Mt. Shasta Regular Planning Commission Meeting Agenda

Tuesday, May 19, 2020; 6:00 p.m.

Please note that this meeting is being agendized to allow Commissioners, Staff, and the public to participate in this meeting via ZOOM, pursuant to the Governor's Executive Order N-29-20. Members of the public may remotely listen to and participate in the meeting via the information below:
Please click the link below to join the meeting:
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Or join by phone:
Dial (for higher quality, dial a number based on your current location):
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Webinar ID: 824 8365 4583

Page	STANDING AGENDA ITEMS
	1. Call to Order and Flag Salute
	2. Roll call
	3. Public Comment: This time is set aside for residents to address the Planning Commission on matters listed on items **not** included on the Regular Agenda. If your comments concern an agenda item noted on the regular agenda, please address the Commission when that item is open for public comment. **Each speaker is allocated three (3) minutes to speak.** Speakers may not cede their time. Comments should be limited to matters within the jurisdiction of the City. Commission discussion or action cannot be taken on items not listed on the agenda other than to receive comments. If you have documents to present to members of Commission, please provide a minimum of seven (8) copies to the note taker.
	4. Meeting Minutes a. Approval of Regular Planning Commission Meeting Minutes for February 18, 2020
Pg 6	**5. Mt. Shasta Reopening: Planning Topics** Background: COVID-19 is going to change how we conduct ourselves as a community. This agenda item will discuss trends in the planning sector, take input on possible options, and result in discuss items for City Council consideration. Commission Action: Give Direction
Pg 34	**6. Short-term Rental Regulations** Background: The City of Mt. Shasta like most cities have a growing short-term rental (STR) market that caters to tourism. This item will explore options for regulating STR in the City of Mt. Shasta Commission Action: Give direction on potential regulations

	7. General Plan Update Background: COVID19 has shift how we will approach the General Plan update. This item will review the process for reviewing the draft documents.
	8. Commission and Staff Comment
	9. Future Agenda Items – Future items are topics brought to the Planning Commission from a public petition, city staff, Planning Commission member(s), and City Council for review and action. All dates refer to first introductions to the Planning Commission and can be altered due to time and priority level. **Items that are bolded correlate with the General Plan Revision Process** a. Golden Eagle Charter School Parcel Map, Conditional Use Permit, and Architectural Design – TBD
	10. Adjourn – Next meeting scheduled for Tuesday, June 16, 2020 at 6:00pm Availability of Public Records: All public records related to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at City Hall located at 305 North Mt. Shasta Blvd., Mt. Shasta, CA at the same time the public records are distributed or made available to the members of the legislative body. Agenda related writings or documents provided to a majority of the legislative body after distribution of the Agenda packet will be available for public review within a separate binder at City Hall at the same time as they are made available to the members of the legislative body. The City of Mt. Shasta does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or provision of services. In compliance with the Americans with Disabilities Act, persons requiring accommodations for a disability at a public meeting should notify the Deputy City Clerk at least 48 hours prior to the meeting at (530) 926-7510 in order to allow the City sufficient time to make reasonable arrangements to accommodate participation in this meeting.

Any writings or documents provided to a majority of the Planning Commission after distribution of the meeting Agenda Packet regarding any open session item on this agenda will be made available for public inspection during normal business hours within the binder entitled "Agenda Packet for Front Counter" located at City Hall at the desk on the right-hand side inside the front door.

Projects heard at this Planning Commission meeting may be subject to appeal. Please contact the Planning Department for information. Appeals must be submitted to the City Clerk's office together with the appeal fee. If you challenge the environmental review of the project proposal in court, you may be limited to raising only those issues raised at the public hearing or in written correspondence delivered to the Planning Department on, or prior to, closing of the public comment period.

Mt. Shasta Regular Planning Commission Meeting Minutes

City Park Upper Lodge 1315 Nixon Rd.
Mt. Shasta Tuesday, January 21, 2020; 6:00 p.m.

Item	STANDING AGENDA ITEMS

1. Call to Order and Flag Salute – Chair Findling called to order at 6:01PM

2. Roll call

Present: Chair Findling and Commissioners Higuera, Beck, Saryon, and Pardee
Absent: Commissioners Kirby and McDowell

3. Public Comment:

Johanna Altorfer: Discussion on December Meeting Minutes.

4. Meeting Minutes:

a. Approval of Regular Planning Commission Meeting Minutes for December 17, 2019

Minor spelling correction of "low lighting" and removal of public comment requested by Johanna Altorfer.

COMMISSION ACTION: Motion to approve with corrections
MOVED: Commissioner Higuera
SECOND: Commissioner Saryon
AYES: Chair Findling and Commissioners Saryon, Pardee, and Higuera
NAYS:
ABSTAIN: Commissioner Beck
ABSENT: Commissioner McDowell and Kirby

b. Approval of Regular Planning Commission Meeting Minutes for January 21, 2020

Typo on Item 9 Future Agenda Items "Bush Street" should be "Brush"

COMMISSION ACTION: Motion to approve with corrections
MOVED: Commissioner Beck
SECOND: Commissioner Saryon
AYES: Chair Findling and Commissioners Saryon, Pardee, and Beck
NAYS:
ABSTAIN: Commissioner Higuera
ABSENT: Commissioner McDowell and Kirby

Chair Findling moves Item 5: Planning Commission Chair and Vice-Chair Selection 2020 Term to Item 7

5. 2020.01 Brush Street Variance Application: Public Hearing

City Staff: Presentation of Staff Report

Clarifying questions on safety access, public comment received, alley maintenance, and snow removal.

Public Hearing Opened at 6:28 PM

Jim Mathwig, Project Applicant: Summary of request. Presentation of second option and amicable to compromise.
Megan Tracey: Neighbor in favor of project.

Public Hearing Closed at 6:29 PM

Commissioner Pardee: Discussion on setbacks and in favor of granting variance.

Commissioner Saryon: In favor of reduced setback on northern lot line.

Commissioner Higuera: Discussion on variance and support for compromise on setbacks.

Chair Findling: Discussion on findings. Can make findings A, B, and E based on lot orientation and proximity to Union Pacific. Lot is mainly landlocked and variance request would not impact neighboring lots.

COMMISSION ACTION: Motion to approve Class 5 exemption from CEQA
MOVED: Commissioner Higuera
SECOND: Commissioner Saryon
AYES: Chair Findling and Commissioners Saryon, Higuera, Pardee, and Beck
NAYS:
ABSTAIN:
ABSENT: Commissioner McDowell and Kirby

COMMISSION ACTION: Motion to approve variance application to consider the west lot line as the front of the lot and modify the setbacks as follows: Northside Setback: 10 feet, Eastside Setback: 10 feet, Southside Setback: 12 feet, Westside Setback: 20 feet

MOVED: Commissioner Higuera
SECOND: Commissioner Beck
AYES: Chair Findling and Commissioners Saryon, Higuera, Pardee, and Beck
NAYS:
ABSTAIN:
ABSENT: Commissioner McDowell and Kirby

6. Accessory Dwelling Unit Ordinance Amendments

City Staff: Presentation of Staff Report

Clarifying Questions

Public Comment: None

COMMISSION ACTION: Motion to approve amendments to Chapter 18.22 as presented
MOVED: Commissioner Pardee
SECOND: Commissioner Saryon
AYES: Chair Findling and Commissioners Saryon, Higuera, Pardee, and Beck
NAYS:
ABSTAIN:
ABSENT: Commissioner McDowell and Kirby

7. Planning Commission Chair and Vice-Chair Selection 2020 Term

COMMISSION ACTION: Motion to appoint Melanie Findling as Chair and Paul Beck as Vice-Chair
MOVED: Commissioner Higuera
SECOND: Commissioner Saryon
AYES: Chair Findling and Commissioners Saryon, Higuera, Pardee, and Beck
NAYS:
ABSTAIN:
ABSENT: Commissioner McDowell and Kirby

8. Commission and Staff Comments

Commissioner Beck: Questions and Discussion on Eugene Hospital property and Nest.

Commissioner Saryon: Question on sewer plant funding and project status.

City Staff: Update on Farmer's Market location voting. Update on previous meeting questions. Comment on Outdoor Recreation event. Announcement of Mt. Shasta participation at State Cannabis Control Summit.

9. Future Agenda Items – Future items are topics brought to the Planning Commission from a public petition, city staff, Planning Commission member(s), and City Council for review and action. All dates refer to first introductions to the Planning Commission and can be altered due to time and priority level. **Items that are bolded correlate with the General Plan Revision Process**

a. Short-Term Rental Ordinance – 3/17/2020
b. Midtown Trail Discussion – 3/17/2020
c. Graphic Ordinance: Projecting Graphic Discussion – 3/17/2020
d. Outdoor Recreation Forum – 5/28/2020
e. Golden Eagle Charter School Parcel Map, Conditional Use Permit, and Architectural Design – TBD
f. Library Expansion Project: Rotary Trail Re-Route – TBD

10. Adjourn – Adjourned at 7:33 PM

Agenda Item # 5

Staff Report

Meeting Date: May 19, 2020

To: Planning Commission

From: Planning Department

Subject: Reopening Mt. Shasta: Planning Topics

X	Regular
	Consent
	Closed
	Presentation

Recommended Action:

Give Direction

Background:

The COVID-19 pandemic has changed the way that we support the community. Public health, business sustainability, and community success hinges on the City's ability to meet the new challenges of a post-COVID world. This item will be an open discussion on planning items to help the City reopen in a safe and productive fashion. Transportation and Economic Recovery are two of the main areas covered in the attached Plannign articles for review.

Attachments:

1. **American Planning Association Articles**

APA Learn
Planning education from A(ffordable housing) to Z(oning)
(https://www5.smartadserver.com/click?imgid=24936779&insid=9237096&pgid=584791&ckid=2473241542457982669&uii=378688017107078152&acd=1589560413770&pubid=24&tmstp=5369958952&tgt=ways-planners-can-help-local-business-in-a-crisis%2f&go=https%3a%2f%2flearn.planning.org%2fcatalog%2f)

Six Ways Planners Can Help Local Business in a Crisis

Necessary public health restrictions in response to the coronavirus (COVID-19) pandemic have resulted in immediate, severe impacts on businesses in communities large and small.

According to an analysis conducted by the Brookings Institution (https://www.brookings.edu/research/how-local-leaders-can-stave-off-a-small-business-collapse-from-covid-19/), 54 percent of small businesses employing a total of 47.8 million people are at immediate or near-term risk of closure. The scale of the problem is so large as to feel impossible to tackle.

Although the problem seems insurmountable, most of the challenges facing communities fit into one of two categories: ***response:*** those requiring immediate or near-immediate action, and ***recovery:*** those requiring a longer-term outlook and solutions.

Here we focus on response and look at some strategies that planners can use now to address immediate economic challenges and help communities weather the storm.

1. Ask About Your Business Community's Needs

Use surveys, virtual town halls (https://communityimpact.com/houston/bay-area/coronavirus/2020/04/09/government-galveston-county-officials-provide-coronavirus-updates-during-small-business-virtual-town-halls/), and one-on-one outreach to ask business owners about their immediate pain points and what would be most helpful to them in the near term. Use this feedback to inform your next steps.

2. Provide Guidance and Information

Work with your small business or economic development authority, chambers of commerce, and other local organizations to develop and distribute information and technical guidance.

This can include help understanding and taking advantage of state and federal stimulus funding, assistance working with lenders, and cashflow assessment and other technical assistance to help business owners develop a plan to stay afloat.

One example is the City of Milwaukee's COVID-19 Resources for Businesses (https://city.milwaukee.gov/DCD/BusinessToolbox/COVID-19-Resources.htm). This comprehensive webpage lists resources from the local, state, and federal (https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources) level, as well as toolkits, grants, and other assistance from non-profits and other organizations.

> Ensure that your resources are inclusive by translating them into multiple languages and offering telephone-based support in addition to online information.

Identify the most vulnerable segments of your local economy and focus your one-on-one outreach on those areas and populations.

3. Offer Direct Financial Support

Ultimately, the challenge for most businesses comes down to severely reduced cash flow. By providing or communicating about microgrant and microloan opportunities, you can ensure businesses can maintain lease, utility, and some level of payroll obligations until the public health restrictions are lifted.

Communities like Amherst, Massachusetts (https://www.masslive.com/coronavirus/2020/04/coronavirus-and-business-amherst-bid-hopes-to-raise-500000-to-support-downtown-businesses.html); Berkeley, California (https://berkeleyrelieffund.org/); Fort Worth, Texas (https://www.fox4news.com/news/fort-worth-offering-2-million-in-microloans-to-small-businesses-impacted-by-covid-19-pandemic); and Glenwood, Colorado (https://www.postindependent.com/news/glenwood-business-community-fights-covid-19-with-innovative-ideas/), are leveraging existing funds and finding new sources to provide their business communities with the cash influx they need.

4. Adjust Your Policies and Processes

As businesses shift the way they operate, do what you can to support these new approaches. Being flexible with zoning and other policies by providing temporary loading zones (https://detroitmi.gov/departments/department-public-works/restaurant-carryout-zone) for carryout pickups, allowing to-go alcohol sales (https://www.ksdk.com/article/news/health/coronavirus/missouri-temporarily-waiving-alcohol-restrictions-businesses-restaurants/63-ad40df71-ef1b-46cd-bb54-81fbc3c12468), and keeping your permitting and inspection processes (https://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/business/COVID19/DNSPermitandDevelopmentChangesRelease.pdf) moving (as much as you can safely allow) will support those businesses that have found innovative ways to remain in operation.

