

OFFICE OF THE CITY AUDITOR
PERFORMANCE AUDIT
December 2022

Short Term Rental Permit Regulations Have Gaps; Permit Enforcement and Revenue Impacted



2022 Knighton Award
Distinguished Winner – Medium Shop
Association of Local Government Auditors



**KANSAS CITY
MISSOURI**

Office of the City Auditor
Douglas Jones, CGAP, CIA, CRMA – City Auditor
21st Floor, City Hall, 414 E. 12th St.
Kansas City, Missouri 64106

816-513-3300
cityauditor@kcmo.org
@KCMOCityAuditor
KCMO.GOV/CITYAUDITOR



Office of the City Auditor

21st Floor, City Hall
414 East 12th Street
Kansas City, Missouri 64106

(816) 513-3300
Fax: (816) 513-3305

December 7, 2022

Honorable Mayor and Members of the City Council:

This audit of short term rentals focuses on hosts' permit compliance. A [companion audit](#) focuses on the impact short term rental activity has on the city's convention and tourism taxes and fees. We originally planned to issue a single report addressing both issues. However, we decided to issue separate reports to ensure the Mayor and City Council received information about the impact short term rentals have on the city's convention and tourism tax as they considered the city's legislative priorities for the 2023 session of the Missouri General Assembly. This audit was based in part on public audit suggestions.

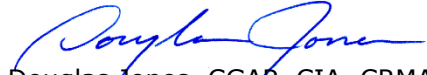
Most short term rental hosts do not comply with the city's permit requirement. Hosts listed over 4,175 residences as short term rentals between August 2018 and August 2022, while the city issued only 296 permits for a 7% compliance rate. Due to low permit compliance, the city did not receive a little over \$1 million in permit fee revenue during that time. Permits are an important part of the city's effort to regulate short term rentals. With nearly all short term rentals operating outside the city's permit program, the city does not know where these units are operating, whether they are allowed to operate in those locations, whether they are safely operating, who is operating them, and does not receive the fees that fund the oversight and enforcement of the program.

Kansas City's short term rental permit regulations are ineffective and inefficient. Hosts do not violate city code until a guest occupies an unpermitted unit. The regulations do not address the role of intermediaries in facilitating bookings of unpermitted units. Other cities we reviewed require hosts to have permits before listing their units for rent and intermediaries to verify those permits before facilitating a booking. This makes it easier to prove a violation occurred and take enforcement action. Obtaining cooperation from intermediaries helps prevent hosts from circumventing city permit requirements.

The City Planning and Development Department does not communicate with intermediaries about listings on their platforms. This communication is important so the platforms know what units are properly permitted and so the city can take more efficient enforcement actions against unpermitted units.

We make recommendations directed towards improving short term rental permit compliance through changes to the city's regulatory ordinance, improving communication with intermediaries, and considering the impacts changes will have on City Planning and Development staff. These steps should provide the basis for the city to evaluate the impacts of short term rentals on the city, develop policy responses to those impacts, and provide resources (about \$1.1 million in permit/renewal fees over the next five years) to staff to implement those policies.

The draft report was sent to the Director of City Planning and Development on November 10, 2022, for review and comment. His response is appended. We would like to thank City Planning and Development and Law departments' staff for their assistance and cooperation during this audit. The audit team for this project was Terry Bray, Jonathan Lecuyer, and Suzanne Polys.



Douglas Jones, CGAP, CIA, CRMA
City Auditor

Short Term Rental Permit Regulations Have Gaps, Permit Enforcement and Revenue Impacted

Table of Contents

Introduction	1
Audit Objectives	1
Background	1
Short Term Rental Regulations	1
Findings and Recommendations	3
City's Short Term Rental Permit Regulations Difficult to Enforce	3
Very Low Permit Compliance, Over a Million in Lost Revenue	3
City Permit Regulations Difficult to Enforce, Ineffective	4
City Planning and Development Should Consider Staffing Impacts	8
Recommendations	9
Appendix A: Objective, Scope and Methodology, and Compliance Statement	10
Why We Did This Audit	10
Audit Objective	10
Scope and Methodology	10
Statement of Compliance with Government Auditing Standards	11
Scope of Work on Internal Controls	11
Data Reliability	12
Appendix B: Short Term Rental Regulations – Permits	13
Appendix C: Director of City Planning and Development's Response	15
Appendix D: City Auditor's Comments on the Director of City Planning and Development's Response	17

