

# Accessory Short-term Rentals Monitoring Report

September 2016

Ordinance No. 186769 (single-dwelling) - effective August 2014  
Ordinance No. 186976 (multi-dwelling) - effective February 2015



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Two years ago, the Portland City Council created a new accessory short-term rental (ASTR) program to respond to the dramatic increase in the number of residences being rented informally on a short-term basis (fewer than 30 days) through internet sites, including peer-to-peer-type rentals such as Airbnb. The resulting Zoning Code amendments allow a resident to rent out one to two bedrooms in their home to overnight guests. The new permit process offers smaller scale short-term rentals a less expensive and faster process, while ensuring that affected neighbors are notified of the activity.

At the time of adoption of the new regulations, Council directed staff to report on the effects of the amendments. This report provides a snapshot of the program's implementation from August 2014 to September 2016.

## Key Findings

- **Numbers of listings and locations continue to grow.** The Revenue Division estimates 5,000 short-term rental listings in Portland take place at 3,000 locations. This is up from the 1,600 estimated listings when the amendments were adopted in September 2014.
- **Number of permits is a small percentage of total listings and locations.** Of these locations, only 22 percent have been issued short-term rental permits.
- **The majority of *permitted* ASTRs are in houses.** Of the 656 issued permits, 60 percent are in houses, 18 percent are in duplexes, 17 percent are in accessory dwelling units, and 5 percent are in multi-dwelling apartments or condominiums.
- **The vast majority of permits pass their initial safety inspection.** Eighty-nine percent of the short-term rental permits in single-dwelling structures passed their initial inspection.
- **Portland is collecting taxes directly from some platforms, but not all.** The Revenue Division is collecting taxes directly through six platform accounts, including Airbnb, but some platforms have refused to collect and remit tax.
- **Additional transient lodging taxes are being collected.** Collections from short-term rentals during the last two fiscal years contributed \$3.3 million toward the City of Portland's General Fund.

## Other Studies Underway

In addition to this monitoring report there are two other studies still underway, which will examine the impacts of short-term rentals on housing in Portland:

1. Airbnb has commissioned EcoNorthwest to do a **Housing Impact Study**. The study specifically covers Portland and is scheduled to be released in October 2016.
2. The Portland Housing Bureau will include a section on ASTRs in their **State of Housing Report** scheduled to be released in December 2016. The Housing Bureau is currently in discussions with Airbnb about access to their bookings dataset for use in the report.

## Summary of Regulations

Prior to the 2014 amendments, all rentals of fewer than 30 days were classified as “bed and breakfast” facilities and were allowed to rent up to five bedrooms through a Type II conditional use review. The conditional use review was seen as too expensive and time consuming for smaller, more informal peer-to-peer-type rentals. The Zoning Code amendments:

- Created a Type A ASTR Permit for renting up to two bedrooms in all residential units,
- Require that a long-term resident occupy the unit for a minimum of nine months out of the year,
- Require a neighborhood notification,
- Require an inspection of the unit, and
- Caps the number of multi-dwelling units that can be used for short-term rentals.

The Bureau of Planning and Sustainability, working closely with staff from the Revenue Division of the Office of Management and Finance and the Bureau of Development Services (BDS), has produced this monitoring report that responds to the following questions:

## 1. What has changed since the Zoning Code amendments were approved?

- **More online platforms.** The number of online peer-to-peer platforms continues to grow. Airbnb is still the largest platform, but there are more competing companies, such as Vacasa, Flipkey, HomeAway, HomeToGo, VRBO, StayAlfred, HouseTrip and Roomorama.
- **More listings and locations.** The Revenue Division has estimated that there are currently 5,000 listings at 3,000 locations. A location can list on multiple websites and list multiple rooms on the same website (i.e. if two bedrooms are offered for rent, a listing might be found for each bedroom at the same location).
- **Airbnb agreement with the Revenue Division to collect lodging taxes.** At the time of the approval, the City had entered into an agreement with Airbnb in which the company collects lodging taxes for their hosts and remits the collected taxes to the City. The taxes are remitted without information about the hosts, but the City has the authority to audit these remittances.
- **Increased enforcement efforts.** The Revenue Division initiated changes to the transient lodging tax code that provide the City additional enforcement tools to pursue companies whose hosts are not collecting and remitting the transient lodging tax. These changes took effect in January 2015. As a result of these amendments, five additional online platforms are collecting and remitting taxes. However, a few major platforms are still not collecting and remitting, and they do not have collection agreements with the Revenue Division as does Airbnb.

Additionally, the Revenue Division is taking steps to ensure that the hosts have registered for the Portland and Multnomah County business income taxes and have obtained the necessary permits from BDS. The Revenue Division has an active enforcement program with 1.0 FTE dedicated staff.