5. Promote Local Businesses

Use the power of your expertise and communications reach to help businesses get the word out and encourage safe patronage of their services.

Help markets or individual retailers set up virtual portals (https://abc7chicago.com/farmers-market-chicago-virtual-covid-coronavirus/6079429/) for online sales. Provide residents a way to discover open businesses (http://www.degc.org/local-business-support-for-covid-19/) and learn about adjusted hours — and make it easy for businesses to add themselves to these lists.

6. It's About More Than Restaurants and Retail

While some small manufacturers may still be running because they provide essential services or materials, others are shifting to manufacturing personal protection equipment and other needed equipment (https://www.uschamber.com/series/above-the-fold/how-10-small-businesses-are-fighting-coronavirus-creative-ways) for health care and other front-line workers. Consider providing technical assistance or microgrants to help small manufacturers make that switch.

Whether your local manufacturers are changing gears or just hunkering down, connect them with resources specific to their needs, like the National Institute of Standards and Technology Manufacturing Extension Partnership (https://www.nist.gov/mep) (NIST MEP).

What's Next?

There is no question that the coronavirus pandemic will have a lasting impact on communities. Businesses will close — some permanently — land use patterns may shift, behaviors will change, and planning will play a critical role in helping communities adjust and adapt to these long-term changes.

By responding to immediate community needs to help businesses survive the current disruptions, planners can help lay the groundwork for a faster and stronger recovery.

Dive Deeper with NPC20 @ Home

Want to learn more about what planners can be doing to help their communities' economy recover? Join us for NPC20 @ Home (/conference/digital/), a digital conference experience featuring three days of sessions on topics relevant to today's environment. Registration includes the live experience April 29-May 1 and one year of access to recordings of sessions like:

Live-Work-Play-Dispatch: Designing for E-Commerce (/events/activity/9199186/)

Friday Opening Keynote: Finding the Way Forward for Planning and Communities (/events/activity/9199192/)

Economic Impacts of COVID-19 and Planning for Inclusive Recovery (/events/activity/9199233/)

Top image: *Getty Images photo.*

ABOUT THE AUTHOR

Karen Kazmierczak is the senior marketing manager at APA.

APRIL 24, 2020

By Karen Kazmierczak

Tags: COVID-19, (/blog/?tags=1982) Economic Development, (/blog/?tags=91) Health, (/blog/?tags=108) Planning Methods and Tools (/blog/?tags=103)

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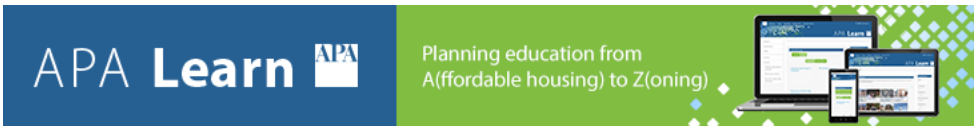

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Planning May 2020

IN THIS ISSUE:

Economic Development: COVID-19 Impacts on Tourism

ECONOMIC DEVELOPMENT

Tourism Towns at a Crossroads

Could local economies see a post-pandemic boost? Or are they previewing COVID-19's financial free-fall?

By Tim Henderson

The new coronavirus will produce economic crises in the states and cities most dependent on tourism, with lower tax revenue resulting from empty hotel rooms and canceled trips, conventions, and events. However, analysts predict those economies may improve dramatically in several months if tourist facilities can hang on until the pandemic subsides.

The states most affected will be Nevada and Hawaii, which have by far the highest share of tourism in their economies, according to a *Stateline* analysis of federal Bureau of Economic Analysis figures on state-level economic output. Hawaii already is projecting a $300 million hit to tax collections and a loss of 6,000 jobs in the service industry because of a decline in visitors.

Hawaii's tourism hit: An estimated $300 million. Photo by Wildroze/iStock/Getty Images Plus.

State-level figures can't capture everything counted as part of the tourism economy, but *Stateline* captured most of the more than $1 trillion that tourism contributed to the U.S. economy in 2018 as identified by the National Travel and Tourism Office.

About 16 percent of Nevada's economy came from tourism in 2018, almost $28 billion, and Hawaii was at 10 percent and about $10 billion. Other states that ranked high were Vermont, Florida, and Tennessee at about six percent.

Based on similar crises in Mexico and Thailand after SARS and H1N1 epidemics, things may start looking up after six to nine months, says Jan Freitag, a hotel industry analyst in Nashville. Demand for hotel rooms quickly dropped by up to 50 percent during those outbreaks but then increased. The H1N1 crisis hit Mexico in 2009 and the SARS outbreak in Thailand was in 2003.

"We're going to see severe, depression-like conditions, but the impact will be relatively short-lived — if you can call six to nine months short," Freitag says.

Conventions and large events such as the canceled South by Southwest festival will undoubtedly take longer to return to typical levels because of the organizers' burden of responsibility for the health of so many guests. But individuals feeling cooped up will start traveling sooner, Freitag predicts.

"People may not want to fly, but they might say, 'Hey, I can drive,'" Freitag says. In 2001, after 9/11, tourist areas in driving distance of large cities, like San Diego, saw more business.

In the meantime, tourist areas will feel the pinch as travel continues to contract.

"Tourism services are perishable, so these opportunities will be forgone for the states that depend on these industries," says Tarik Dogru, assistant professor of hospitality management at Florida State University.

Tim Henderson is a staff writer for Stateline. *This story was reprinted with permission from* Stateline, *an initiative of The Pew Charitable Trusts.*

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Reopening Retail Districts Safely

States and local jurisdictions across the country face imminent, although ever-changing, planned reopening dates.

Regardless of where your state stands, business will not resume as usual. Communities need to gear up for continued social distancing to prevent coronavirus transmission and take steps to support long-term property stabilization (https://www.communityprogress.net/blog/local-government-considerations-covid19?eType=EmailBlastContent&eId=8ac77967-0e3a-48e9-b3fa-8dbd10def316).

To date, independent retailers struggle to receive federal financial aid (https://www.cnn.com/2020/04/24/business/ruth-chris-jpmorgan-small-business-ppp/index.html) needed to prevent them from closing their doors forever. This situation — particularly for underserved communities of color hit hardest by COVID-19 — underscores why planners need to help design systems now that work for at-risk entrepreneurs and the customers they serve.

Looking beyond steps that planners can take now (/blog/9199330/six-ways-planners-can-help-local-business-in-a-crisis/), it is time to design safe conditions for retailer and customer reentry. &Access offers a guidebook (https://andaccess.com/back-to-brick-mortar) to help businesses reopen safely; below are some of the suggestions that planners can help implement.

STEP 1: ESTABLISH AND COMMUNICATE REOPENING PROTOCOLS

Begin communicating with your local public health officials to develop and communicate reopening protocols, including occupancy guidelines, required permits or testing, and other essential information needed to ensure a safe environment.

Additionally, local governments are home to a wealth of underused business data.

> Pull out business registrations to contact retailers and restaurateurs, sharing that the decision to reopen is up to public health officials, lease terms, and ultimately, them.

Owners must understand their responsibility in maintaining a safe environment.

Maintain a database of businesses opened and closed (temporarily or permanently). Contact all companies regularly to update their status and share resources as they become available.

STEP 2: CREATE A SAFE RIGHT-OF-WAY

The six-foot social distancing protocol is difficult or impossible for retailers with smaller footprints to maintain, as witnessed at currently open essential businesses. Before states roll back stay-at-home protocols, it is important that planners and others at the local level revisit and amend retail district parking and sidewalk rules to encourage safe practices.

> Support efforts already being made by business owners to designate safe social distancing zones outside of retail establishments by creating guidance for signs and uniform marking systems.

Owners can mark lanes on sidewalks for walking and queueing using washable sidewalk spray paint, duct tape, and traffic cones. If your community's sidewalks are not wide enough, planners may be able to support safe mobility and queueing practices by marking off a portion of the street as usable public space.

A slow reopening of different kinds of spaces allows public health officials to monitor the impact of increased socializing. At first, communities may restrict the use of outdoor patio spaces for gathering and seating. Instead, retailers may use these areas as queueing spaces. As restrictions ease, look into how retailers may be able to use both private and public spaces temporarily for business activity and safe queueing.

For example, Tampa, Florida, has created a restaurant and retail recovery program (https://www.tampagov.net/emergency-management/LiftUpLocal) that includes allowing businesses to expand into private outdoor areas, parking lots, public rights-of-way, and parklets.

Consider requiring on-street parking spaces for contactless curbside delivery, but only if another parking strategy exists for customers needing to exit their vehicles. Contact nearby parking lot owners to arrange a shared free or reduced-cost solution.

Determine whether regulations should allow sidewalk A-frame signage. Although it serves as a clear indicator of business operations, it might clutter the sidewalks of dense retail environments, creating accessibility issues and pinch-points where social distancing guidelines falter.

> Consider implementing a complementary signage program that leverages storefront windows and light poles to communicate business hours and reinforce public health guidelines.

Business owners with limited staff might struggle to maintain occupancy limits and could benefit from support monitoring store's entrances — an internship program similar to the "social distancing ambassadors (https://www.chicagotribune.com/columns/mary-schmich/ct-met-schmich-seattle-chicago-parks-20200425-wrqqhhmtrndb3n4wb6tuezrafa-story.html)" Seattle has hired to encourage compliance in city parks could serve these businesses.

Finally, planners have an opportunity to lead equitably by proactively communicating public space options with business owners, especially retailers in the hardest-hit areas and owners in districts that rarely take advantage of public space permitting processes.

STEP 3: CONTINUE TO PROVIDE FINANCIAL SUPPORT

Planning departments typically control limited public funding, but have a unique opportunity to leverage Community Development Block Grants (CDBG) (https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19) and other federal funding sources like Economic Adjustment Grants to create cost savings for businesses in the coming years.

Potential solutions include reducing or eliminating permit and review fees and local sales and property taxes, or implementing a purchasing system that benefits small retail and restaurant businesses similar to construction procurement programs.

MORE ABOUT CARES ACT AID

Make sure you are equipped with the information you need to help your community obtain and distribute federal aid. For more information on stimulus funding and how to access it, read the APA blog post "How to Help Your Community Access CARES Act Aid (/blog/9199451/how-to-help-your-community-access-cares-act-aid/)."

Top image: *Shoppers wait in line to enter a Trader Joe's in Washington, D.C. Photo by Bobby Boone.*

ABOUT THE AUTHOR

Bobby Boone, AICP, is the founder and chief strategist at &Access, a consulting practice with a niche at the crossroads of retail real estate, entrepreneurship, and underserved communities. &Access is soliciting additional ideas and resources (https://andaccess.com/back-to-brick-mortar-content) to sustain tenants over the long term and maintain the vibrancy of retail corridors.

MAY 11, 2020

By Bobby Boone, AICP

Tags: COVID-19, (/blog/?tags=1982) Commercial Land Use, (/blog/?tags=1219) Health (/blog/?tags=108)

< Previous (/blog/9200012/will-congress-deliver-relief-communities-need/) **Next > (/blog/9200079/7-ways-to-respond-to-regulation-rollbacks/)**

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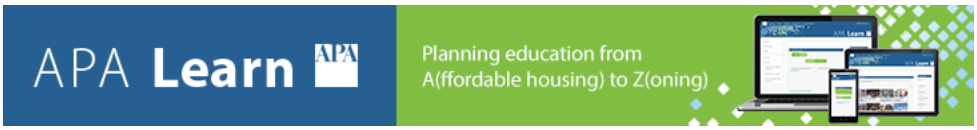

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Planning April 2020

IN THIS ISSUE:

Primed for Deliveries

Primed for Deliveries

Rapidly changing e-commerce trends and technologies mean big changes for land-use and infrastructure planning.

A delivery driver organizes a variety of e-commerce orders — ranging from food kits to pet supplies — on a New York City sidewalk. Photo by Ablokhin/iStock Editorial/Getty Images Plus.

A Note from the Editor

If e-commerce has always been fast-moving and ever-changing, never has that been more clear than during the COVID-19 pandemic.

With people staying at home all day, most stores and businesses temporarily shuttered, and restaurants closed to dine-in patrons, many Americans are turning to e-commerce and contactless delivery for groceries and other goods, including those who have not typically been online shoppers.

Figures on online sales are hard to come by in these early days, and what the long-term impacts will be on the economy, the built environment, and consumer behaviors is impossible to say. But *Planning* magazine talked to this article's author, Lisa Nisenson, in late March, and she offered some food for thought.

Nisenson has noted some trends accelerating and shifting already, with more to come. Look for small autonomous vehicles, like deliverybots, being used for totally contactless deliveries, aerial drones dropping medical and other supplies — especially in suburban and rural areas — and even robots designed for e-commerce being redirected toward patient care, like taking temperatures and delivering meals, or sanitizing transit vehicles.

