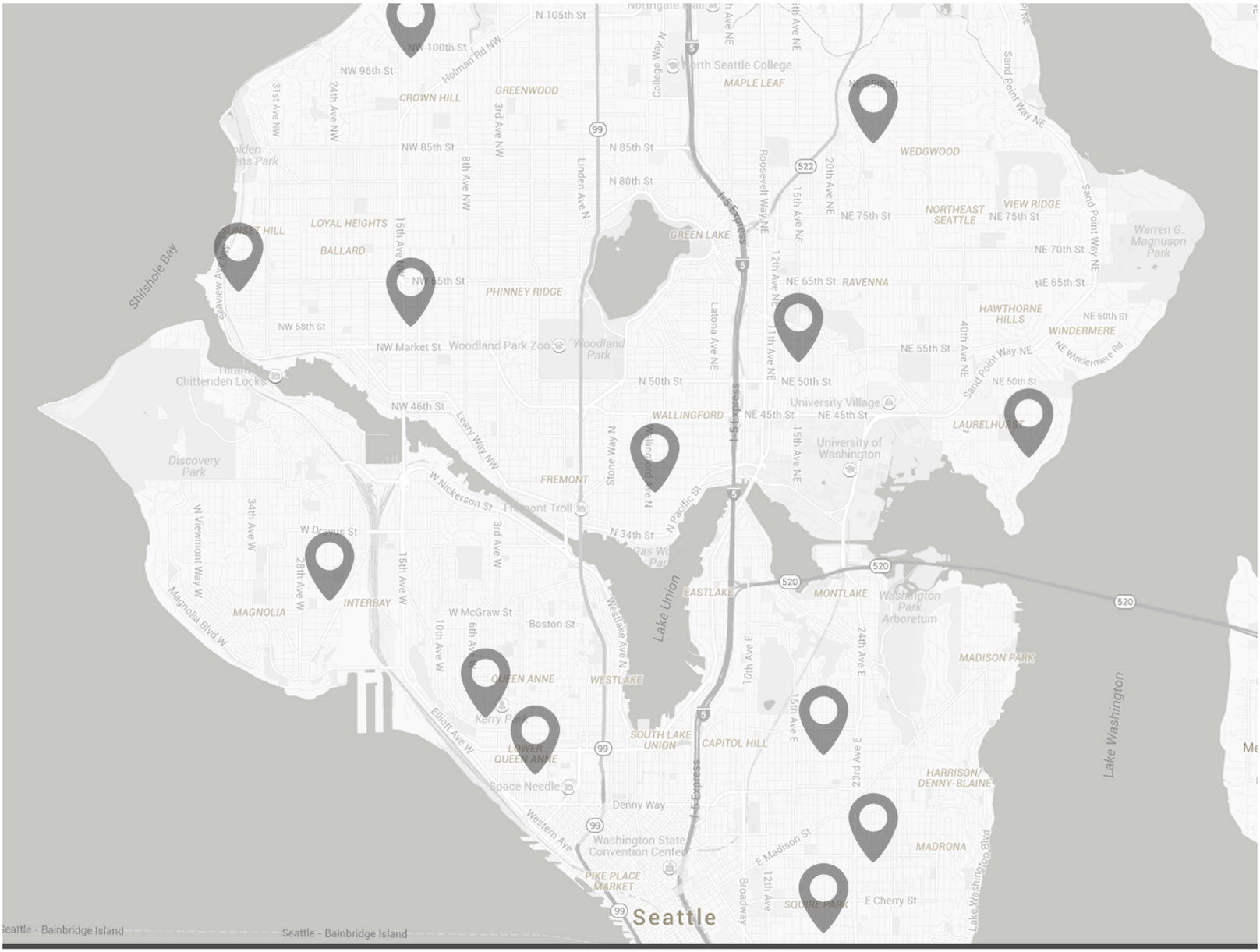

REGULATING SHORT TERM RENTALS

POLICY BRIEF

OFFICE OF COUNCILMEMBER TIM BURGESS

SEATTLE CITY COUNCIL

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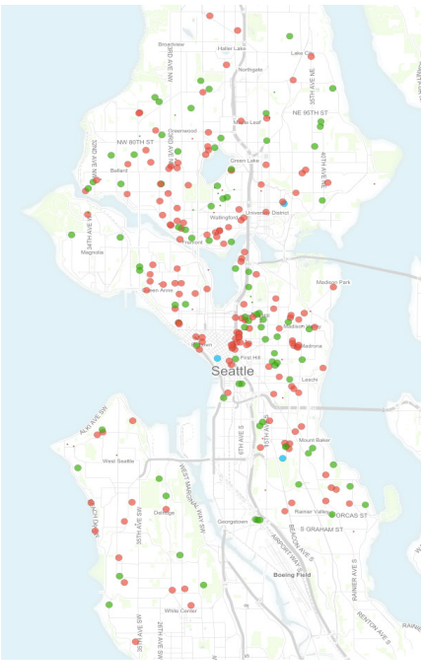
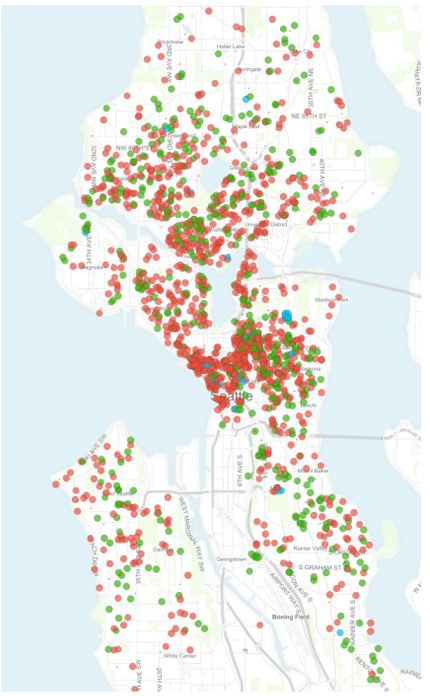
Introduction





Estimated AirBnB rental reviews in Seattle in July 2013 (top) and July 2015 (bottom). Data from insideairbnb.com

For many years, short term home rentals have been a popular lodging choice for travelers in Europe and certain high volume tourist destinations in the United States. With the advent of technology-based online platforms that facilitate the marketing and booking of short term rentals, this market has rapidly expanded across the globe.

One need only look at the rise of two of the major companies in the short term rental industry to view the incredibly fast pace of growth. Airbnb received its first $20,000 seed grant in 2009.[1] In December 2015, less than seven years later, the company confirmed a round of $1.5 billion in venture capital funding, bringing its total valuation up to $25.5 billion.[2] Its website now touts more than 2 million listings available in 34,000 cities across 191 countries.[3]

HomeAway, another vacation rental company that includes the website VRBO.com (Vacation Rentals by Owner), launched in 2006 and also grew rapidly; the company's website states its annual revenue increased 28.9% in 2014 over the prior year.[4] Previously a publicly traded company on the NASDAQ exchange, Homeaway was acquired by Expedia in late 2015 for $3.9 billion, a price nearly 20% higher than its market value at that point.[5] It currently offers more than 1 million listings in 190 countries.[6]

No evidence suggests that the growth of this industry in Seattle is any different. While Seattle-specific data has not been made publicly available by major players in the short term rental marketplace, external websites scrub Airbnb listings data and aggregate the information for market analysis. These websites show recent rapid growth in the number of listings.[7] Airbnb states on its website, "The number of guests using Airbnb has grown steadily since 2009, with visitation more than doubling every year."

"My landlord is a nice guy, he has kept the rent relatively reasonable for me and my partner, but he's recently informed us we will need to leave in a few months because he wants to rent out the property on Airbnb."

-K., Seattle resident

Benefits and Challenges of Short Term Rentals

Short term rentals bring numerous benefits to those who operate them, their visitors, and the surrounding neighborhood. Many individuals use short term rentals as a way to help afford their own home, either renting out a basement, a spare room, or the entire home when they are out of town themselves. **In a housing market that presents affordability challenges, there is no doubt short term rentals alleviate the housing burden for the many families that operate them.**

For visitors, short term rentals often offer a more affordable option. Short term rentals bring tourists, wedding parties, visiting family members and their collective spending power to neighborhoods across Seattle. Airbnb recently estimated the economic impact of its visitors in Seattle was $178 million from August 2014 to July 2015, supporting 1,700 jobs.[8]