List of Exhibits

Exhibit 1. Short Term Rental Parties	2
Exhibit 2. City Required Short Term Rental Administrative Fees	2
Exhibit 3. Phase in Short Term Rental Activities Prohibited without Permit in Kansas City	4
Exhibit 4. Phase in Short Term Rental Activities Prohibited without Permit in Certain Cities	5
Exhibit 5. San Francisco Intermediary Compliance Method	6
Exhibit 6. Portland Pass Through and Data Sharing Intermediary Compliance Method	6
Exhibit 7. Short Term Rental Record Requirements for Comparison Cities	8

Introduction

Audit Objectives

Are short term rental hosts complying with city registration regulations?

To answer our objectives, we used 3rd party data to estimate the permit compliance rate of short term rental units in Kansas City; estimated potential revenues; and compared Kansas City short term rental regulations to other cities' regulations.

We conducted this audit in accordance with Government Auditing Standards.

See Appendix A for more information about the audit objective, scope, methodology, and compliance with standards.

Background

Short Term Rental Regulations

A short term rental is when a person or business ("host") provides a ("property" or "unit) house, apartment, or other non-traditional hotel residence for rent as overnight lodging to a guest for less than 30-days. A host may be an owner, renter, or investor that does not occupy the property. The host typically lists the unit on an intermediary website. Common intermediary websites include companies like Airbnb, VRBO, Flipkey, and HomeAway. Short term rentals grew in popularity throughout the U.S. during the 2010's.

The city council passed an ordinance to regulate the operation of short term rentals in early 2018.¹ The ordinance defines the parties governed by city code (See Exhibit 1.), requirements and fees (See Exhibit 2.) to obtain a permit, and outlined health and safety occupancy requirements.

¹ [Ordinance 170771](#), April 12, 2018.

Exhibit 1: Short Term Rental Parties Identified by City Code

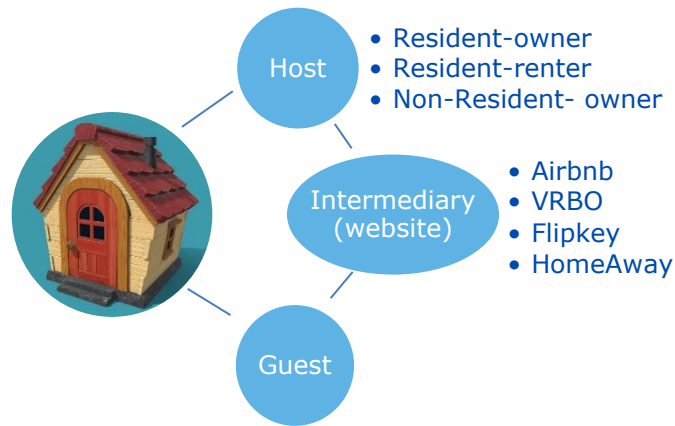


Exhibit 2: City Required Short Term Rental Administrative Fees

Fee Amount	Fee Type
\$183	Renewal
\$271	Administrative Approval ²
\$288	Registration ²
\$623	Special Use Permit ²

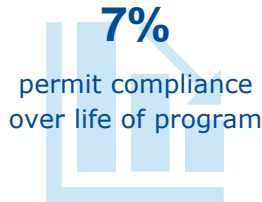
Source: Kansas City Code of Ordinances Sec 88-620-B.

² All non-renewal fees are for an initial permit approval. The process to obtain a permit and the amount of the fee paid is based on criteria defined in city regulations. See Appendix B. for more information.

Findings and Recommendations

City's Short Term Rental Permit Regulations Difficult to Enforce

Very Low Permit Compliance, Over a Million in Lost Revenue



Ninety-three percent of hosts did not obtain a permit for their short term rental unit in Kansas City. City code requires hosts to obtain a permit to operate a short term rental unit in Kansas City.³ About 7% of hosts obtained permits for short term rental units from May 2018⁴ to August 2022⁵. As of August 2022, hosts had 204 active permits with the city while intermediary sites show approximately 1,894 units⁶ actively listing short term rentals for use. The current compliance rate is about 11%. See Appendix A for more information on our methodology.