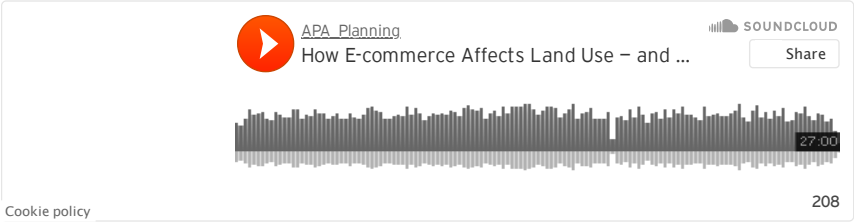
For planners and local governments, the author offers a few pieces of advice.

First, when it comes to permitting new technologies during the pandemic, be careful to make those permits time-limited or associated specifically with an emergency declaration, so that you can make thoughtful decisions that carefully consider long-term impacts later.

Second, be alert to how citizens' views toward privacy might shift. Overseas, closely monitoring people infected with or who have recovered from COVID-19 has helped to control the spread. If that becomes widespread in the U.S., that raises questions about data collection and security, smart cities technologies, and more.

Finally, Nisenson says that local governments will be looking for new revenue streams, to offset losses related to the pandemic. E-commerce technologies may open up some new ideas, including local governments leasing space (or airspace) in the public way for autonomous vehicles, if state law allows.

Listen to the full interview with Lisa Nisenson:



By Lisa Nisenson

Once regarded primarily as a segment of transportation, freight and deliveries are increasingly commanding attention from a wider range of planners, government officials, and policy makers. The rapid rise in e-commerce deliveries and online food and grocery orders is driving many cities to develop a range of strategies to control curbside congestion. E-commerce impacts, however, extend far beyond the curb.

As stores race to reduce order fulfillment time, consumers expect quicker and quicker turnarounds. Over the past six years, Amazon has been quietly working toward a goal of delivering online product orders within 30 minutes.

DEEP DIVES

Terms and Trends to Watch

Get definitions of the new transportation terms.

Allons-y! Land-Use Plans for Freight in Paris

The freight concepts captured in a number of land-use plans have found notable success in Paris.

That goal won't be realized by increasing the speed of warehouse workers and delivery trucks. Instead, retailers like Amazon envision an entirely new supply chain powered by state-of-the-art technologies and automated delivery systems. Transportation technology companies are responding to the opportunity with new product lines like automated delivery vans, delivery robots, and aerial delivery drones.

Early technology pilot programs provide a glimpse into this delivery future. Starship Technologies and George Mason University sponsored a pilot of 25 delivery robots on an 800-acre Virginia campus. After collecting two months of data, researchers found a surprising trend: an uptick in students ordering breakfast. **1**

1. Deliverybots (click to expand)

Starship Enterprise photo taken at Northern Arizona University.

Starship Technologies says George Mason University in Fairfax, Virginia, is the first campus in the country to **incorporate robots into its student dining plan.** The robots — which travel four mph and make food deliveries in 15 minutes or less — can carry up to 20 pounds and are opened using a delivery code.

In December 2019, Plus.ai completed the first coast-to-coast freight run in an autonomous truck to deliver butter. **2**

2. Self-Driving Coast to Coast

Photo courtesy Plus.ai.

The vehicle completed the **2,800-mile journey in under three days,** carrying a refrigerated truckload of Land O' Lakes butter from a distribution hub in Tulare, California, to a hub in Quakertown, Pennsylvania. A human driver took the wheel when the truck left the highway, but otherwise the journey was completed autonomously. Plus.ai is focused on its new safety testing program this year throughout the U.S.

In October 2019, UPS gained regulatory approval for commercial drone deliveries after a successful pilot with Wake Medical Center in North Carolina flying blood samples. **3**

3. Delivery Drones

Before it started working with UPS, WakeMed Health used couriers to carry blood samples from its hospital to its main lab. But UPS and WakeMed were able to **cut down delivery time to between five and 10 minutes** with a Matternet drone carrying the samples. The drone flies along a predetermined route to a fixed landing pad at the hospital.

And in February, the U.S. Department of Transportation approved a regulatory exemption that allows Nuro, an autonomous delivery vehicle manufacturer, to begin public road testing and to prepare for deliveries to customers' homes.

For many retailers and customers, these advancements can't happen quickly enough. But the fanfare surrounding delivery pilot projects overlooks an important success factor: disruptive new technologies, deployed at scale, will require fundamental shifts in how communities and regions manage land uses and infrastructure.

Changes ahead

Traditionally, a local planner's role in commerce and freight has involved reviewing warehouse zoning, traffic patterns, and loading in public rights-of-way. At a more granular level, responsibilities have included loading zone design, local circulation, and signage that specifies delivery hours. For curbside congestion, planners collaborate with parking enforcement and the business community to assess and enact solutions.

Over the past 20 years, planners have worked with small retailers and downtown districts to help them compete with big box retailers and online merchants. Those same big box retailers are now having to address competition from online businesses, both externally with competitors and internally with their own online services. A good example of a retailer's response is Walmart, which launched Walmart Reimagined to depict potential new uses for empty parking spaces surrounding its stores. **4**

4. Parking Lots

Photo courtesy Walmart.

The prospect of fewer customers' cars led Walmart to create an infill strategy that **creates destinations from otherwise empty parking spaces.** The company hopes that providing entertainment, dining, and special events will also lure customers into the store for shopping and services.

This infill strategy would make Walmart stores a destination by adding dining, event venues, and store pickup of items ordered.

Growth in the e-commerce sector shows no signs of slowing down any time soon. UBS projects that the online share of retail sales in the U.S. will rise to 25 percent (from 16 percent today) by 2026. So it's little wonder stakeholders at the regional, local, and even building scales are increasingly recognizing the need to understand and plan for shifts in freight, logistics, and deliveries.

The most immediate implications for planners fall within the interplay of vehicle technology, warehouse and distribution infrastructure, and traffic impacts — along with some wildcards that could be coming in the near future.

Already the largest internet-based retailer in the U.S., Amazon is moving fulfillment centers closer to consumers and envisions new transportation modes to get the orders to them. Photo by Jillian Cain.

Vehicle technologies

Retailers and shipping companies are experimenting with new delivery vehicle types, from electric bikes and scooters to aerial drones and everything in between.

E-scooters and e-bikes offer compact, electric-assist delivery vehicles that can navigate crowded city streets. UPS has teamed with the Pasadena-based company Urb-E for a small scooter-trailer combination that can haul a 350-pound load and collapse to the size of a carry-on bag. In December 2019, New York City announced a six-month pilot allowing e-cargo bikes to park in commercial delivery zones. **5**

5. Cargo Bikes

Photo by Gabby Jones/The *New York Times.*

As part of a pilot program, as many as 100 pedal-assisted cargo bikes operated by Amazon, UPS, and DHL will be allowed to park in hundreds of existing commercial loading areas that are typically reserved for trucks and vans in the most congested parts of Manhattan. **They can also use the city's growing network of bike lanes.**

The goal is to reduce congestion during peak delivery hours in a city where 1.5 million packages are delivered each day. For planners, e-bikes are far less imposing than larger delivery vans on city streets, although they will still compete for space in curbside transit and bicycle lanes. Because of their smaller capacity, however, e-bikes won't completely replace larger delivery vans and trucks.

Automated delivery modes introduce additional layers of complexity. In addition to working with information technology colleagues on data and digital security measures, planners will need to work with roadway designers and public works departments to consider infrastructure changes needed to support automated vehicle movement and navigation. Some of the core technologies such as cameras, sensors, and radar for reading the road will be located on or within the vehicles, but supporting infrastructure outside the vehicles will be needed, including roadside sensors that communicate alerts to vehicles, machine-readable signs, and lane markings.

Operationally, each automated vehicle type comes with its own set of benefits, concerns, and requirements. For example, zero-occupancy vehicles like Nuro's R2 will take up road space, traveling at low speeds (up to 25 mph). **6**

6. Self-Driving Delivery Vehicle

Photo courtesy Nuro.

The self-driving grocery delivery vehicle Nuro R2 has brought groceries to Kroger customers in an area of Scottsdale, Arizona, since 2018. Now it's **offering its service in several Houston zip codes.** Customers order using the Kroger app and get a text message when their delivery is on its way.

While the vehicles are narrower than typical automobiles, they will vie for road space with a growing set of mixed-motorized vehicles.

Aerial drones introduce planning for airspace, a new and largely untested infrastructure layer. Whether drone deliveries in urban areas will be feasible is still a big question on several fronts, particularly pedestrian safety, privacy, interference with emergency response, and noise.

In rural areas, aerial drones show promise in delivering medicine and supplies without roads or when speed is essential. Drones could also lessen deliveries' carbon footprint in suburban areas. Imagine a delivery truck parking once within a large subdivision and using aerial drones to dispatch packages. From a planning perspective, this could usher in new subdivision designs with low-impact flight paths.

For aerial deliveries, planners will need to translate and align layers of federal, state, and local regulations. For instance, local governments often have existing regulations for small unmanned aircraft, such as model planes and drones used now by hobbyists. But with growth in commercial applications, there has been little discussion on what happens when aerial drone delivery expands to multiple companies. It's easy to observe operations during individual small pilots, but more discussion is needed about air traffic scenarios at scale in urban areas.

Deliverybots are also largely untested outside of confined courses and campuses. They pose unique challenges in larger urban settings, where planners are already trying to manage intense competition for space on sidewalks and along curbsides. (See "Curb Control (/planning/2019/jun/curbcontrol/)," June 2019.) Cities are raising concerns on crowding and how audible alerts will affect other sidewalk users' experience. In November 2019, New York City issued a cease-and-desist letter to FedEx for an

unannounced demonstration of its sidewalk delivery bots. The city's letter cited several violations of vehicle and traffic laws, including that motor vehicles are prohibited on sidewalks unless granted a special exemption and registration.

Also at issue is the fact that wheeled deliverybots typically cannot solve the last 50 feet problem of accessing a porch or doorstep. As such, companies are working on stair-climbing models **7** and delivery droids with articulated appendages.

7. Stair-Climbing Deliverybots

Courtesy FedEx.

FedEx's bots can navigate unpaved surfaces, curbs, and even steps during the final leg of the delivery. The **bots have machine-learning algorithms** that help them learn to detect and avoid obstacles.

Warehousing and distribution

Once relegated to remote industrial parks, warehousing is rapidly changing as e-commerce fulfillment companies seek locations closer to consumers. This reversal is challenging how planners, companies, and real estate investors define "highest and best" use, particularly in urban areas.

As one example, Amazon is buying and demolishing malls, **8** converting space from retail use to warehousing and distribution.

8. Mall Impacts

Photo by Nicholas Eckhart.

At its peak, Euclid Square Mall in Euclid, Ohio, was **home to 96 stores and services.** A year after it closed in 2016, Amazon announced plans to build a fulfillment center on the site. The company also built another center on the site of the former Randall Park Mall, 20 miles away.

Cities and suburbs often identify many of these sites for mixed-use redevelopment and employment centers. But to get ahead of this potentially unwanted trend and prevent warehouses locating where they were never intended, cities should quickly review and reinforce mixed-use zoning and planning requirements or investigate new codes and overlay districts to manage warehouse locations and supporting infrastructure.

A second code-related issue relates to e-commerce trends affecting existing retailers. According to Target's CEO Brian Cornell, delivering an online order from an existing store rather than a regional warehouse cuts cost by 40 percent. Handling costs are further reduced when customers "buy online pick up in store" (or BOPIS).

With the lines among retail outlet, warehouse, and distribution hub blurring, it's time for planners to revisit traditional assumptions on trip generation, parking, and circulation. In 2018, the Federal Highway Administration studied the rapid and interlinked changes associated with e-commerce, freight, and land use as they relate to travel demand modeling. While the implications for planning are still unfolding, planners can expect changes to rigid use categories and associated trip generation rates.

Grocers are also reinventing store spaces to meet increasing demand for both grocery deliveries and in-store order pick-up. According to Rick Stein, AICP, principal of the Urban Decision Group and recent *Zoning Practice* (/publications/document/9192533/) author, grocery and general merchandise stores can be easily rearranged to dedicate less space to aisles and more space to storage. Companies are using technology combinations to help rekey their business models. "There are automated fulfillment systems — like Ocado, which is used by Kroger — that could be fit into the reconfigured space. When coupled with [autonomous delivery services like] Nuro and online ordering, companies can effectively automate the entire fulfillment process," Stein says. Site plans built around peak shopping hours, limited freight deliveries, and the number of warehouse workers no longer represent the new era of fulfillment.

The research firm Capgemini identified four designs grocers are using to fulfill two-hour and same-day deliveries. **9**

9. Delivery Window

Photo by Krblokhin/iStock Editorial/Getty Images Plus.

When a customer places an online grocery order, their food might come from a warehouse, a retail storefront, a retail store's back room, or a "dark store." **The best location depends on the delivery window** — two-hour or same day — and the proximity to the final delivery destination.

Most are alterations to traditional building formats; however, there is a new category of "dark stores" to hasten fulfillment. Dark stores are physical storefronts that have essentially the same layout as the retail outlet, but they are only open to staff who are fulfilling online orders, not the public. While these stores contribute to the local economy, they do little for the street life often associated with street-facing grocery stores. Nico Larco, professor and director of the University of Oregon's Urbanism Next Center, refers to the proliferation of small distribution hubs like these as the atomization of fulfillment services, as retailers seek to spread multiple locations closer to customers.