At the same time, the more commercial use of short term rental platforms has taken entire houses, condos and apartments off of the long term housing market. One external website estimates that roughly one-third of Airbnb's listings in Seattle are from hosts with multiple listings. These could be multiple rooms in a house or completely separate units; hosts with multiple listings are more likely to be commercial operators not renting portions of their own primary residence.[9] **Commercial enterprises utilizing online rental platforms to market multiple units in multiple locations further exacerbate the housing crisis facing Seattle.**

Without regulation, this practice could continue to rapidly expand. As a recent Harvard Law and Policy Review article

explains, "So long as a property owner or leaseholder can rent out a room on Airbnb for cheaper than the price of a hotel room, while earning a substantial premium over the residential market or rent-controlled rent, there is an overpowering incentive to list each unit in a building on Airbnb… In tight housing markets with near-zero vacancy rates, a sudden reduction in supply naturally increases rents, particularly because neither the market nor the public sector can swiftly add to the housing stock." [10]

Any strategy the City can pursue to put more units into the long term market is worth examination.

The extent of Seattle's housing crisis is well known. Lower income renters are being pushed further from the center city as prices rise; home buyers face an extreme lack of options and strong competition for every purchase offer.

Last year, Mayor Murray's Housing Affordability and Livability Agenda (HALA) taskforce put forward recommendations to achieve his goal of 50,000 new units of housing over the next 10 years, with 20,000 of these units designated as affordable. Short term rentals are not the leading cause of the severe shortage of housing (at all levels of affordability), but they have exacerbated an existing crisis. Any strategy the City can pursue to put more units into the long term market is worth examination.

One of the recommendations from the HALA taskforce focused on short term rentals. Specifically, the taskforce recommended that the City pursue collecting taxes on this activity and dedicating those tax dollars to affordable housing. Currently, the City lacks the taxing authority to implement this recommendation. The sales tax is collected by the State and the hotel-motel tax in Washington is revenue carved out from the State's portion of the sales tax and remitted to local jurisdictions; state law dictates how this revenue can be spent. Facing this lack of options for new taxing authority, we have focused on regulatory actions that would align with the HALA goal of putting more units into the long term market.

"The only unit I have rented through a short term rental service, Airbnb, has been my primary residence, a single family home located in an SF 5000 zone. I utilize the service for times when I will be on vacation, and my rental days have never exceeded thirty days per year."