Permits are the administrative starting point for regulating short term rental activity. They include information about the location of units, host contact details, and help the city verify units comply with local health and safety occupancy standards. Without an effective permit system in place, the city does not have this important information and enforcement activity is slowed. Additionally, this information helps policy makers evaluate the impacts of short term rentals on the city and address issues stemming from those impacts.



Because most hosts do not obtain the required permits from the city, the city potentially lost over a million dollars in registration and renewal fees. City ordinance requires an initial fee to obtain a permit. The process and amount paid depends on the type of unit and zoning. (See Appendix B.) The city should have received over \$1.13 million in initial permit fees from May 2018 to August 2022 but has only received about \$129,000 in initial permit fees.

While initial registration fees are only received once, a host is required to pay a renewal permit fee each year. Because most hosts do not have permits, we can only estimate the number of current listings that should be renewing. If 30% of active units in August 2022 continued operation from last year, the city should have expected to receive about \$103,980 in renewal fees. The city only received \$17,568 in renewal fees over the last year and a half.

³ Code of Ordinance, Kansas City, Missouri, [Sec. 88-321](#).

⁴ Hosts became subject to enforcement actions by the city after August 8, 2018.

⁵ Only 296 permits issued for over 4,175 units operating as short term rentals during that time frame.

⁶ The number of units listing fluctuates over time, this is a point in time snapshot.

City Permit Regulations Difficult to Enforce, Ineffective

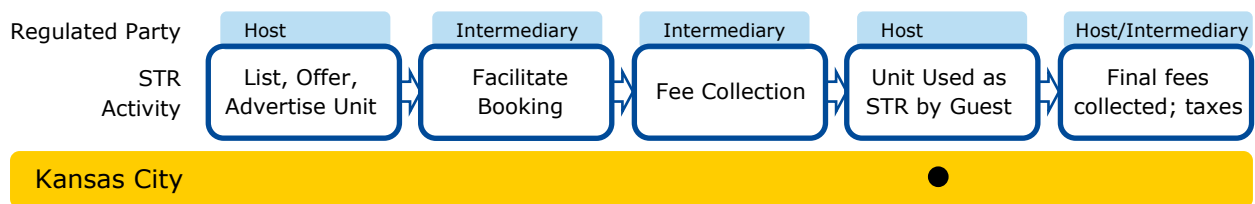
The City Planning and Development Department cannot effectively enforce permit requirements because:

- City permit regulations do not address host activity early enough in the process.
- The city has no regulations for intermediaries’ role in the process.
- The city does not communicate with or receive necessary data from intermediaries.

The city’s ordinance is meant to balance the rights of property owners to rent out their homes with the rights of neighbors to preserve and protect the character of their neighborhoods. The city needs properly designed regulations and the necessary communication and information to effectively regulate the operation of short term rentals in Kansas City.

City Code does not prohibit a host from listing/advertising their unit without a permit. Rather, it prohibits the use of a unit as a short term rental or accommodation of guests without a permit. The City Planning and Development (CPD) Department has a web-based tool to identify advertisements on intermediary websites. The tool provides only an approximation of rental units’ addresses. The city’s regulatory approach means this information is insufficient to prove a permit violation, which requires proof a guest stays in the unit. (See Exhibit 3.)

Exhibit 3: Phase in Short Term Rental Activities Prohibited without Permit in Kansas City



Sources: Kansas City Code of Ordinances and City Auditor’s Office analysis.

The city’s approach takes a significant amount of evidence and time to investigate. CPD investigators say the fastest an investigation can be completed is about 15 days, though some cases may need additional inspections. If an owner does not resolve a violation, investigators may refer a case to Municipal Court for prosecution. A city prosecutor reported they need a high level of evidence to prove a host is using their residence as a short term rental. Evidence may include neighbor testimony or direct staff observation of a guest staying at the unit.

Most city investigations of short term rentals are related to operating without a permit. Since 2018, 95% of 311 complaints received were related to operating without a permit, though some also include nuisance issues. City Prosecutors state they have taken 115 short term rental cases with 67 guilty pleas, 12 dismissals, and 36 unresolved or warrant status. Most resolved cases result in the host obtaining a permit.