Third, planners should pay attention to reuse of existing structures for warehousing. New third-party logistics companies that handle distribution for multiple companies are seeking out urban and suburban spaces like abandoned mills and parking structures that facilitate large automated fulfillment equipment. For example, the real estate management firm JLL is converting spaces in the underground Millennium Parking Garage in Chicago into an urban fulfillment center.

Forecasting, planning, and site design are ripe for better modeling and architectural innovation. Planners have an important role to play to ensure the placement of logistics hubs and the decisions around how those deliveries are made align with transportation, economic, and sustainability goals.

London provides a cautionary tale. While the city's renowned congestion charge has reduced single car use from 50 to 37 percent since 2003, delivery van trips increased 25 percent over the past decade, diminishing sought-after congestion relief.

There are also signs that e-commerce outlets are seeking ways to bypass physical distribution centers altogether by exploiting autonomous technologies. Amazon is famously secretive on its expansion plans; however, one can gain clues contained in the company's patent applications. In November 2019, Amazon filed a patent for using intermodal carriers and aerial drones for demand-responsive distribution. **10**

10. Amazon Patent

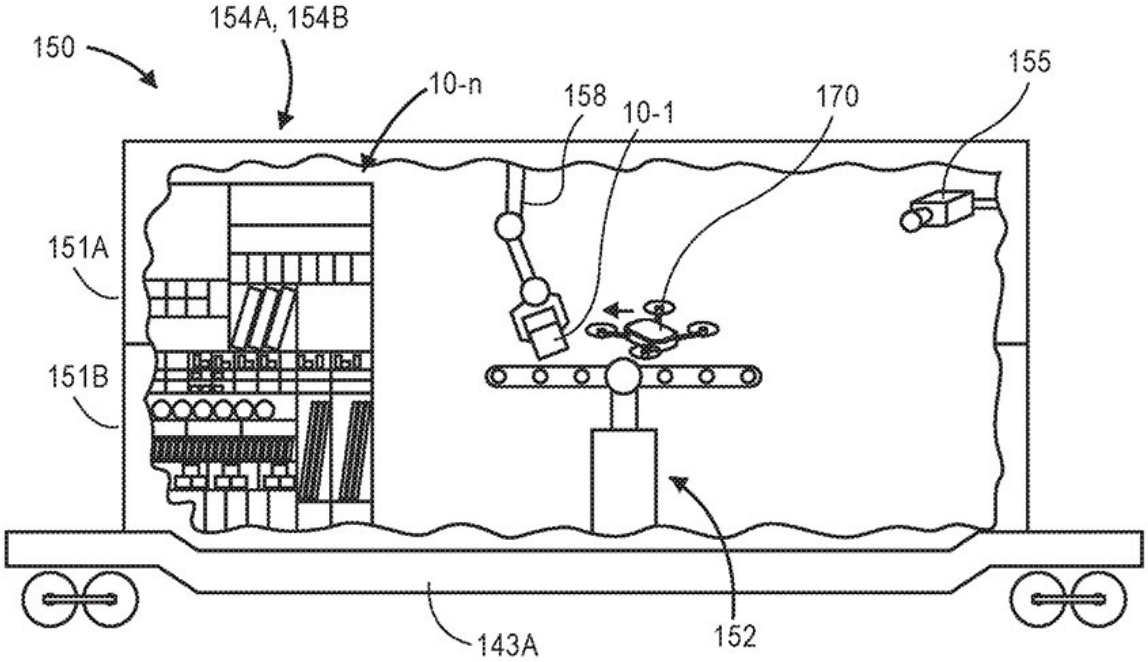


FIG. 1F

Photo courtesy U.S. Patent and Trademark Office.

Amazon's patent application for demand-responsive distribution envisions intermodal carriers coupled to locomotives, container ships, and road tractors, with **systems to load and launch drones for deliveries** and retrieve them when they're done.

Likewise, Toyota's e-Palette is a reconfigurable shell that can serve as either a mobile showroom or a warehouse.

This technology-enabled shift from land uses (retail and warehousing) to mobile vehicles would have profound implications for localities related to traffic circulation and commercial real estate. According to Rick Stein, it could also get tricky when it comes to local tax bases. "One concern regarding services such as e-Palette **11** or Amazon's Treasure Truck is the exact location of the sale could impact where sales tax is applicable."

11. Multi-Function Vehicles

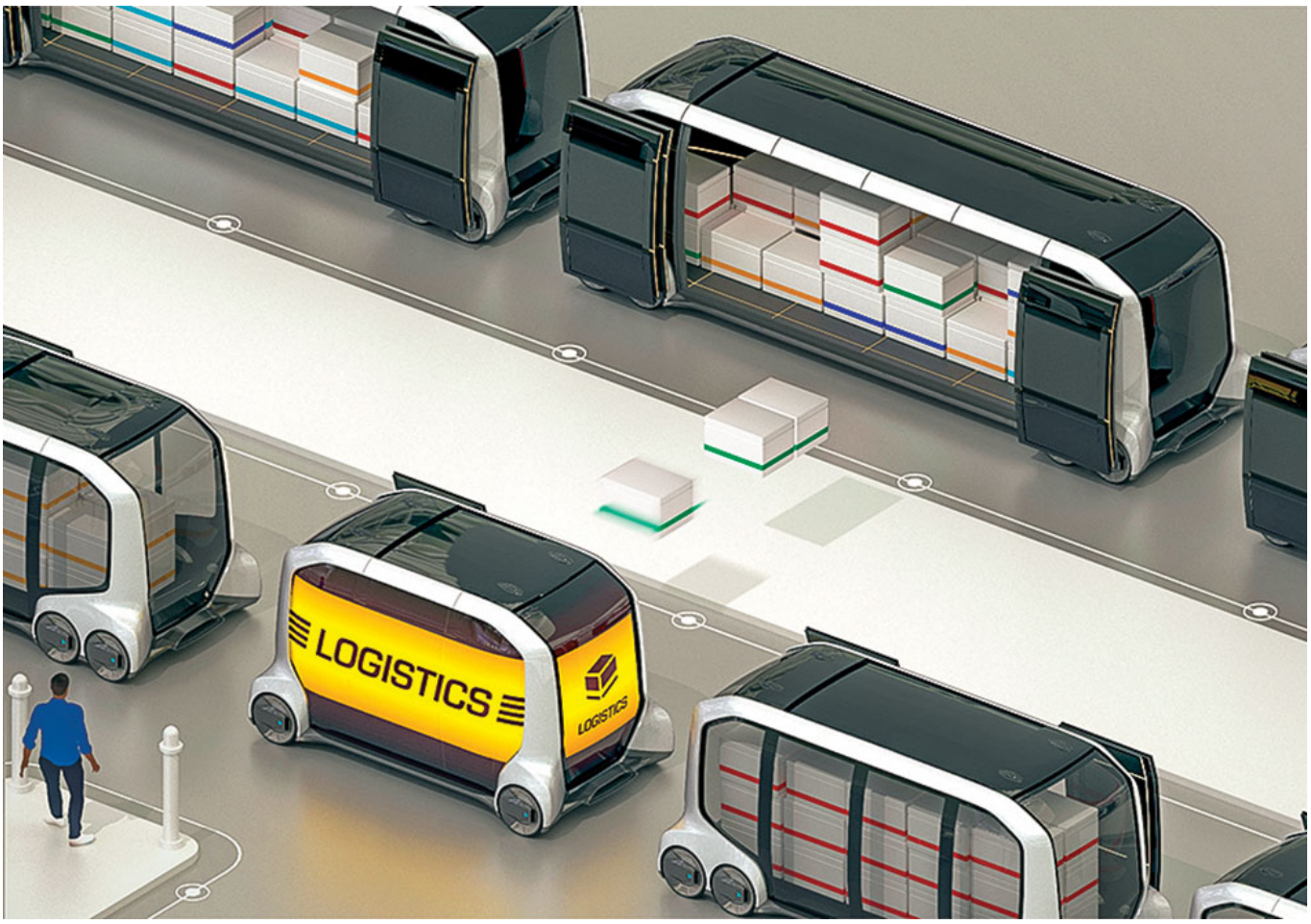


Photo courtesy Toyota.

Toyota hopes its all-electric and autonomous e-Palette vehicles will serve a variety of functions: ride sharing **(they'll transport athletes at the 2020 Olympics in Tokyo),** mobile office and retail space, food deliveries, traveling labs and clinics, and even moveable warehouses.

Traffic impacts

In the past, travel associated with logistics was segmented into freight, local delivery, and retail traffic, and the last mile of delivery has traditionally been carried out by a shopper or restaurant patron. E-commerce has changed flows in both obvious and subtle ways. The increase in FedEx and UPS trucks is noticeable, particularly in congested urban areas. According to the University of Washington's Freight Lab, Seattle trucks comprise seven percent of vehicles on the road, yet create 28 percent of the congestion.

As e-commerce evolves, traffic modeling will need to consider less obvious changes in package and customer flows. For example, customers can increase convenience and reduce theft risk by retrieving packages through pickup kiosks, package lockers, and even opting for car trunk delivery. **12** What's less clear is how to model and account for these flows.

12. Car Trunk Delivery

Photo courtesy Amazon.

Amazon Prime members in certain cities who don't mind giving Amazon the virtual keys to their cars can get their **packages delivered right to their trunks.** Customers choose car delivery at checkout and the rest is handled through an app. Amazon says they can expect delivery within a four-hour time window.

Traffic planners also need to factor in the fact that almost 30 percent of all online orders are returned and almost 15 percent of deliveries fail to make it into customers' hands. Amazon has also partnered with big box Kohl's locations to accept returns, adding to the difficulty of trip assignment. Under this model, an order's journey starts with a delivery trip from Amazon fulfillment to the customer, a retail trip (the customer returning the product) to Kohl's, and a reverse logistics trip (for product reprocessing). It is unlikely Kohl's original traffic impact study foresaw these new patterns.

While these examples describe small individual trip changes, predicted e-commerce considerations for autonomous air and ground drone delivery suggest need for additional research and modeling. The stakes are consequential in localities that assess traffic and mobility fees. Cities may want to revisit formulas to strengthen the nexus between traffic impacts and assessed fees. Likewise, cities need to establish curb priorities. According to Juan Matute, deputy director of the UCLA Institute of Transportation Studies, "What urban planners and the cities they serve need to realize about managing curbs is that apps, data, and micropayments aren't a substitute for prioritizing access for goods and people over vehicle storage. Allocate space accordingly."

Terms and Trends to Watch

AUTONOMOUS VEHICLES: Several vendors are outfitting AVs to serve as delivery vans.

BUY ONLINE PICK UP IN STORE: BOPIS allows customers the ability to order goods online and retrieve at a vendor's brick-and-mortar store.

COURIER NETWORK SERVICES: The ability to order deliveries (typically food and groceries) online or through a mobile app. Companies work with couriers who fulfill orders.

DELIVERY DRONES: Small AVs used to transport packages and food. There are two types: unmanned aerial drones and ground drones. Ground drones are wheeled devices that are also referred to as deliverybots. New nonwheeled versions with articulated limbs can climb stairs.

OMNI-CHANNEL RETAIL: Large retailers with a consistent shopping experience across all channels — brick and mortar and online.

REVERSE LOGISTICS: The process of managing the reverse travel of a product into the supply chain; for example, reprocessing returns.

ROBOTIC DELIVERY: The transport of food and goods using automated robotic devices and small vehicles.

Wild cards

Projections involving any type of emerging technology need to acknowledge the likelihood of unexpected innovation and failure. This is particularly true of freight and logistics, which is at the confluence of several sectors affected by disruptive technologies including vehicles, architecture, manufacturing, and communications.

The first, and perhaps largest, wild card is cybersecurity. With automated vehicles of all types, cyberattacks can be as small as a minor service interruption, or a more serious remotely controlled hijacking. Planners in all sectors should work with their technology officials to develop emergency plans and interventions in the event of an attack. For example, a campus may want to employ scenario planning and contingency plans to proactively plan for a range of cyber and communication disruptions, including connected and autonomous delivery vehicles.

The second wild card is technology's continuous evolution. Today's small air and ground-based delivery robots could be candidates for further disruption, so cities should refrain from regulating singular technologies or design. Similarly, infrastructure is undergoing rapid change to factor in autonomous technologies, sustainable materials, and future funding options.

What's on the horizon for delivery options? Curbsides designed to keep transit and transportation network and delivery vehicles out of travel lanes, retractable pylons to allow flexible uses for curb space, balconies doing double-duty as landing pads for aerial drones, and special bays for deliverybots are all possibilities. Photo courtesy WGI.

Entrepreneurs are also experimenting with underground delivery networks through hyperloops to relieve surface congestion. "For these reasons, investing in expensive infrastructure adaptation projects (sensors, etc.) may be unwise. There's probably already a cheaper solution on the horizon," says Stein.

Planning for E-Commerce and New Delivery Options

The future will bring lot of unknowns. Here are several considerations to help tackle today's challenges while anticipating tomorrow's risks and benefits.