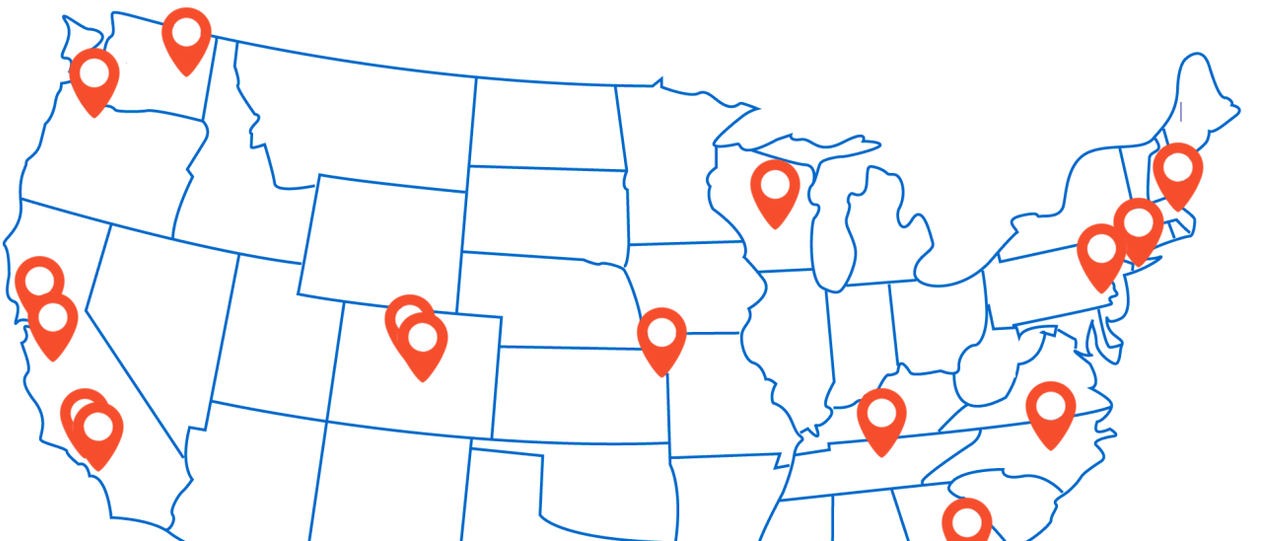
- G., landlord and AirBnB host

While secondary to the housing concern, short term rentals also pose challenges to a fair economic playing field in the vacation market as it is unclear how many operators apply for the necessary business license and pay all applicable taxes. Further, many neighbors of units that have been converted to short term rentals raise legitimate questions about neighborhood livability.

Regulatory Systems in Other Cities

A review of the regulatory approach taken by other jurisdictions reveals a wide range of regulatory responses. On one end of the spectrum, some jurisdictions have focused exclusively on collecting the appropriate taxes that apply to short term rental transactions. On the other end, cities ranging from **New York City** to **Santa Monica** have enforced much stricter regulations; in New York City, apartments cannot be rented out for less than 30 days. Per a new law in Santa Monica, short term rental operators will have to live on the property during any short term rental stay.

Other cities have attempted to find a middle ground. **Philadelphia** allows for short term rentals up to 90 cumulative days a year without a permit, requires a permit and owner occupancy of the unit for rentals from 90-180 cumulative days a year, and prohibits short term rentals for more than 180 cumulative days a year. **San Jose** allows short term rentals of up to 180 days a year without a host present and year-round with a host present. Both cities were cited by Airbnb's Public Policy Team as positive examples for Seattle to explore.



Taxation and Regulatory Context in Seattle

Short term rental transactions currently operate outside of a solid regulatory framework in Seattle. Any person providing lodging services is required to collect and remit retail sales tax, meaning that anyone who offers their home or a portion of their home for short term rental should be paying this tax. Airbnb recently announced an agreement with the Washington State Department of Revenue to pay sales tax on behalf of its hosts, but it is unclear how many other owners pay the retail sales tax (9.6% in Seattle) on their units if they are not offering the units through Airbnb's website.

"Last year a [neighboring townhouse] unit was sold.... One neighbor found that the owner is now renting out all three bedrooms in the house and apparently runs it as an AirBnB.... When I mentioned this to a couple of friends living in other parts of the city two of them said they were aware of similar situations in their areas."

-E., concerned neighbor

The Convention and Trade Center tax (15.6% when combined with sales tax) only applies to lodging businesses with 60 or more units. The sales tax is the only applicable tax to a short term rental transaction, because the basic hotel/motel tax in Washington State is collected as part of the state's portion of the sales tax and then remitted to local jurisdictions.

The vast majority of short term rental operators do not have business licenses, which are currently required . While most if not all short term rental operators would fall under the Business and Occupation Tax minimum threshold of $100,000 in gross revenue, they are still required to get a license and report their revenue.

With the exception of Bed and Breakfasts, commercial lodging (hotels and motels) are not allowed in residential zones. In single family zones, bed and breakfasts are allowed with conditions

outlined in Seattle Municipal Code 23.44.051. They must have a business license, adhere to dispersion requirements, establish quiet hours, must be operated by the principal owner and the owner must live on site, must notify neighbors, have limited signage, and meet parking requirements. In multifamily zones, bed and breakfasts have similar but slightly less restrictive requirements (SMC 23.45.545G).

Regulatory Role for Government

While some elements of the current short term rental market are novel, including the technology and the flexibility it offers, many aspects of this market are simply business operations. The City has always played a regulatory role when it comes to business and determining what level of operations is appropriate in residential areas.

Any City government regulations should support one of these three goals:

1. Balance the economic opportunity created by short term rentals with the need to maintain supply of long-term rental housing stock available at a range of prices.
2. Ensure a level playing field for individuals and companies in the short term rental market.
3. Protect the rights and safety of owners, guests and neighbors of these units.

As explained in the Benefits and Challenges section, the first goal is the most pressing for Seattle City government. The primary elements of the regulatory scheme proposed below were built to address this issue. At the same time, the proposed regulations also either directly or indirectly support the second and third goals.

Primary goal

Providing economic opportunity while maintaining rental housing stock

Proposed Regulations for Seattle Short Term Rental Operators

About 80% of Seattle short term rental operators will see no new regulations.