In contrast to Kansas City, regulations in other cities prohibit or make it unlawful for a host to list, advertise, or offer a short term rental unit without a permit. (See Exhibit 4.) They often use this approach in combination with additional prohibitions (discussed below) to prevent hosts from listing units without a permit.

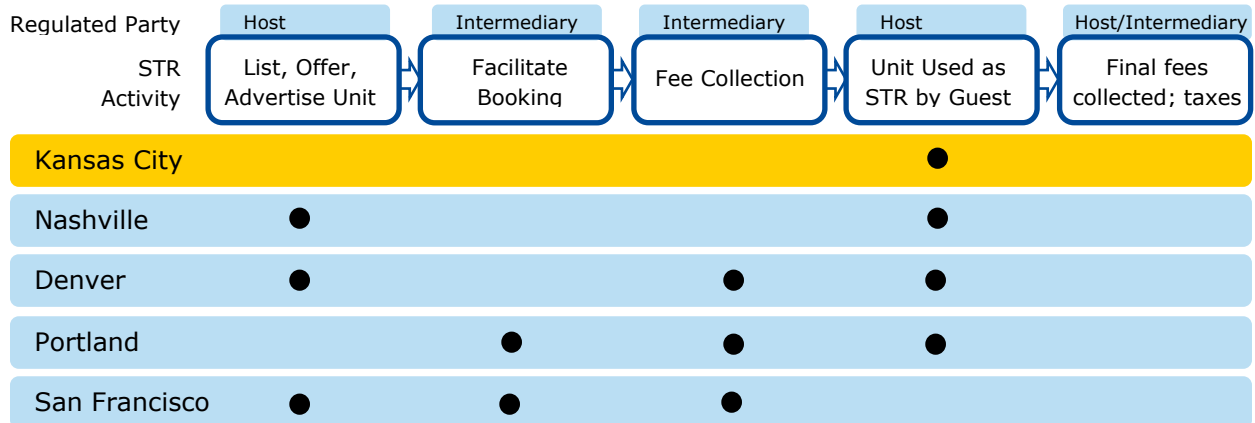
Recommendation To regulate short term rental host activity more effectively, the director of city planning and development should propose for City Council consideration an ordinance that prohibit hosts from listing, offering, or advertising short term rentals without a permit.

City code does not explicitly prohibit intermediaries from facilitating unpermitted short term rental transactions.

Instead, city code says a permit indicates a property is eligible for short term rental use and listing on an intermediary platform. Without an explicit prohibition, intermediaries facilitating transactions on behalf of unpermitted short term rentals are not violating local codes. If there are no local laws violated, intermediaries will likely continue facilitating unpermitted short term rental activity.

Some cities prohibit intermediaries from booking reservations or collecting fees for unpermitted units. This helps discourage bookings of unpermitted units from occurring. Exhibit 4 shows cities that prohibit intermediaries from completing booking activities or collecting fees from short term rentals with no permit.

Exhibit 4: Phase in Short Term Rental Activities Prohibited without Permit in Certain Cities



Sources: Listed Cities' Code of Ordinances and City Auditor analysis.

Some of these cities define how intermediaries can comply with city requirements either directly in city code or agreements with intermediaries for pass through registration and data sharing. San Francisco requires intermediaries to submit an affidavit to the city that they verified each unit has a permit prior to listing as a short term rental. (See Exhibit 5.) This city also communicates supplementary guidance on how an intermediary may comply with this requirement.

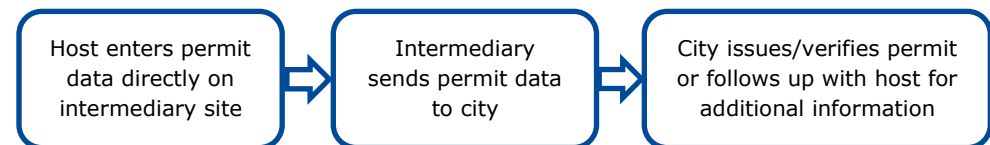
Exhibit 5: San Francisco Intermediary Compliance Method



Source: San Francisco Code of Ordinances Sec 41A.5(g)(4).