TECHNOLOGIES AND TOPICS	REGIONAL PLANS	LOCAL TRANSPORTATION PLANS	LAND-USE PLANS	INFRASTRUCTURE PLANS	OTHER
AV Trucks	▪Freight management ▪Truck platooning ▪Update TIPs and priority project selection criteria ▪Data and safety (for all categories) ▪Federal coordination	▪Guidance for AV-to-driver handoff from AV platoons	▪Interchange design for AVs and EVs ▪Interchange land uses for AV truck handoff ▪Warehouse districts and site plans ▪24-hour, automated warehousing impacts	▪Communications infrastructure for vehicle connectivity ▪AV-ready lane markings and signage	▪University and industry partnerships ▪Proactively plan for mobile retail and distribution and warehousing ▪Funding and revenue
AV Delivery Vans	▪Local pilot candidates ▪E-commerce and AV delivery forecasts ▪Hybrid passenger and goods pilot projects ▪Vehicle miles traveled	▪AV delivery routes ▪Circulation (including hybrid van and drone vehicles) ▪Trip generation update ▪Performance metrics	▪Campus plans ▪Warehousing and microwarehousing ▪Loading dock design changes ▪Fleet electrification	▪AV-ready lane markings ▪Curbside management ▪Short-range communications ▪Traffic control upgrades	▪Industry partnerships for delivery load optimization ▪Campus partners
Air Drones	▪E-commerce and AV delivery forecasts ▪Drone delivery scenarios ▪Fly/no-fly zone mapping ▪Federal (FAA) coordination	▪Safety assessments ▪Urban flight corridors ▪Performance metrics ▪Alignment with emergency response ▪Permitting (companies, vehicles, fleet size)	▪Architecture for drone deliveries ▪Rooftop landing pads and allowable uses	▪Communications infrastructure for flight ▪Coordination with utilities and existing infrastructure	▪Partnerships to reduce risks related to package release failures ▪Possible noise pollution ▪Partnerships on flight paths (e.g., utility corridors)
Ground Drones (deliverybots)	▪E-commerce and AV delivery forecasts	▪Allowable travelways (e.g., sidewalks) ▪Travelway priorities ▪Performance metrics ▪Permitting (companies, vehicles, fleet size)	▪Store and restaurant designs for ground drones ▪Campus plans	▪Short-range communi-cations (small cell and Internet-of-Things) ▪Regulations for sidewalk use ▪Geofencing	▪Sidewalk maintenance roles, responsibilities

What planners can do

Planners everywhere face the dual challenge of addressing today's e-commerce impacts while anticipating the future benefits and risks associated with a slew of emerging technologies. At the local level, planners have several tools to manage risk.

First, knowledge of how to design and execute pilot projects to test new technologies is critical. And stakeholder engagement is important, including populations likely to be impacted, positively and negatively, by e-commerce. For example, expanded delivery options have the potential to benefit mobility-limited populations.

In the near term, communities of all sizes can adopt resolutions that establish expectations on services, stakeholder needs, data, and priorities. Planners should also review plans and use plan updates to integrate e-commerce. In addition to freight and transportation plans, consider how e-commerce fits within plans affecting utilities, economic development, and sustainability. For example, aerial delivery drones are expected to reduce emissions, though greenhouse gas benefits rely on several variables: distance, lift mechanism, weight, and the energy footprint of warehouses.

Multiple warehouses and consolidation centers can reduce distance, but can add to the overall carbon impact once building operations and HVAC systems are factored in.

Planners should also tap into the growing list of American Planning Association resources covering vehicle technologies, retail trends, and e-commerce. Given the fast pace of change, planners can use scenario planning to examine the plausible evolution of both e-commerce and autonomous delivery trends and related impacts, both positive and negative.

Lisa Nisenson is vice president for new mobility and connected communities at WGI, focusing on the intersection of technology, mobility, infrastructure and land use. In her role, she helps communities get in front of and harness innovation and technology within codes, plans, and stakeholder engagement.

RESOURCES

Freight Can't Wait: Drones and delivery robots may be in our future, but in the meantime here are eight strategies (/planning/2019/nov/freightcantwait/) from *Planning*'s November 2019 issue to keep the delivery trucks rolling.

E-Commerce and the Future of Land Use: Rick Stein, AICP, discusses what he calls the "Ama-zōning of America." (/publications/document/9192533/)

Effects of E-Commerce on Land-Use Planning: Learn trends in commercial and industrial real-estate development, freight activities and their implications for city transportation infrastructure, and the pros and cons of converting retail land uses to e-fulfillment centers. Get it at APA Learn (http://learn.planning.org/local/catalog/view/product.php?globalid=LRN_188263).

Allons-Y! Land-Use Plans for Freight in Paris

Chapelle Internationale Logistics Hotel. Illustration courtesy Sogaris.

By Daniel Haake, AICP, and José Holguín-Veras, PhD

The rise of e-commerce has created challenges for communities across the globe. Trucks delivering packages are often forced to use city streets and park in nondesignated areas — creating congestion, safety issues, impacts to historic buildings, and conflicts with bike and pedestrian facilities that impact the quality of life of our communities. These problems are particularly challenging in a dense, historic place like Paris, as well as the larger region.

In 2006, public- and private-sector partners in the Région Île-de-France undertook a groundbreaking effort to address these challenges. Seven years later, the group released a formal charter that created a list of projects to help solve urban freight issues. Among others, it called for including logistics in the region's master plans. In the following years, the Région Île-de-France (with many partners) created three complementary plans — a regional master plan (2013–2030), a regional transport and mobility plan (2014–2020); and a regional environmental plan (2012–2020) — to coordinate land use, transport, environmental, and logistical issues.

Execution of those plans has proven more difficult. Since the Région Île-de-France has no formal land-use authority, it is up to its 1,281 municipalities to make individual changes to their ordinances to effect coordinated change. A case in point: the plans identified areas to be set aside for strategic freight-related (re)development, but several have already been redeveloped into other nonfreight-related uses, including a large rapid transit initiative called the Grand Paris Express.

Despite this, concepts captured in these land-use plans have found notable success in the city itself.

PARIS LOGISTICS DEVELOPMENT PLAN. L'Atelier Parisien d'Urbanisme (Paris Urbanism Agency) devised a citywide logistics plan that focused on strategically located multimodal logistics terminals, crossdocking terminals (used to shift freight from large trucks to smaller, clean-energy vehicles for last-

mile deliveries) and storage lockers for pickups. One such crossdocking facility, for instance, is proposed to be built under the bridges of the Boulevard Périphérique, the major freeway that encircles Paris.

In 2016, Paris passed changes to the zoning ordinance to implement the logistics development plan. Most notably, the city deemed warehouses and crossdocking facilities as "necessary equipment," effectively making them a public use like schools and libraries.

The zoning ordinance specifically designates 60 parcels for future crossdocking facilities, ensuring that the facilities would be included in any redevelopment. Similarly, large existing warehouses in "large urban service zones" were banned from redeveloping into any other use.

CHAPELLE LOGISTICS HOTEL. Paris has implemented a concept known as "logistics hotels" to break down large truck shipments into smaller vehicles powered by clean energy to make final deliveries. In April 2018, the Chapelle Internationale Logistics Hotel opened in an affluent part of the city. The multistory, multiuse facility (which is both under and above ground) services e-commerce companies (like Amazon Prime Now) that use the facility to reduce regional truck movements, to charge smaller electric delivery trucks, and to be closer to their customers. The building is deliberately integrated into the neighborhood, and it's also home to a data center, offices, sports facilities, and an urban farm.

While the region's approach to freight-related land-use decision making remains highly fragmented, Paris has embraced innovative approaches, demonstrating that land-use policy and planning are an important part of the solution to urban freight logistics challenges.

Daniel Haake is a senior transportation planner at HDR and chair of ITE's Urban Goods Movement Standing Committee. José *Holguín-Veras is the William H. Hart Professor and director of the VREF Center of Excellence on Sustainable Urban Freight Systems at the Rensselaer Polytechnic Institute.*

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Agenda Item # 6

Staff Report

Meeting Date: May 19, 2020

To: Planning Commission

From: Planning Department

Subject: Short-Term Rental Regulations

X	Regular
	Consent
	Closed
	Presentation

Recommended Action:

Give Staff Direction

Background:

Short-term rentals (STR), vacation rentals, and home sharing are all terms used to describe the rental of all or part of a residential dwelling unit for a duration of occupancy of less than 30 days. STR regulation is a difficult planning topic due to the STRs being both a tax revenue generating tool and limiting factor to long-term housing. The Planning Advisory Service (PAS) Memo concerning short-term rentals is attached to help describe the impact and regulation of STRs.

The City of Mt. Shasta has minimal regulation of STR's. The City Staff are requesting Planning Commission review and recommendation concerning STR's due to their proliferation in the past 4 years and the lack of long-term rental properties for residents. There are many ways the Planning Commission can regulate STR's. City Staff would like the Commission to consider requiring all STR's to obtain a STR permit, pay an application and annual fee to compensate City Staff time to manage and enforce the regulations, and create requirements for safety and business procedures.

Regulation History:

The City of Mt. Shasta has had minimal regulation on short-term rentals, beginning with the introduction of a zoning restriction in 2016. The City maintains one line of zoning code restricting STR in R1 zones (MSMC 18.16.040). STRs have increased since 2016 from 7 registered STRs to 52 registered STRs in 2019. City Staff have struggled to keep up with enforcement and safe regulation of STR's. The City Staff have highlighted this item for Planning Commission discussion and possible regulation.

The City of Mt. Shasta does have a permitting and regulations for Bed and Breakfasts (BnB) (MSMC 18.21). The BnB' s in the City operate under strict regulations with additional permitting steps and requirements. STR's do not have any prescribed operating requirements.

General Plan Connection:

The 2007 General Plan does not include specific goals, policies, and implementation measures associated with short-term rentals. There is language in the 2014 Housing Element that prioritizes the creation of long-term rental units to meet Regional Housing Needs Assessment (RHNA) housing unit numbers, but does not prioritize them over other types of housing.

Environmental Review:

An environmental review will be conduct once proposed language is created.

Fiscal Impact:

The City's Finance Department is the chief department permitting and enforcing STR regulations. The Finance Department are typically the first point of contact with STR owners and operators. The Finance Department does not currently recover costs associated with Transient Occupancy Tax (TOT, also known as the hotel tax) collection, recording keeping, and enforcement. The total TOT collected per STR has decreased in the past 3 years. We predict this reduce in per STR tax collection due to improper reporting and the saturation of the STR market. The reduction in the number of STR's operating in the City would not significantly impact the total TOT tax revenue collected.

The implementation of a permitting process similar to the BnB regulations would allow City Staff to recover costs associated with managing and enforcing STR regulations. Cost recovery does not reduce expenditures or generate new revenue but puts the cost of doing business onto the business, thus freeing up general tax revenues for other projects and services.

Review of Public & Outside Agency Comment:

The City Staff have not pursued public comment directly related to regulating the STR market, but have received public input in other processes that indicates local support for more long-term rentals and less STR. The City's 2018 Visioning Survey, as part of the General Plan revision, shoed 65% of respondents listing long-term housing as a critical issue for the City and 47% specifically listed Short-term rentals as a negative change they have observed in the City.

The 2014 Housing Element update for the City's General Plan included public workshops which collected information on housing issues and opportunities. Short-term or vacation rentals were listed as a concern.

The Planning Commission may prioritize additional public input if needed.

Recommendation Discussion:

The first step that the Planning Commission should take is if there is additional regulation needed. If the Commission believes regulation is needed, then we can move forward with what issues or impacts that the commission would like to address. For example, Planning Commission may give direction on if the City should limit the total number of STR licenses are available.

City Staff would recommend developing a STR ordinance which encompasses home sharing, BnB's, and vacation rentals. All types of home based lodging would have similar concerns and impacts that could be controlled in one ordinance. The recommended ordinance would include permitting application processes, requirements for operation to minimize any impacts to the surrounding neighborhood, limit the total amount of STR licenses, and include enforcement measures.

The City is researching third party short-term rental management software or companies that would take care of permitting, renewals, and enforcement. The cost of the third party help would be calculated into the annual reporting fees and would not impact other City funds. This system would looking into whether STR online are registered with the City, collect TOT taxes on the City's behalf, and enforce city regulations.

Attachments:

1. PAS Memo January/February 2019

American Planning Association
Creating Great Communities for All

January/February 2019

PAS MEMO

Short-Term Rentals: Regulation and Enforcement Strategies

By Jared E. Munster, PHD, AICP

Short-term rentals, home sharing, vacation rentals, Airbnb: regardless of what you call the concept, it is clear that the new sharing economy has worked its way into virtually every residential area in the country.

Short-term rentals (STRs) can be defined as the rental of all or part of a residential dwelling unit for a duration of occupancy of less than 30 days. They have raised the passions of free-market advocates who believe that the government should not regulate property rentals, as well as neighborhood activists who fear that STRs will degrade neighborhood cohesion and price out the very culture and experience visitors are venturing into neighborhoods to embrace. This conflict, as well as the challenge of attempting to regulate what is at its very core a residential occupancy, make the role of the planner critical in developing clear regulations that balance neighborhood concerns with practical limitations on how far local government can intervene in rental agreements for private property.