With any regulation, one must start by defining the activity being regulated. In this case, we are defining short term rentals as any stays of 29 nights or fewer in duration. Stays longer than 29 nights in duration would not be subject to this proposal or be part of any cumulative short term rental stay calculations. We believe any stays of 30 nights or more fill a need in our housing market for households in transition. One benefit of the technology that facilitates the marketing and booking of short term rentals is that it expanded this niche in the housing market.

	Primary Residence Short term rental operator resides on-site	Not Primary Residence Short term rental operator resides off-site
Rented **90 cumulative nights or fewer** for short term rentals in 12 month period	**Status Quo** (includes having a business license and paying applicable taxes)	**Status Quo** (includes having a business license and paying applicable taxes)
Rented **91 cumulative nights or more** for short term rentals in 12 month period	Requires a **new Short Term Rental Operator's license** in addition to business license.	**Prohibited**

The basic proposed framework for short term rentals in Seattle would look like this:

The vast majority of individuals and families who use platforms like Airbnb as short term rental operators do so for fewer than 90 nights a year. A recent Airbnb report showed that nearly 80% of the site's "entire home" listings were rented below this threshold.[11] For this level of use, we propose virtually no new regulatory or licensing requirements, although they are expected to get a business license and pay applicable taxes (already requirements today). In other words,

roughly 80% of short term rental operators in Seattle will see no new regulations.

For the remaining 20%, if you rent out portions of your primary residence – or an in-law unit or backyard cottage associated with your primary residence – for more than 90 nights a year, you will be required to register with the City and get a new Short Term Rental Operator license. You will also be subject to a few more standards, including providing:

- proof that the unit is your primary residence,
- proof of liability insurance that covers the short term rental use,
- a local contact number for guests,
- a signed declaration that the unit is up to code and
- a unit meets all building and life safety codes.

The new regulatory framework will prohibit short term rentals above the 90 night per year threshold if the rental is not the primary residence of the rental host. This primary residency requirement is designed to meet the goal of maintaining our long term housing supply.

This requirement will impact those who use these platforms commercially, not homeowners trying to make a little extra income on the side. Rentals past the cumulative 90 nights where the operator does not live on site are business ventures and deserve to be regulated and restricted as such.

We also propose leveling the regulatory playing field for traditional bed and breakfasts, which still operate under regulations from the pre-online short term rental era. By lessening some the regulatory burden they currently face, the City can bring traditional bed and breakfasts in line with the new regulations for short term rentals.

The affected operators will be those who use these platforms commercially, not homeowners trying to make a little extra income on the side.

A Summary of New Regulations Facing Operators

Regulations / requirements	Operator's primary residence	Operator resides off-site	Applicable policy goal
Title 5 Business License (existing requirement)	x	x	1 2
Pay all applicable taxes (existing requirement)	x	x	1 2
Prohibit evidence of STR use from exterior for except for signs as permitted by the sign code	x	x	3
Limit # of nights rented for short term stays to maximum of 90 nights in any 12 month period		x	1
Provide proof that the dwelling unit offered for short term rental is their primary residence if rented > 90 nights	x	NA	1
Require proof of liability insurance that covers the STR use	x	NA	2 3
Provide a local contact to all guests	x	NA	3
Require operators declare that the unit meets the requirements of the Housing and Building Maintenance Code	x	NA	3
Require posting of basic safety information for guests within rental units	x	NA	3