Portland also requires intermediaries to verify a unit has a permit prior to listing as a short term rental or enter into a pass through registration and data sharing agreement with the city. The pass through agreement may allow a host to submit a registration application to the city directly through the intermediary website. The agreement defines the type and frequency of information sent to the city. The intermediary agrees to remove unpermitted listings after certain procedures are followed. (See Exhibit 6.)

Exhibit 6: Portland Pass Through and Data Sharing Intermediary Compliance Method



Source: Portland Pass Through Registration Data Sharing Agreement and City Auditor analysis.

Intermediary websites play a crucial role in connecting a host to a guest. Until the city has a legal mechanism to require intermediary websites to verify a rental unit has a permit prior to booking or collecting fees, hosts will likely continue to ignore city permit requirements.

Recommendation

To improve the city's ability to regulate short term rental activity in the city, the director of city planning and development should submit for City Council consideration an ordinance that addresses the role of intermediary websites facilitating transactions for unpermitted short term rentals while providing methods for intermediaries to demonstrate reasonable attempts to comply with permit rules.

The City Planning and Development (CPD) Director could better communicate with intermediaries. City code requires the director to create a list of permitted short term rental units and notify intermediaries of any revocation or suspension of permits.⁷ The director uses CompassKC, the city’s permit application website, to satisfy this requirement. It is possible for intermediaries to access CompassKC to identify permitted units in the city. The portal requires navigating a search function and identifying department classifications of short term rental records.

CPD Staff did not communicate this process to intermediaries or maintain points of contact with intermediaries to determine whether they are aware of this portal. CPD staff states this section of code was meant to encourage the intermediaries to work with the city and only list permitted units, however this never materialized.

Recommendation

To verify intermediaries understand and follow applicable city requirements, the director of city planning and development should establish a point of contact with all intermediaries and setup a process to communicate information related short term rental regulations.

City Planning and Development (CPD) enforcement should specify records requirement and process for obtaining information. Kansas City code requires hosts and intermediaries to maintain records of each short term rental as required by law.⁸ The code requires intermediaries to make available all short term rental records to the city planning development director pursuant to a valid legal process.⁹ However, the code does not define what specific records the city might want. Having the data related to booking details, listing address, unit room counts, and host contact information all would help the city enforce permit requirements, general city regulations, and tax regulations where applicable.

Regulations in other cities specify information hosts and intermediaries are required to retain. (See Exhibit 7.) Cities define this either in city code or data sharing agreements. Cities may treat some transactional information as confidential while other permit related information remains public data.

⁷ Kansas City Code of Ordinances Sec. [88-321-04-A\(1-2\)](#).

⁸ Kansas City Code of Ordinances Sec. [88-321-04-B\(1\)](#).

⁹ Kansas City Code of Ordinances Sec. [88-321-04-B\(3\)](#).

Exhibit 7: Short Term Rental Record Requirements for Comparison Cities

Intermediary Requirements	Host Requirements
Host contact information	Guest Logs (name, address, license plate)
Intermediary site facilitating transaction	Number of nights a unit was rented
Address of short term rental listing	Dates a unit was rented by a guest
Unique rental listing number	Dates a unit was owner occupied
Permit number	
Number of rooms included in listing	
Number of guests allowed in listing	
Dates a listing is booked	
Amount of booking	
Number of nights stayed	

Sources: City Code or Data Sharing Agreements from Portland, Denver, Nashville, and San Francisco.

An established process with intermediaries will improve record access. Because no process was yet established, we subpoenaed information from certain intermediaries to obtain information related to this audit. This process was lengthy and required negotiation between legal counsels. While intermediaries complied with our request for information, this process can be streamlined through the identification of records requirements and processes for the city to obtain those records.

The City Planning and Development Department needs to exchange quality information with hosts and the intermediaries to achieve the city’s short term rental regulation goals. Creating a routine process to obtain this data will assist the department in enforcing permit requirements.

Recommendation

To regulate short term rentals operating in Kansas City more effectively, the director of city planning and development should establish clear record requirements for short term rental hosts and intermediaries and a process for the city to obtain listing, booking, and host information.