The City of New Orleans Department of Safety and Permits (DSP) has developed and implemented a regulatory regime that has been internationally cited as a model for balancing the inescapability of this use with the protection of neighborhoods and residents. Over the course of several years, through formal planning studies, zoning ordinance text amendments, and prolonged negotiations with listing platforms, residents, interest groups, and neighborhoods, the city developed a robust package of practical and enforceable regulations that provided the market flexibility required by private industry.

This *PAS Memo* provides a case study of New Orleans's experience with this phenomenon and offers strategies and lessons learned for planners as they navigate this highly contentious issue.

Background and History of Short-Term Rental Regulations in New Orleans

New Orleans's history with transient rentals begins far before the age of digital bookings and informs the conversations of the last several years. In the 1960s, the Vieux Carré, or French Quarter, the oldest residential neighborhood in the city (Figure 1), was losing its inhabitants at an unsustainable pace. Hotel and tourism-supportive development were destroying the historic buildings that made the area attractive to tourists and pricing out the residents, businesses, and artists that created the unique nature of the neighborhood.

Figure 1. New Orleans's Vieux Carré (French Quarter). Flickr photo by Pedro Szekely (CC BY-SA 2.0).

In 1969, a New Orleans City Council moratorium on hotel or transient lodging development in the Vieux Carré stemmed the tidal wave of hotel development and stabilized an otherwise at-risk community. This moratorium was converted to a permanent prohibition on hotel development through subsequent zoning changes. Even today the basis for opposition to tourist lodging in the Vieux Carré is still the nearly 50-year-old moratorium.

Early Attempts to Regulate Short-Term Rentals

As the nature of tourism changed through the years, residents began renting out homes or apartments during major festivals, such as Mardi Gras or the Jazz and Heritage Festival. New Orle-

ans, as a major tourism destination hosting large-scale events on an annual basis, became a laboratory of creative ways to rent property.

The practice benefitted both parties to the transaction. New Orleans residents could vacation out of town during periods of high tourist volume when many businesses temporarily close or become overwhelmed. Visitors had access to a new pool of accommodations that could host families or groups too large to share a single hotel room or afford a traditional hotel.

This very capitalistic pairing of supply and demand naturally coalesced into a local cottage industry with unintended—but certainly not unforeseen—consequences. Over time, local property owners and outside investors noticed the demand for non-hotel accommodations and began acquiring property for the sole purpose of renting to tourists. This began displacing local residents, turning once-thriving neighborhoods into seasonal entertainment venues.

To address this burgeoning concern, the New Orleans City Council adopted Ordinance 21606 M.C.S. in 2004. This strong attempt by the city council to rein in vacation rentals ordained that:

> [i]t shall be unlawful for any person to knowingly offer to rent for monetary compensation for a period of less than 30 days or, in the case of premises located in the Vieux Carré District, 60 days, any living accommodations in the city if the premises offered for rent are not lawfully licensed or permitted for such use. (§54-491.1(b))

Should a property owner or lessor be prosecuted for the offense, the publication of such an offer to rent in print or electronic media would "create a rebuttable presumption that the person had knowledge of the offer to rent" (§54-491.1(d)).

At the time, the city's comprehensive zoning ordinance contained a defined use category of "Transient Vacation Rental" that provided three primary criteria in the classification of the use:

- the property was successfully rented for periods of less than 30 days (not just advertised as such)
- the property was rented to "non-residents"
- these rentals occurred over the course of a year or longer

Transient Vacation Rentals were allowed only within the Central Business District zoning districts, not any residential or business districts.

Unfortunately, however, the construction of these laws made enforcement virtually impossible, which led to growing frustration among neighbors who believed that the city was unwilling to enforce its own regulations regarding these uses.

The language of the 2004 ordinance outlawed only the "offer to rent" a living accommodation—it did not prohibit the action of executing such a rental. Additionally, the restriction was housed within the city's criminal code, which meant that any citation for the misdemeanor would have to be issued by the police department and the violation adjudicated by a judge in the city's municipal court. A second concern was the potential for a constitutional claim that the city was violating the free speech rights of property owners, because the restricted speech was not advertising a service prohibited by law.

DSP had administrative jurisdiction over the Transient Vacation Rental zoning provisions, but as noted above, the city was required to prove that rental actions of less than 30 days had physically occurred over a period of one year or longer.

Even with these limitations, in 2015 DSP chose to bring nine properties known to be in violation through its administrative adjudication process. Success would establish that DSP could build a prosecutable case under existing law where suitable documentation for violations existed and take actions against the hundreds of properties that had received complaints. However, if after years of compiling evidence, building cases, and partnering with neighbors to collect evidence the city was judged unable to meet its burden of proof in the administrative hearings, the cases would be dismissed.

A primary element of DSP's cases was the user reviews publicly available on websites such as airbnb.com. By matching neighbor complaints and documentation against the dates provided in the published reviews, DSP was confident in its ability to adequately meet the three-pronged burden of proof for operation of a Transient Vacation Rental. Recognizing the limitations of this body of evidence, DSP concentrated its efforts on the most egregious violators for which there was significant documentation.

But the adjudication hearings were never held. Days before the scheduled hearing, one of the property owners filed for a temporary restraining order against further proceedings due to vagueness of the charges and a constitutional challenge to the city's administrative hearings process. After several weeks of correspondence with the plaintiff's attorney, the city agreed to suspend prosecution of the nine cases. This agreement marked the end of active enforcement efforts against alleged STRs pending a new body of law.

Developing the New Regulatory Regime

The need for an updated regulatory package was now clear. Beginning in late 2014, a rough framework of reform began to take shape. If transient vacation rentals were legalized, the regulation process would have to be understandable and transparent to inspire confidence in the community. From these guiding principles, DSP, in coordination with the City Planning Commission and community stakeholders, began to formulate a new approach to regulation.

Whatever framework emerged had to be easily enforceable with a readily demonstrable burden of proof. But before the city could create a solution, it had to understand the problem.

The Short-Term Rental Study

In response to the now-demonstrated inability of the city to administratively enforce its transient vacation rental regulatory structure, in August 2015 the New Orleans City Council directed the City Planning Commission to study the regulation of these uses.

Over the course of nearly six months, the commission solicited information from neighborhoods, industry groups, hosting platforms, peer cities, and other agencies within the city to gain a full understanding of the nature of STRs as a land use—from the regulatory issues faced by DSP, to perception and documentable issues from neighborhoods, to the projected benefits of legitimizing the use fostered by the hosting platforms. Staff held more than a dozen meetings and multiple public hearings, and over 400 written comments were submitted to the commission (Rivers 2017).

In addition to these outreach efforts, the commission embarked on a study of documentable evidence and national best practices. In evaluating the practices of cities throughout the United States to determine previous regulatory successes and failures, the study found several key points (New Orleans City Planning Commission 2016):

- these uses fall into different categories and should be regulated differently based on location and rental type
- there must be performance standards to which operators can be held responsible to ensure the stability of neighborhoods
- fees and fines must be set at the appropriate level to encourage compliance while being impactful enough to penalize illegal behavior

Based on this study, staff presented four use types to the commission for consideration before a recommendation was made to the City Council: accessory, temporary, principal residential, and commercial (Figure 2). The commission voted to remove the "principal residential" type on the concern that this would cause exactly the scenario community groups feared most—turning residences into hotels and displacing residents.

In consultation with DSP, commission staff also recommended a series of requirements and performance standards creating an easily enforceable, comprehensive list of guidelines to ensure neighborhood compatibility, guest safety, and meaningful regulatory enforcement. These standards also provided many requirements with a low burden of proof for administrative enforcement, considered key to a high rate of compliance with the new regime.

Negotiation and Policy Priorities

The city knew that not gaining buy-in from the listing platforms would be a recipe for failure. Throughout policy negotiations, only Airbnb actively engaged with the process, which created the unintended result that compliance was easier for its platform than others. However, the city would work with other platforms following launch to bring compliance as close as possible in consideration of demonstrated technical and data considerations.

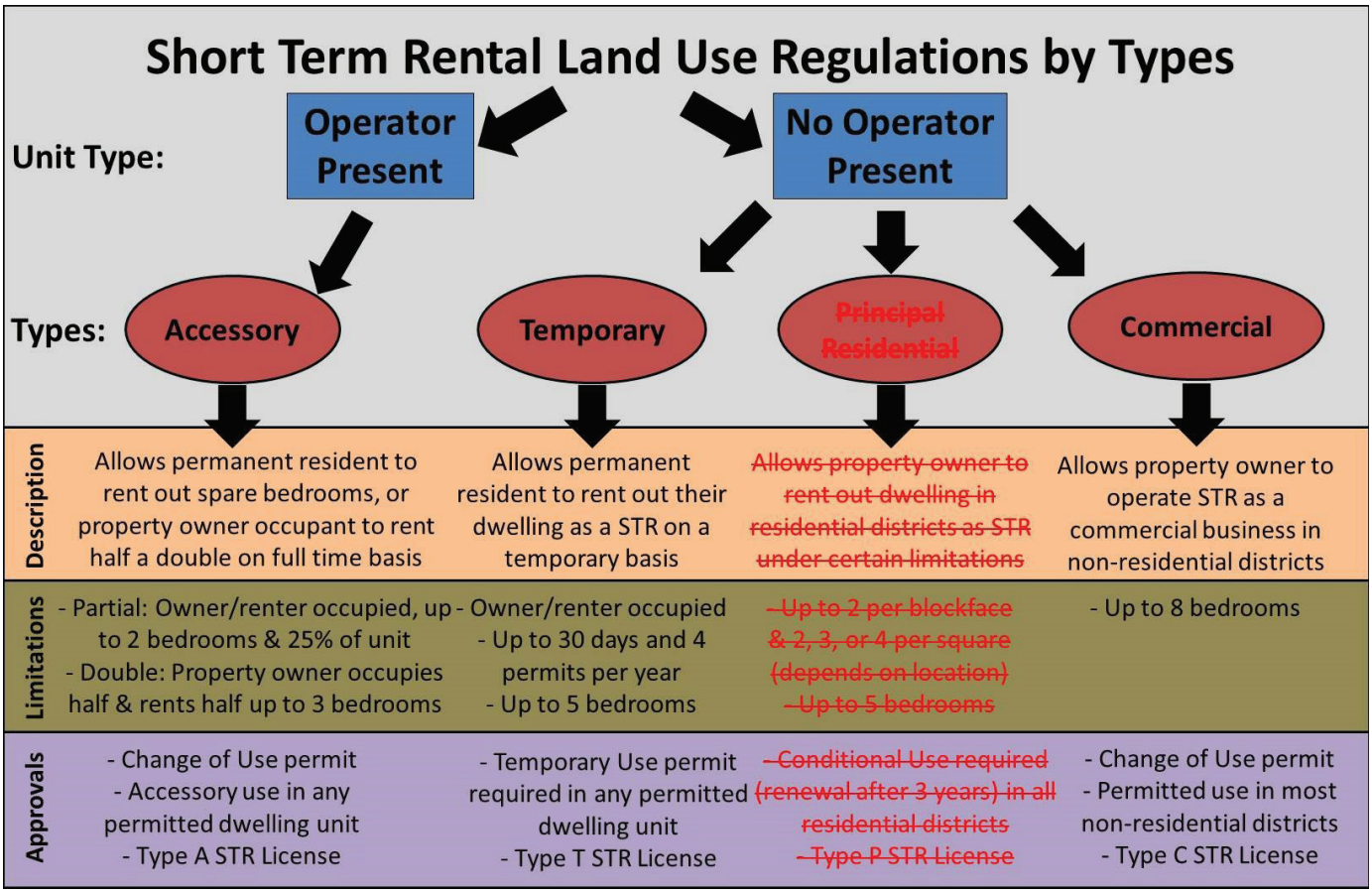

Figure 2. Short-Term Rental Types. Courtesy New Orleans City Planning Commission.

The New Regulations

The four ordinances adopted by the New Orleans City Council in 2016 established the provisions in the city code and zoning ordinance required to successfully implement the recommendations of the City Planning Commission's study and regulate STRs in New Orleans. Ordinances 27209 and 27204 provided the framework of the enforcement regime, including easily enforceable standards to allow swift citations of property owners who did not comply with the regulations. The other two ordinances addressed taxation and investment into the city's Housing Improvement Fund as mechanisms to turn STRs into a benefit to the communities they would be occupying.

Ordinance 27204 M.C.S. This ordinance (codified as §26-613 et seq.) established a licensing and enforcement regime, provided for a public registry of licensed STRs as well as provisions for datasharing with the listing platforms, and set fees and penalties for the program. The licensing provisions formally created three license types (accessory, temporary, and commercial) corresponding to concurrently created zoning land-use types, and provided safety and compliance standards by which DSP would evaluate applications for these licenses. To maintain a low barrier to entry into the permitting process, applicants were permitted to comply with these provisions by attestation, with DSP following up to verify compliance. Falsification or misrepresentation of any material information in the application process would result in the immediate revocation of the license.