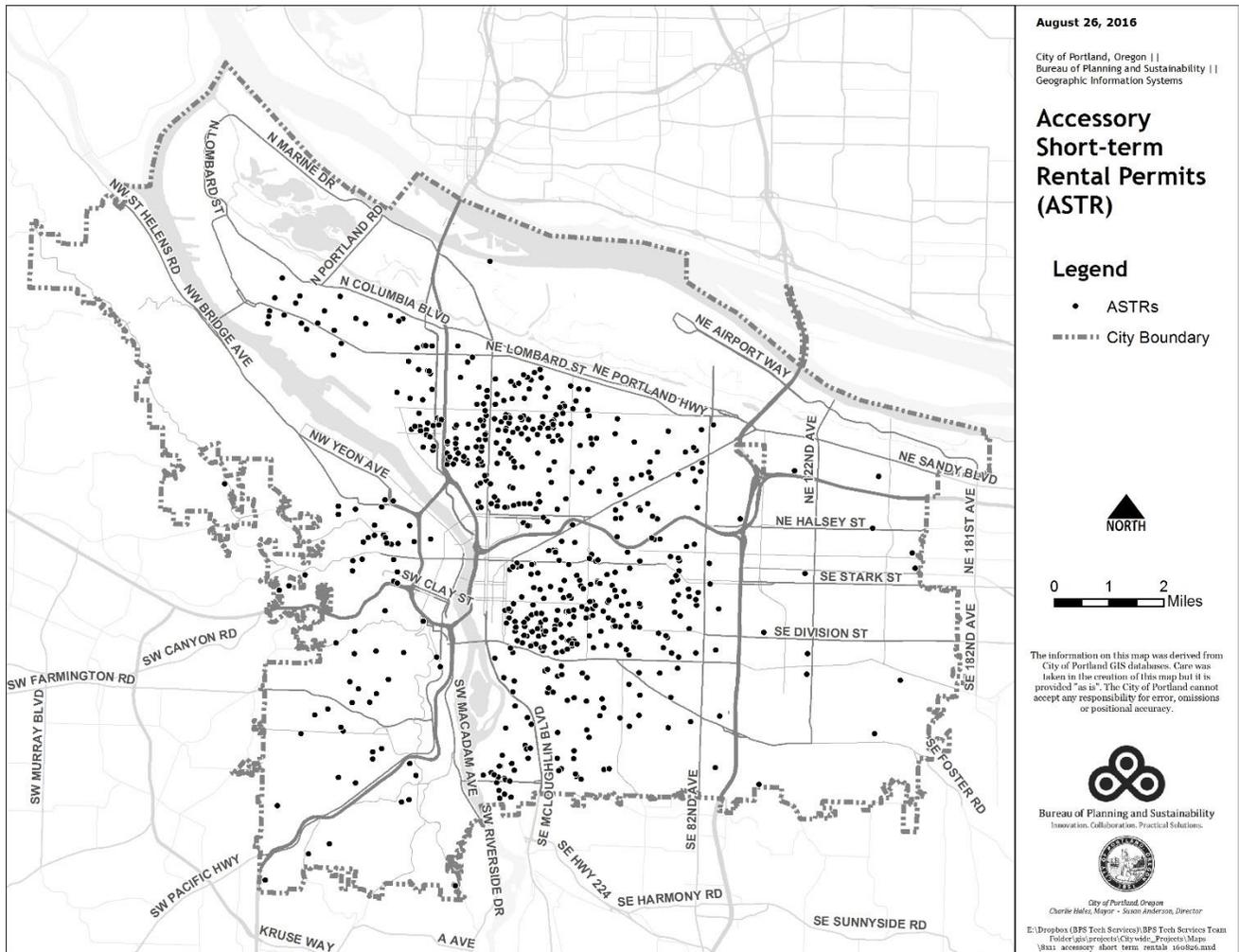
- **Housing Investment Fund.** A portion of the City's transient lodging taxes received from ASTRs are being dedicated to the Housing Investment Fund. This became effective on July 1, 2016 and is estimated to generate \$1.2 million per fiscal year.
- **Housing Emergency.** Citing increases in the cost of housing and homelessness as well as low vacancy rates, the Portland City Council declared a housing emergency in October 2015. It was extended in September 2016 for another year.

## 2. How is the permitting program through BDS working?

### Number of Permits by Housing Type<sup>1</sup>

Sept. 23, 2016	Total	House	Duplex	Accessory Dwelling Unit—Interior	Accessory Dwelling Unit—Detached	Multi-Dwelling (3+) Apartment	Multi-Dwelling (3+) Condo
Type A (ASTR permit)	656	396	117	41	71	20	11
Type B (Conditional use review)	8	6	2	0	0	0	0

### ASTR Permit Locations



<sup>1</sup> Determined using City of Portland permit data.