City Planning and Development Should Consider Staffing Impacts

More effective short term rental regulations could result in an increase of permitting activity that could overwhelm current City Planning and Development Department (CPD) staff. Management estimates that six planners with primary responsibilities related to city planning activities spend about 20% of their time reviewing short term rental applications. CPD received, on average, 290 short term rental applications per year between 2018-2021. If all short term rental units attempt to come into compliance, CPD can expect each staff member’s short term rental workload to increase over 100%.

An increase in short term rental permits should provide an increase in permit fee revenue. Permit fee revenue is meant to fund administrative costs related to a program, including staff. Additional staffing would help the department effectively manage the increase in applications and related enforcement activity.

Recommendation In preparation for an increase in permits, the director of city planning and development should evaluate their staffing needs based on anticipated permit activity and associated fee revenue to determine necessary staffing levels to manage the short term rental program.

Recommendations

1. The director of city planning and development should propose for City Council consideration an ordinance that prohibit hosts from listing, offering, or advertising short term rentals without a permit.
2. The director of city planning and development should submit for City Council consideration an ordinance that addresses the role of intermediary websites facilitating transactions for unpermitted short term rentals while providing methods for intermediaries to demonstrate reasonable attempts to comply with permit rules.
3. The director of city planning and development should establish a point of contact with all intermediaries and setup a process to communicate information related short term rental regulations.
4. The director of city planning and development should establish
 - a clear record requirements for short term rental hosts and intermediaries
 - a process for the city to obtain listing, booking, and host information.
5. The director of city planning and development should evaluate their staffing needs based on anticipated permit activity and associated fee revenue to determine the necessary staffing levels to manage the short term rental program.

Appendix A: Objective, Scope and Methodology, and Compliance Statement

We conducted this performance audit of short term rental regulations, taxes, and fees under the authority of Article II, Section 216 of the Charter of Kansas City, Missouri, which establishes the Office of the City Auditor and outlines the city auditor's primary duties.

A performance audit provides "objective analysis, findings, and conclusions to assist management and those charged with governance and oversight, with among other things, improving program performance and operations, reducing costs, facilitating decision making by parties with responsibility for overseeing or initiating corrective action, and contributing to public accountability."¹⁰

Why We Did This Audit

The city receives complaints about the illegal operation and disturbances related to short term rentals. In addition to complaints, residents also suggested we audit this program.

Evaluating host's compliance with city short term rental registration regulations helps ensure hosts register short term rentals with the city and are held accountable when in violation of city ordinances.

Audit Objective

This report is designed to answer the following question:

- Are short term rental hosts complying with city registration regulations?

Scope and Methodology

Our audit methods for permit compliance included:

- Obtaining short term rental listing data from Host Compliance to estimate the number of units in Kansas City.
- Comparing estimated short term rental units to total city permits issued to estimate short term rental permit compliance rate.

¹⁰ Comptroller General of the United States, [Government Auditing Standards](#) (Washington, DC: U.S. Government Printing Office, 2018), pp. 10, 11.

- Interviewing city staff to identify enforcement processes, activities, and barriers to achieving compliance.
- Comparing city regulations to other cities' regulations to demonstrate gaps in the city's approach to short term rental permitting.
- Calculating the amount of fee revenue short term rentals would have paid had they registered to determine the impact on city revenues.
- Reviewing 311 complaints to determine the number and nature related to short term rentals.
- Communicating with short term rental intermediaries to identify how they comply with applicable regulations.
- Subpoenaing and receiving from two intermediaries' data on short term rental activity in Kansas City to evaluate the reasonableness of information from Host Compliance and city records.

Statement of Compliance with Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. No information was omitted from this report because it was deemed confidential or sensitive.

Scope of Work on Internal Controls

We assessed internal controls relevant to the short term rental compliance with city permit requirements. This included assessing the design of the control in comparison to other cities with similar regulations; flowcharting short term rental business processes to identify gaps in controls; and determining whether the department implemented all control activities. We identified internal control deficiencies that are discussed in the body of the report.

Data Reliability

We use data from Host Compliance¹¹ to estimate permit compliance rate by short term rentals in the city. We obtained data from May 2018 to August 2022 directly from Host Compliance's web application. Data included host listings on intermediary websites. We assessed the reliability of information by checking whether fields were complete, as expected, unique, and valid. We then randomly selected 50 records to trace to supporting documentation to verify the validity of fields. We removed records with blank address fields from the dataset and concluded that the remaining records were reasonably reliable to make conclusions about the total number of short term rental units in the city.