Ordinance 27209 M.C.S. This zoning text amendment ordinance implemented the changes outlined in the city planning commission's 2016 study. It defined the STR land use generally, as well as the specific STR subcategories (accessory, temporary, and commercial), and imposed standards and requirements for the three use types. Additionally, this ordinance amended the permitted use tables to designate where STRs would be permitted as by-right or conditional uses. Accessory STRs were permitted within any legal dwelling unit located within an owner-occupied single- or two-family dwelling (except for within the Vieux Carré). Temporary STRs would be permitted in any legal dwelling unit (except within the Vieux Carré) without consideration of owner occupancy but with a 90-night occupancy limitation. Commercial STRs would be permitted in virtually every commercial zoning district, including the Vieux Carré Entertainment District (Bourbon Street) but excluding the remainder of that neighborhood.

The standards can be broken into two primary categories (see table below). Regulatory compliance standards are black-and-white requirements for which the city can easily demonstrate noncompliance, while performance compliance standards are more subjective in nature and require a higher level of documentation to determine noncompliance.

Regulatory Compliance	Performance Compliance
• All short-term rentals require a license. • License placard to be prominently displayed in a manner visible from the public right-of-way. • License number to be posted on any rental listing. • Any rental listing must match the occupancy limitations of the approved license. • Any short-term rental has to have the outward appearance of a residential building. • Short-term rentals may not occupy any accessory structure, outdoor space, or recreational vehicle.	• Only one party of guests is allowed in a short-term rental unit. • The number of guests may not exceed occupancy limitations stated on the license. • An in-town contact must be available to address any unruly guests or dangerous situations. • The rental shall not adversely affect the residential character of the neighborhood. • The rental shall not generate noise, vibration, odors, or other effects that unreasonably interfere with any person's enjoyment of their residence.

Ordinance 27210 M.C.S. This ordinance imposed a $1.00-per-night fee on STRs above the city's standard tax structure directed to the Neighborhood Housing Improvement Fund, a limited-access fund that can be used only for community development under specific guidelines.

Ordinance 27218 M.C.S. This ordinance authorized the mayor to enter into a cooperative endeavor agreement with Airbnb, which agreed to collect and remit taxes on behalf of its users by including the required taxes and fees at the time of booking. This saved the city from creating tax accounts for every licensed property and requiring property owners to calculate and remit taxes individually. This was part of the negotiation process with the listing platform that would ease the regulatory burden on both the city and licensees—creating a "win" on both sides of the taxation transaction.

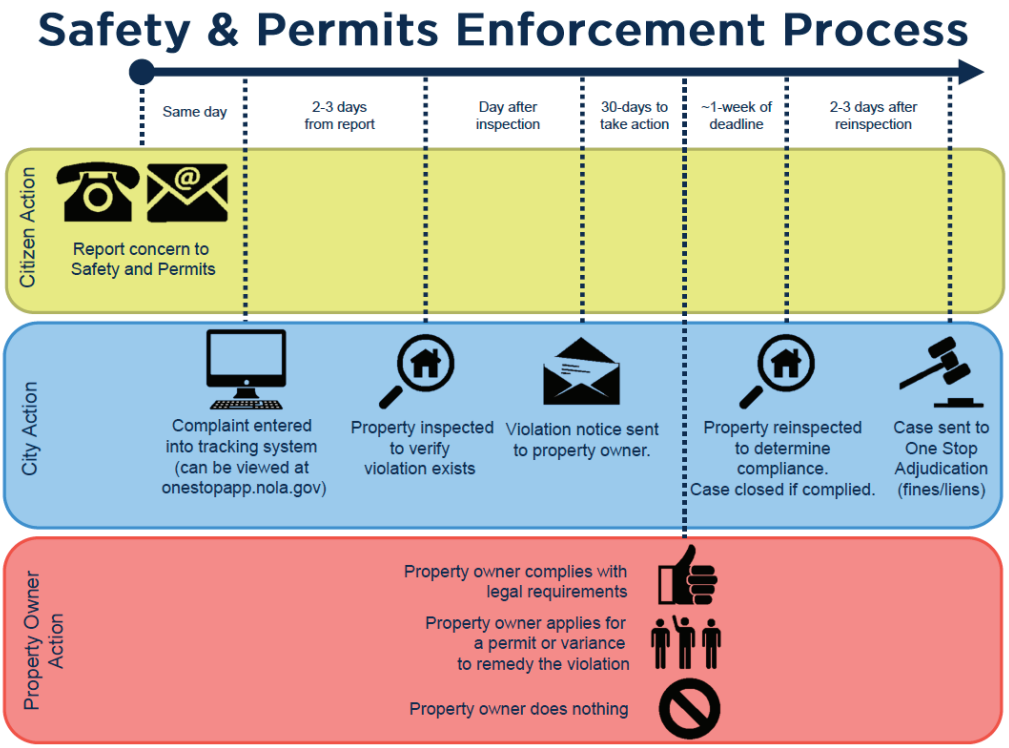

Figure 3. DSP's short-term rental enforcement process. Courtesy City of New Orleans Department of Safety and Permits.

Negotiations at this phase also took place with community leaders, city council members, and interest groups to create a structure that would be acceptable to the majority of stakeholders. Key points were appropriate annual limitations on temporary rentals, the mechanics and scope of data sharing, and the level of control platforms would have over encouraging compliance among their users.

Annual limitations on rental nights was one of the most public points of debate as the legislative process drew to a close. Type A (accessory) and Type C (commercial) licenses would have no limitations on annual rentals, but Type T (temporary) licenses would be subject to an annual cap on the number of nights the property could be rented out. STR advocates pushed for periods as long as 180 nights, while opponents, short of a ban, believed that the spirit of a "temporary" license could be satisfied with a cap of 30 nights per year (which was also the position of the commission). The city council ultimately decided to allow Type T rentals across the city with a maximum annual rental of 90 nights.

The remaining two points of negotiation, data sharing and platform assistance in overall compliance, were resolved as two sides of the same coin. The city would require data on rentals to enforce the 90-night cap on Type T licenses, and the listing platforms agreed that assistance from their side would boost user compliance with the new regulations and provide better data to track rentals, while the new standards would help ensure the safety of guests.

As part of the overall agreement, the platforms would voluntarily remove any unlicensed listings from their platform after a reasonable compliance period. The city would coordinate a pass-through registration program that would allow applications to be filed through Airbnb's website, then uploaded into the city's permitting and licensing database. Additionally, Airbnb agreed to share certain anonymized data each month: a unique identifier for each listing, the number of nights rented in the last 30 days, and the total nights rented year-to-date. If additional information was required, the platform agreed to an administrative subpoena process, all of which was codified as Section 26-620 of the New Orleans City Code.

Implementation and Enforcement of STR Regulations

On December 1, 2016, the New Orleans City Council adopted four ordinances to implement the new STR program. The ordinances provided for regulation and taxation of STRs, as well as other administrative functions that aided the process (see sidebar).

As a result of the legislative action, DSP created the Short Term Rental Administration to serve as the single point of contact for the public in the licensing and enforcement process. Without this administrative office, the authority of implementation and enforcement would have been spread across several administrative units within DSP.

Building Public Confidence

As the agency responsible for licensing and enforcement, DSP knew that public confidence from day one would be critical for success. To demonstrate the city's intention of complete transparency and full compliance, the website nola.gov/str was launched on December 2, 2016, with all available information on the program: the data available from the 2016 study, the subsequent ordinance adoption process, and approximate timelines for program benchmarks.

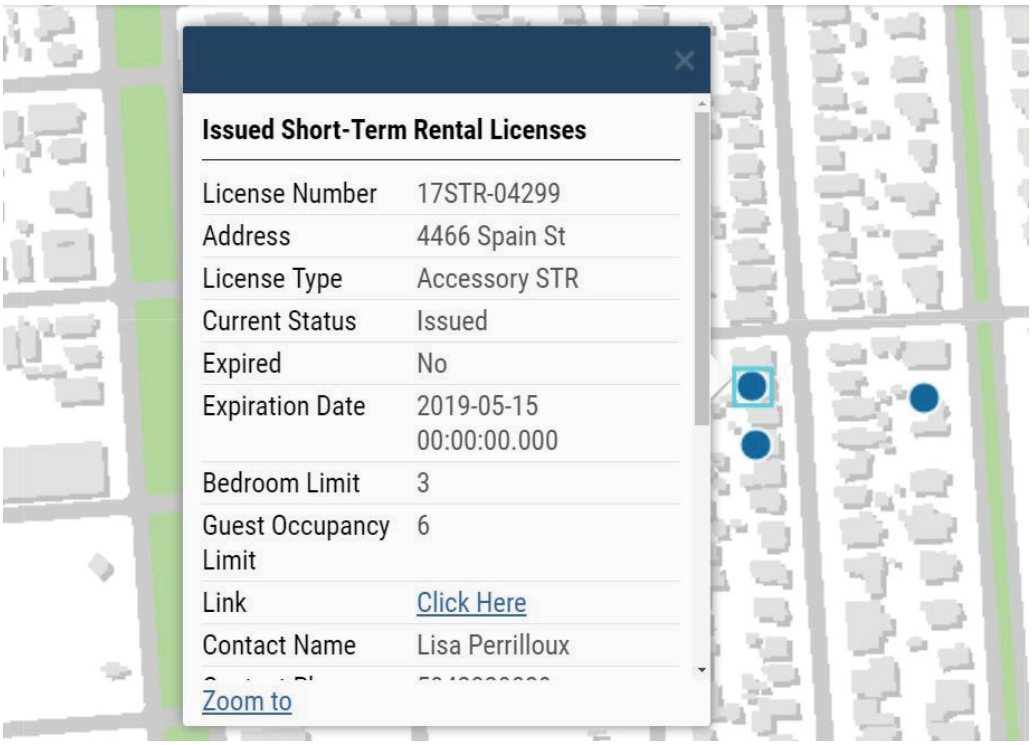

Figure 4. The city's interactive short-term rental registry and map. Courtesy City of New Orleans Department of Safety and Permits.

Within days, staff updated this website with information distilled from the adopted ordinances, simplifying the requirements and creating tables to help users understand the zoning restrictions. There were four months from adoption to the April 1, 2017, effective date to create internal and external processes for something that had never been tried before. DSP would focus its attention on three areas during this period: development of a robust internal process, transparency in process and enforcement, and development of a strong enforcement presence.

Development of Internal Processes

Internal processes were the first focus. Database configuration started early in the legislative process, which then allowed DSP to focus on other areas of internal process standardization: the pass-through connection from the city's database to Airbnb, a comprehensive analysis of license application workflow, and development of the enforcement regime that would be implemented.

Ultimately, the pass-through process was not a panacea of compliance as many hoped. Staff required information for license processing beyond that needed by the listing platform, so separate correspondence with every applicant was still required, and every applicant had to return to the city's permitting and licensing portal (onestopapp.nola.gov) to pay for the license prior to issuance.

A license application workflow needed to be developed and standardized. The expectation of a same-day turnaround, paired with the need to streamline the process to the furthest extent possible for pass-through integration, led DSP to reimagine a number of internal processes and ways staff could be cross-trained to address peak workloads. Printed and digital forms had to balance information that the average applicant would have available against whether the city was capturing all necessary data in the license review process.

This same level of creativity became necessary in developing enforcement protocols. The new regulations required a methodology for how staff would collect data, record violations, and build cases (Figure 3, p. 5). DSP could then use that standardization to set community expectations for enforcement action.

Transparency in Process and Enforcement

The commitment to providing all available information to the public in an easily digestible format remained the policy of DSP. A public-facing portal for its permitting and licensing database (onestopapp.nola.gov) that allows users to search for activity on a given property in real time was made easily searchable for STR license approvals or enforcement cases.

The ordinances took transparency one step farther in requiring publication of a list of all STR licenses, along with the property address, license holder name, and the contact information for the responsible party. This allows a neighbor to contact someone about a problem with a rental. To fulfill this requirement, DSP coordinated with the city's Office of Information Technology to develop an interactive STR registry and map. This tool allows users not only to search by name or property address, but also to see all license applications on a map of the city (Figure 4).

During this time, DSP leadership participated in numerous neighborhood meetings to outline the process, regulations, guidelines, and enforcement strategies. The focus was on implementing a program that would succeed and deliver on the promise that was made to the council and, more importantly, the community.

City of New Orleans
Department of Safety & Permits
Short Term Rental Administration

Field Warning

Location: _____

Date: _____ Time: _____

This notification is intended to inform the owner/operator of this premises of failure to comply with the City's Short Term Rental requirements. Legislation and information on Short Term Rentals in New Orleans is available at www.nola.gov/str

- ☐ This property has been reported as an operating short term rental, but our records indicate no application on file.
- ☐ This property is registered as a licensed short term rental, but no license is posted.
- ☐ This property is licensed as a Short Term Rental, but we have received a complaint of excessive:
  - ☐ Noise
  - ☐ Vibration
  - ☐ Glare
  - ☐ Odors
  - ☐ Other effects

  Which unreasonably interferes with neighbors enjoyment of their residence.
- ☐ This property is registered as a licensed short term rental, and there have been reports of unpermitted commercial or social events that may result in license revocation.
- ☐ This property has a license posted, but our records indicate that the license was issued for a different location/address.
- ☐ This property has been reported as an operating short term rental, but is located in a portion of the French Quarter where Short Term Rentals are prohibited.