## Permit Process

The application process for an ASTR permit is as follows:

1. Complete a **Type A ASTR Permit Application** that includes a description of the bedrooms to be rented; notarized signatures of the property owner (or authorized agent), resident and operator (if applicable); and a copy of the resident's Oregon Driver's License or Oregon Identification Card to confirm residency at the site. The applicant must also acknowledge that they will:
  - Occupy the residence where the short-term rental is offered for at least 270 days (nine months) during each calendar year;
  - Rent no more than two bedrooms;
  - Maintain a guest log book that includes the names and home addresses of guests, guests' license plate numbers if traveling by car, dates of stay and the room assigned to each guest;
  - Include the ASTR permit number in all advertising and post it in the bedroom(s) with the short-term rental; and
  - Register with the City of Portland Tax Revenue Bureau and submit the appropriate transient lodging taxes.
2. Provide a copy of the **Neighborhood Notice** which was mailed or delivered to all recognized organizations whose boundaries include the ASTR. For houses and duplexes, the applicant must also send the notice to all residents and owners of property abutting or across the street from the ASTR. For multi-dwelling buildings with three or more units, the applicant must also send the notice to the property manager, if there is one, and all residents and owners of the dwelling units abutting, across the hall, above and below the ASTR.
3. Meet the **Bedroom Inspection Requirements**. There are two types of inspection requirements that apply to ASTR permit approval for houses and duplexes. A BDS inspection is required for the initial permit approval and then every six years. In addition, the applicant must self-certify on renewal applications, which do not require a BDS inspection, that the bedroom to be rented has an interconnected smoke detector and is located on a floor with a functioning carbon monoxide alarm if a carbon monoxide source is present in the unit.
4. Pay the **Permit Fee**. Permits are issued for a two-year period, after which a Renewal permit must be acquired. The ASTR permit fee for houses and duplexes is \$178 when a BDS inspection is required. The renewal application fee with self-certification (no BDS inspection) is \$62. The initial permit fee for an ASTR permit in a multi-dwelling structure with 3 or more units is \$100 and \$62 for renewal applications.

## Permit Processing Time

As of Sept. 23, 2016, BDS has issued 601 Type A ASTR permits in single-dwelling structures. The table below reflects the processing time for these permits from the date of submittal to permit issuance.

Complete Application at the time of submittal and passed initial safety inspection	46 days
Complete Application at the time of submittal and failed initial safety inspection	139 days
Incomplete Application at the time of submittal and passed initial safety inspection	67 days
Incomplete Application at the time of submittal and failed initial safety inspection	117 days

- Of the 601 Type A ASTR permits in single-dwelling structures, 349 applications (58 percent) were incomplete at the time of submittal, which could include not submitting a required Oregon Driver’s License or Identification Card, missing the neighborhood notification requirement or not providing property owner’s notarized signature. As part of the ASTR permit application, applicants are required to initial that they have reviewed the BDS ASTR program information on the BDS website, meant to decrease the number of incomplete applications.
- Sixty-six applicants (11 percent) failed the initial safety inspection (because, for example, the bedroom was not a legal sleeping room or did not have an interconnected smoke detector or carbon monoxide alarm) and required a re-inspection.

## BDS Enforcement

BDS operates a complaint-based enforcement program. From September 2014 to Sept. 23, 2016, BDS responded to 324 complaints for specific properties not complying with the ASTR permit requirements. The complaints primarily focused on the fact that a short-term rental business was operating without a permit. Other complaints included issues such as too many people staying in the rental; no primary resident residing on-site and many neighborhood livability issues, such as parking/traffic, noise and excessive outdoor activity, which are not regulated by the short-term rental rules.

Once a complaint is received, BDS begins investigation. If a violation is confirmed, BDS issues a “Notice of Violation” to the property owner. The notice provides a 30-day compliance period to either discontinue the illegal business or correct the violation by complying with the ASTR regulations. If the property owner initiates the ASTR permit process within the initial 30-day compliance period, monthly code enforcement fees are suspended during the ASTR application process. If the property owner does not discontinue the operation or apply for an ASTR permit, then monthly code enforcement fees are assessed as liens against the property. This violation is a commercial violation type for which the monthly code enforcement fee is \$707 and doubles to \$1,414 on the third month for continuing violations.

BDS has begun to receive increased complaints regarding properties operating without the legally required ASTR permit as well as complaints regarding properties with issued ASTR permits, which center on allegations that the applicant is not a primary resident as documented by an Oregon Driver's License. BDS is also receiving complaints of short-term rental operations that have discontinued the operation during the initial 30-day compliance period and have resumed the illegal operation once the BDS case has been closed. Given the increase in complaints and the low ASTR permit compliance rate since Aug. 30, 2014, BDS will adopt an Administrative Rule to implement a citation-based enforcement response for ASTR violations. BDS will issue citations of up to \$1,000 per occurrence for operating ASTRs without the legally required permit. The issuance of a citation does not provide a compliance period and citation amounts will double after 15 days if not paid in full. BDS will also assess citations for ASTR operations that continue for over 30 days after BDS determines that the submitted ASTR permit application is incomplete. BDS plans to engage the various online platforms so that hosts will be notified of these enforcement changes.