¹¹ Host Compliance is a web platform contracted by the City Planning and Development Department. They provide the department with services to identify short term rental listings and other related data.

Appendix B: Short Term Rental Regulations – Permits


Short Term Rental processes to obtain a permit varies depending on several variables. Exhibit 10 shows the zoning and occupancy criteria for each process for obtaining a permit. Additional steps are required beyond payment of the fee. After the initial permit fee is paid, all short term rentals pay an annual \$183 renewal fee for their permit.

Exhibit 10. Short Term Rental Permit Types and Criteria

Permit Process	Zoning	Occupancy	Fee
Special Use Permit	R-10; R-7.5	Owner occupied	\$623
		Non-owner occupied	
Administrative Approval	Residential zoned except R-10, R-7.5	Owner occupied	\$271
		Non-owner occupied	
Registration	AG-R, B, D, UR, MPD, and M1	Owner Occupied	\$288
		Non-Owner Occupied	

Source: Kansas City Code of Ordinances Sec 88-321 and 88-620 B.

Appendix C: Director of City Planning and Development's Response



CITY OF FOUNTAINS
HEART OF THE NATION

KANSAS CITY
MISSOURI

City Planning and Development Department

Office of the Director

15th Floor, City Hall
414 E. 12th Street
Kansas City, Missouri 64106-2795

(816)513-1500
Fax: (816)513-2838

RECEIVED

DEC 06 2022

CITY AUDITOR'S OFFICE

Date: December 5, 2022

To: Douglas Jones, City Auditor

From: Jeffrey Williams, Director of City Planning and Development

Subject: Response to Performance Audit: "Short Term Rental Permit Regulations Have Gaps; Permit Enforcement and Revenue Impacted"

1. *The Director of City Planning & Development should propose for City Council consideration an ordinance that prohibits hosts from listing, offering, or advertising short term rentals without a permit.*

I agree with this recommendation. City Planning & Development Department will bring forth an ordinance amendment that captures this among other things, namely prohibiting Type 2 short term rentals. I specifically outline the removal of Type 2 short term rentals, as the majority of the complaints are regarding this type due to owners not being present and most of the party/event rentals occurring in these locations. The community has made this request often and we support it. Text amendments regarding major policy issues, especially ones with significant public interest, can take considerable amount of time so we are not prepared to offer a timeframe for this recommendation at this time. Feedback from the city manager and/or the city council will be necessary to determine the proper approach for public input. After that is known we can provide both with an estimated time frame.

2. *The Director of City Planning & Development should submit for City Council consideration an ordinance that addresses the role of intermediary websites facilitating transactions for unpermitted short term rentals while providing methods for intermediaries to demonstrate reasonable attempts to comply with permit rules.*

I agree with this recommendation. I agree that the intermediaries have a role. It is unclear, without the consultation of the Law Department, whether we have the legal ability to restrict the intermediary's ability to facilitate transactions and even if we do, it is unclear who would be responsible for executing and enforcing the contract between the City and the intermediary. We will consult with that department to determine what legal barriers, if any, exist and the proper role of each department with regard to this recommendation.

3. *The Director of City Planning & Development should establish a point of contact with all intermediaries and setup a process to communicate information related short term rental regulations.*

I agree that a point of contact with intermediaries could be beneficial. In the past intermediaries have been resistant if not hostile to such a relationship. It remains to be seen whether that has changed. Establishing and maintaining ongoing relationships, while beneficial, may not be a role best suited to City Planning & Development Department. We will consult with the city manager and other departments to identify the proper role of relevant city departments with regard to this recommendation.

See city auditor's comments about the department's response to recommendation #4 on page 17.

4. The Director of City Planning & Development should:

- **establish clear record requirements for short term rental hosts and intermediaries**
- **a process for the city to obtain listing, booking, and host information.**

I disagree with this recommendation. We utilize a third party who provides us with listing and booking information. Host information is unobtainable unless and until the short term rental is registered or unless and until intermediaries provide it, therefore the ability to access this information is not dependent upon us. Our existing registration tools provide clear expectations as to the records which must be provided by the applicant when registering. We could provide the same to intermediaries if the relationships can be established; however, we do not find that our record requirements are unclear or that there is not an established process for obtaining listing and booking information.