Please contact the Short Term Rental Administration at 504-658-7144 or str@nola.gov for additional information. A formal violation letter will also be mailed to the owner of record within the week to initiate adjudication procedures.

City of New Orleans
Department of Safety & Permits
Short Term Rental Administration

Figure 5. Field warning tags to flag short-term rental noncompliance. Courtesy City of New Orleans Department of Safety and Permits.

Importance of a Strong Enforcement Presence

DSP needed to assure doubtful residents that enforcement would be both proactive and responsive. To that end, the agency took two new simple, cost-effective actions.

First, DSP developed "field warning" tags to post on STR properties where a violation was believed to have occurred (Figure 5). These were simple half-sheet forms with checkboxes for common violation types, allowing an inspector to post a notice to the property owner on the spot and document the posting via photograph. But most importantly, these documents are hot pink and unmistakable as a "scarlet letter" of STR noncompliance to show neighbors that inspectors were on the job.

The second action was to brand DSP's vehicles as such. Prior to 2017, all DSP vehicles were tagged as city vehicles, but these markings did not indicate to which department the vehicle belonged. Residents wanted DSP to work into the evenings and late at night during major events to maintain compliance with the STR performance standards provided in the city code. Based on these community concerns, vehicles were branded as "Department of Safety & Permits" to provide a level of visibility critical to maintaining the confidence of neighbors in the overall regulatory regime.

One last key element of the city's STR regulations is based on a long-standing provision of the building code that authorizes termination of utility services if a property is found to be in violation of the zoning ordinance. To eliminate any potential challenge to the use of these provisions, the enabling legislation for the licensing regime explicitly states that discontinuance of electrical service is an appropriate penalty for violation of the licensing provisions (§26-618).

Within four months of program launch, the Short Term Rental Administration sought its first utility disconnect order against a property owner in the Vieux Carré who would not remove online listings or stop using the property as a STR. The city's utility provider terminated electrical service to the dwelling, and from that point compliance was swift and the property was soon sold.

Status of STR Administration After Year One

The STR program in New Orleans celebrated its first anniversary on April 1, 2018, and DSP is proud of the success achieved in the implementation of the program.

In the first 12 months, the Short Term Rental Administration reviewed more than 8,000 applications and issued 4,477 licenses (Figure 6). This generated $979,274 in permit fees, exceeding expectations and completely covering the administrative costs of the program. Based on the 2016 study's estimate of 4,000–5,000 STRs operating in New Orleans and the number of licens-

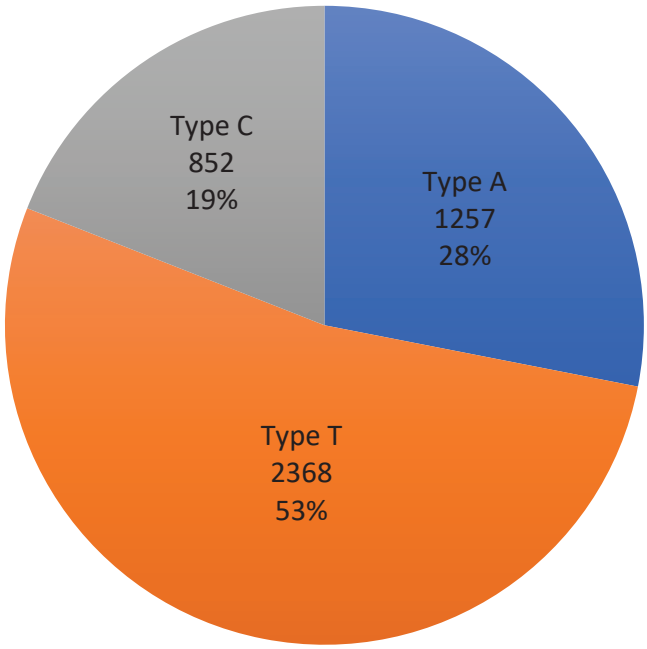

Figure 6. Breakdown of STR licenses by rental type. Courtesy City of New Orleans Department of Safety and Permits.

es issued during the first year of program implementation, DSP believes the compliance rate is in the high 90 percent range.

In terms of enforcement activities, DSP opened 1,719 violation cases between January 1, 2017, and April 1, 2018, from which 280 administrative hearings were held and $268,538 in total fines assessed.

The mechanisms for identifying and enforcing rentals in prohibited zones and licensing requirements were successful, but challenges remained. Type T rentals made up the largest share of licenses issued, but also proved to be the most problematic from both a regulatory and neighborhood perspective. This became the single largest liability to the program.

Key to administering the Type T license was the ability of the city to monitor and enforce compliance on the 90-night annual rental cap provided in the adopted regulations. While the listing platforms initially represented that they would be supportive of the licensing program and provide the necessary information to DSP, both Airbnb and HomeAway subsequently declined to provide complete rental documentation based on their interpretation of the Stored Communications Act (see sidebar). As a result, while monthly reports could tell the enforcement team how many nights all STRs were rented, those numbers were not tied to specific properties or listings to allow meaningful, consistent enforcement action.

Because of the problems caused by the Type T STRs, the public was not completely satisfied with the initial iteration of the STR program. While the city was proud of the overall success rate in terms of registration and enforcement effectiveness, the inability to effectively police the annual rental cap led to a public pushback against elected officials who were viewed as being nonresponsive to this inability.

Implemented and Proposed Changes to the Program

The city's municipal elections were held in the fall of 2017, and STRs featured prominently in city council campaigns. Of the three district councilmembers running for reelection, the only one reelected was the sole councilmember to vote against the STR regulations. The new city council came into office with a clear intention of revisiting the regulatory regime.

During the transition period, then-Councilmember LaToya Cantrell (now mayor) initiated two separate actions that would lay the foundation for updating the city's STR regulations. The first was the proposal and ultimate adoption of a zoning text amendment to require conditional use approval for some STRs

The Stored Communications Act and Its Effect on STR Enforcement

As planners negotiate the regulatory and enforcement balance of STR program development, the city or county legal team should be consulted in the early stages of the process about the Stored Communications Act (SCA), an element of the Electronic Communications Privacy Act of 1986 intended to ensure the privacy of electronic records created by a company about its customers. If communities are developing local regulations reliant on data sharing by hosting platforms, they must be aware of the SCA and ensure the proper provisions are in place to minimize its impact on STR enforcement efforts.

New Orleans's data-sharing provision within the new licensing regime required routine reporting of basic rental information to help the city monitor compliance with the 90-night rental limitation for Type T rentals. Key to the effectiveness of this agreement was the provision for issuance of administrative subpoenas to get specific user data based on potential violations identified based on the anonymized data being provided on a monthly basis. While the hosting platforms suggested the administrative subpoena provisions during regulatory negotiation, once these subpoena were issued they became less-than-willing partners in providing the necessary data to match anonymized data to specific properties or licenses.

Under the SCA, platforms have to provide any requested data subject to either a subpoena issued by a court or an administrative subpoena authorized by federal or state statute. In the case of New Orleans, the subpoena authority under which DSP requested this information was the city's home rule charter, which is enabled by the Louisiana Constitution. However, the hosting platforms deemed this insufficient to turn over anything more than "basic subscriber information" as provided by the SCA and subsequent jurisprudence. (There is currently no legal consensus on how the SCA should be applied to listing platforms.)

The "basic subscriber information" provided illustrates how difficult Internet regulation can be, particularly for a local government. To fill in the gap between specific property and anonymized identification number, HomeAway and Airbnb provided the first and last name of the account holder and their user identification number, email address, and telephone number—but not the license number issued by the city associated with the listing or the property address. As a result, city staff needed to match names, email addresses, and telephone numbers with over 4,000 issued licenses. This highlighted one problem that DSP had not planned for: licenses issued to property owners but listings posted or managed by a third party.

In revisiting the 2016 regulatory structure, deficiency in data production was one of the primary concerns. Had the city been aware of the industry's use of the SCA as a shield against providing the information required to properly implement and enforce the proposed program, the regulations as initially adopted would have likely looked quite a bit different. This would have likely ranged from creating a licensee-reporting requirement to elimination of the Type T license entirely. What is certain is that the changes being evaluated by the city planning commission and the city council in 2018 are keeping the SCA in the forefront as they evaluate how best to modify the STR licensing regime to ensure compliance and enforceability.

in the city's historic urban core business districts. This change was made in response to the concerns of neighbors that structures containing apartments were being converted into "hotels" in otherwise neighborhood-scale commercial corridors. The second action directed the City Planning Commission to conduct a full study of the new STR regulatory regime.

When the new city council took office in May 2018, it wasted no time in delivering on the promises made to its constituents. At the second meeting of the new term, the council adopted Motion M-18-195: a partial moratorium on new STR licenses with a full prohibition on Type T STR licenses in the historic areas of the city, the central business district, and mixed use districts, and a prohibition of new Type C STR licenses on the first floor of mixed use buildings, though they would remain permitted on upper floors. This moratorium was scheduled to last nine months while the commission completed its study and the city's regulations were updated.

The commission completed its updated study in early October 2018 (New Orleans City Planning Commission 2018). While the study makes several recommendations, the most substantial is the elimination of the problematic Type T STRs. Type C STRs would carry on, but the Type A STRs would be redefined to cover nearly any owner-occupied property. A new third type of license, valid for special events only, would allow owners or rental tenants to rent out a permanently occupied dwelling unit for not more than 14 days per year. At the time of writing, the city council has not yet taken action on the report, but it is likely that that will do so within the next several months.

Lessons Learned

STRs are a planning challenge: they are residential units by design but can act like hotels in their impact on a community. A proliferation of these uses—particularly in tourism-heavy cities—can lead to significantly increased housing costs and begin to price out actual residents in favor of residents for-a-day. New Orleans's experience in studying and regulating STRs highlights several key considerations in dealing with this issue.

Ensure that regulations are clear and enforceable. In developing the STR regulations, planning staff worked closely with DSP to ensure that enforcement was based on the information likely to be available. Compliance is easily provable for regulations such as requiring a license and requiring that license to be posted. Some STR regulations lie in more of a gray area, such as nuisance prohibitions, but with rigid enforcement standards and vigilant neighbors these have also proved enforceable.

Partner with listing platforms when possible. Partnerships can either be formal or informal, but platform buy-in helps ensure consistent communication on regulatory requirements and may aid in enforcement. The city's data-sharing agreement with Airbnb allowed DSP to coordinate actions to de-list unlicensed properties posting on that platform. While this was not a complete solution to illegal rentals, it greatly improved compliance rates throughout the city and helped stop rental listings in the Vieux Carré.

Recognize your limitations. Initially, residents and councilmembers pushed to regulate STR listing platforms in the same way that DSP regulates transportation network companies (TNCs). Where the city has the authority to regulate TNCs due to the long-standing regulation of vehicles-for-hire, that level of regulatory authority was not possible for dwellings, where state law prohibits local governments from regulating contractual transactions relative to real property. To address this lack of direct regulatory authority, the city negotiated data sharing to the extent possible and crafted regulations that could withstand legal scrutiny.

Coordinate STR policy making with policies surrounding affordable housing. While New Orleans began to take this approach by requiring contributions to the City's Neighborhood Housing Improvement Fund, there was no consistent strategy for the investment of those fees. A combination of this and the proliferation of Type T STRs had the effect of pricing out long-time residents and artificially inflating property values due to the expectation of return on investment.

Conclusion

During 2017, the City of New Orleans became a model for STR regulatory compliance across the nation. Thanks to data sharing and some regulatory assistance from Airbnb, DSP was able to successfully license nearly 5,000 short-term rentals. This represents a compliance rate above 90 percent in less than one year, while many peer cities struggle to reach a 20 percent compliance rate after one year.

While the city was proud of this achievement, it understood that the regulatory regime would need to be revisited after the first year to evaluate neighborhood impacts and overall compliance—and indeed, regulatory enforcement proved more difficult, especially for the Type T temporary STR licenses. The city hopes to resume enforcement of licensing standards in cooperation with listing platforms as this regulatory revision comes to a close.

Just as New Orleans is now revisiting the initial regulatory structure to respond to changing dynamics of the industry and public sentiments, planners will need to be prepared to continually address issues like STRs for years to come. There is no formula which can be applied across every jurisdiction to address the impacts of the use and the concerns of residents. Rather, it is our job to understand the implications of decision making, continually observe the effects of those decisions, and recommend change when necessary—recognizing that maybe we were wrong the first time.

Regulation of emerging technologies is not new to planners, and STRs will not be the last challenge of this sort we face as practitioners. Combining best practices and lessons learned in New Orleans can help communities across the country develop and implement regulatory structures that will adapt to emerging technologies and industries while also protecting residents and the stability of communities.

About the Author

Jared E. Munster, PHD, AICP, was the director of the Department of Safety and Permits for the City of New Orleans from No-

vember 2012 through June 2018 and worked closely with the City Planning Commission, City Council, and the Landrieu and Cantrell administrations in shaping the regulatory and enforcement processes of the New Orleans Short Term Rental Program. Munster holds an undergraduate degree in urban studies and planning, a master's degree in urban and regional planning, and a PhD in urban studies from the University of New Orleans. He is also a certified floodplain manager and is presently serving as the interim executive director of the Regional Transit Authority of New Orleans.

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