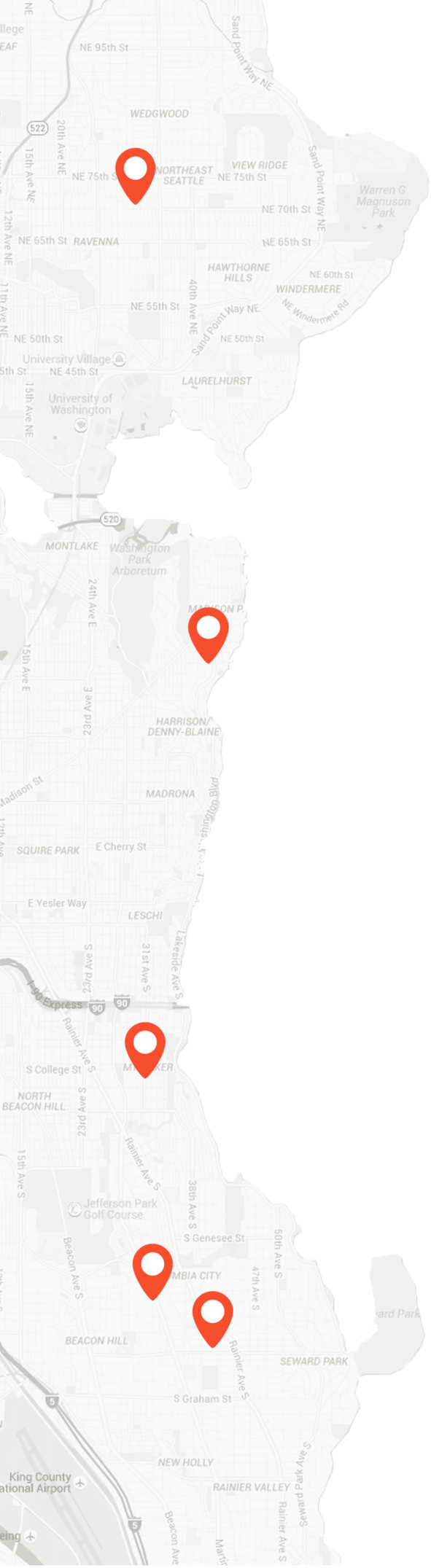
Proposed Regulations for Seattle Short Term Rental Platforms

After surveying practices in other jurisdictions, it became clear that receiving data from the online platform companies is vital to an effective enforcement structure. In order to facilitate the enforcement of the 90 night threshold, the City will need to collect basic information from the Short Term Rental Platforms like VRBO or Airbnb. To do so, these companies will need to register for a new regulatory license with the City.

"I am a residential cleaner and have cleaned for several Airbnb renters and have thought for a very long time that this was severely adding to the housing problem in our city. I find it unfair how people could sit on empty apartments and rent them out for income while my friends, who are willing to pay a monthly rent, can't find an affordable apartment in the city."
–S., residential cleaner

The only requirements for the license will be a) to provide information about Seattle's regulations to operators using the platform and b) to share basic data with the City on a quarterly basis. This information will include the names and addresses of operators along with the number of nights the operator has rented on the platform for the last 12 months. This total would not include any stays of 30 nights or longer.

As other cities have sought to regulate and collect data, platforms have expressed concerns about data disclosure and operator privacy. To be clear, operating a short term rental is a business; the information that the platforms must provide under this proposal is basic information that other types of businesses regulated by the City must already provide. The City's regulatory division will examine this data to ensure all operators are following the new regulations.



Concluding Remarks and Comments on Equity

Inevitably, no citywide policy can best meet the individual needs of every short term rental operator. The proposed regulations detailed above attempt to strike a balance that recognizes both the benefits and challenges offered by short term rentals. They also attempt to focus on this issue through an equity-based lens: while there are a variety of stakeholders and interests in this area, those looking for an affordable home in this city are more in need of supportive local government intervention than those offering their second (or third or fourth) homes to out-of-town visitors.

After these regulations are translated into legislation, they will be vetted through the full public process of the City Council, where input is eagerly accepted and further revisions robustly debated.

Endnotes

[1] http://techcrunch.com/2009/03/04/y-combinators-airbed-and-breakfast-casts-a-wider-net-for-housing-rentals-as-airbnb/

[2] http://www.wired.com/2015/12/airbnb-confirms-1-5-billion-funding-round-now-valued-at-25-5-billion/

[3] https://www.airbnb.com/about/about-us

[4] https://www.homeaway.com/info/media-center/presskit

[5] http://www.nytimes.com/2015/11/05/business/dealbook/expedia-to-acquire-homeaway-for-3-9-billion.html?_r=0

[6] https://www.homeaway.com/info/about-us

[7] See https://www.airdna.co/sample/us/washington/seattle or http://insideairbnb.com/get-the-data.html

[8] http://blog.airbnb.com/economicimpactsinseattle/

[9] http://insideairbnb.com/seattle/

[10] http://harvardlpr.com/wp-content/uploads/2016/02/10.1_10_Lee.pdf

[11] https://www.airbnbaction.com/airbnb-community-seattle/