BDS will continue to investigate and pursue elevated code enforcement proceedings to establish if an ASTR permit was falsely obtained due to the ASTR applicant not actually residing at the property (i.e. providing a false primary residence location to Department of Motor Vehicles) or if short-term rental operations have more than two bedrooms or five guests. These complaints can be prosecuted through a Code Hearing proceeding, which allows full discovery including issuance of subpoenas for records to support violations.

### 3. How are the transient lodging taxes through OMF's Revenue Division working?

#### Number of short-term rentals registered and paying transient lodging taxes

Since the adoption of the amendments, approximately 250 transient lodging tax accounts have been created for short-term rentals. The vast majority of these new accounts have also been brought into compliance with the Portland and Multnomah County business income tax laws.

As stated above, platform accounts include the tax remittances of multiple hosts. Platform accounts have been established for six platforms so far: Airbnb, StayAlfred, TripAdvisor, FlipKey, Vacasa and Misterbnb.

#### Process

A new host would complete the following steps to come into compliance with Revenue Division programs: transient lodgings tax and business income tax.

- 1) A host would complete a **transient lodging tax registration form**. They would then collect, report and remit transient lodging taxes to the City on a quarterly basis. If bookings are done entirely through a website that collects and remits the tax on the host's behalf, such as Airbnb, they are not required to submit quarterly transient lodging tax reports to the City.

- 2) A host would register with the City for their **City/County business income tax**. This is generally done online. When they file their federal taxes (generally April 15 of each year), they would calculate and pay their business income tax. If their gross income from all activities is under \$50,000 for the year, they would only need to remit an exemption request (as no payment would be due). Many hosts qualify for this exemption.
- 3) A host would, after obtaining an ASTR permit from BDS, **post the ASTR permit number** in the rental unit and in any advertisement or listing for the unit.

During this process, the Revenue Division works directly with the host and BDS to ensure that the ASTR permitting requirements are being met.

## **Enforcement**

### *Hosts*

Currently, there are several ways that non-compliant hosts are identified and brought into compliance with the Revenue Division programs. Revenue Division staff uses resources that are available online, including booking websites, to identify Portland hosts. This process can be time-consuming as the actual address (or full name) of the host is generally not included in the listing. These listings are compared against the transient lodging tax and business income tax databases, as well as BDS permit records. Hosts are sent letters to inform/remind them of the requirements, and if there is no response, civil penalties are assessed. To date, over 400 letters have been sent and civil penalties have been assessed against approximately 15 hosts. The Revenue Division has also initiated enforcement as a result of complaints from a community member. In addition, a number of hosts has voluntarily contacted the Revenue Division for compliance assistance prior to being contacted by the City.

### *Platforms*

In addition to individual hosts, the Revenue Division is performing enforcement actions against the actual listing websites. Ordinance No. 186985, passed in January 2015, clarified the requirements of these websites to provide the City with their hosts' contact information. Additionally, it required the websites that accept lodging payments from guests to collect, report and remit the transient lodging taxes to the City. Several listing websites have complied with the requirement to collect and remit taxes on behalf of their hosts, but none of the listing websites have complied with requests for host contact information. The Revenue Division is currently involved in a variety of enforcement activities, including legal proceedings, to bring these companies into compliance with the requirements of the code.

## Conclusion

The short-term rental zoning code amendments and program created by Portland City Council attempted to manage a new example of private enterprise based on the sharing economy, which had been largely unregulated. While the number of permits issued reflects a small portion of total short-term rental listings and locations, BDS and the Revenue Division have increased enforcement efforts.

Since the new permitting process was created two years ago, the number of ASTRs in Portland has increased significantly. Most short-term rentals take place in houses, with small percentages occurring in duplexes, accessory dwelling units or units in multi-dwelling developments, and the vast majority of applicants pass their initial safety inspection.

The City of Portland collects transient lodging taxes from several platforms, including Airbnb, with actions underway to bring other platforms into compliance. Collections from all short-term rentals have generated a significant amount of revenue for the General Fund. In addition, a portion of the City's transient lodging taxes received from short-term rentals will contribute to the Housing Investment Fund, as one strategy to address concerns about housing affordability.

To put the findings of this report in perspective, consider that there are over one-quarter of a million housing units in the City of Portland. The number of units being used for short-term rental represents a small fraction of all housing units. Other studies currently underway will examine the impacts of short-term rentals on the housing market, and the results will be made public soon.