5. The Director of City Planning & Development should evaluate their staffing needs based on anticipated permit activity and associated fee revenue to determine the necessary staffing levels to manage the short term rental program.

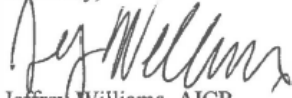
I agree with this recommendation. Since the adopting of the short term rental ordinance in 2018 the program has been administered by a group of staff with conflicting priorities who have done their best to implement the program. Prior to its adoption our department requested additional staff which were not provided. This along with the timing of the effective date of the ordinance occurring on the same date as the launch of CompassKC and the inadequate number of staff have greatly hindered our ability to implement this program as we desire to. Our effectiveness has also been limited by state laws which restrict our enforcement tools to such a degree that they do not serve as a deterrent. For these reasons we may recommend that the program be administered by a department that does not operate under such restrictions.

Final Response

I understand the scope of the audit is limited to discerning whether short term rentals are following city code and to understand the fiscal impact related to the question. There is a third dimension that the audit was not charged with investigating and that is the operation of short term rentals. The short term rental operating responsibly rarely elicits complaints from neighborhoods; however, those that are operated poorly do. Rentals which serve as party houses or event spaces generate the bulk of the complaints we investigate. The fact that these activities often occur outside of business hours greatly impedes our ability to enforce our ordinances. As mentioned previously, even if we are able to witness such activity when the enforcement case gets to court the most the owner or host may be fined is \$150. This is not a deterrent, and this method of enforcement will never resolve such complaints. Some communities have adopted nuisance ordinances or similar which delegate enforcement to a department who does work overnight with proper safety training and credentials to shut down a party, make arrests, and fine on the spot or for amounts which likely deter such future activity. I suggest this is an issue of citywide importance and concern and therefore is an issue that the city must tackle collectively, not just one department.

Thank you for the opportunity to respond. We look forward to working with all stakeholders to preserve the livability and integrity of our neighborhoods.

Sincerely,



Jeffrey Williams, AICP
Director

Appendix D: City Auditor's Comments on the Director of City Planning and Development's Response

Under Government Auditing Standards, when an audited entity's response comments are inconsistent with findings, conclusions, or recommendations or do not adequately address recommendations, auditors should evaluate the comments. If they disagree, auditors should explain in the report their reason for disagreement.

This appendix is the city auditor's written comments on the City Planning and Development Department's response to this audit. The department's response is Appendix D.

Comment to Recommendation 4

We disagree with the City Planning and Development Director's decision to not implement the recommendation to establish clear record requirements for short term rental hosts and intermediaries as well as a process to obtain listing, booking, and host information. The director states the current registration tool provides clear expectations as to the records which must be provided by the applicant. However, there is no requirement that hosts maintain records of guests staying at short term rentals, as some other cities do. This information can be helpful to the city when pursuing nuisance complaints related to occupants of short term rentals. Additionally, a main theme in the audit is that not all hosts complete registrations. The director states, "Host information is unobtainable unless and until the host is registered or unless and until intermediaries provide it." This is why we are recommending the city require intermediaries to provide this information directly to the city and the city develop a process for obtaining it.

The director states they could provide "the same [requirements] to intermediaries if the relationship can be established; however, we do not find that our record requirements are unclear or that there is not an established process for obtaining listing and booking information." As noted on page 8 of the audit, current city code requires intermediaries to make available all short term rental records to the city planning and development director pursuant to a valid legal process. The director has not defined this process nor initiated a process to obtain any kind of information from the intermediaries. We requested (via subpoena) and obtained information from two intermediaries. Our experience doing so informs us that the existing language in city code is too broad and required negotiation regarding the records they would provide. Specifying exactly what intermediaries are required to maintain and how they should provide it will make this process clearer.

Accurate listing, booking, and host information will become increasingly important if the citizens of Kansas City vote to levy and collect either a Convention and Tourism Tax or an Occupancy Fee on short term rentals as discussed in our companion audit. This recommendation helps provide the city with needed information.