



**CML's 93<sup>rd</sup> Annual Conference**  
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## The Sharing Economy

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## What's in a name?

- The Sharing Economy
- The On-Demand Economy
- Collaborative Consumption
- The Peer to Peer Economy
- The Maker Movement
- The Mesh
- The Collaborative Economy

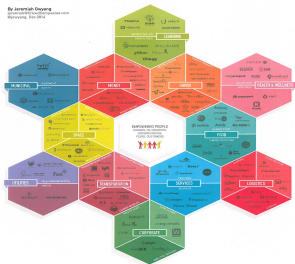
The Sharing Economy is a socio-economic ecosystem built around the sharing of human and physical resources. It includes the shared creation, production, distribution, trade and consumption of goods and services by different people and organizations.



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## What is the scope?



- Space
- Food
- Transportation
- Services
- Goods
- Money
- Learning
- Municipal
- Utilities
- Corporate
- Logistics
- Health and Wellness

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## What is the scope?

**Space**  
 Airbnb, VRBO, Cannabeds, MisterBnB, One Fine Stay, Love Home Swap, Home Exchange, Home Away, Couch Surfing, Share Desk, Peer Space, Pivot Desk, Breather, Liquid Space, Storefront, Beyond, Smart Host, Everbooked, Rate Coaster, Share Better, Air Bud, Pricelabs, Beyond Pricing, Price Method, Kinkbnb

**Food**  
 Feastly, Muncherie, Mealsharing, Eat With, Good Eggs, Kitchit, Supper Share, Vizeat, Leftover Swap, Kitchen Surfing, Share Your Meal, Blue Apron

**Transportation**  
 Uber, Lyft, Sidecar, Flight Car, Car2Go, Zip Car, E Go Carshare, Relay Rides, Getaround, Shuddle, BlaBlaCar, OLA, Bridj, Halio, Boat Bound, Scoot, Drive Now, Surfair, Zetta Driver, What's the Fare, Sherpa Share, Get My Boat, SkyBus, Chariot, Via, Carma

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## What is the scope?

**Services**  
 Timebanks, Task Rabbit, HomeJoy, Fiverr, Task Angel, Zirtual, Cloud Peeps, Crowd Spring, 99 Designs, Freelancer.com, Elance, O Desk

**Goods**  
 Etsy, Shapeways, Custom Made, The Grommet, Tech Shop, Quirky, Tindle, Pley, Rocks Box, Rent the Runway, Bag Borrow and Steal, 1000 Tools, Move Loot, Yerdle, Thread Up, Swapdom, Listia, Craigslist, Ebay, Kijiji, Gone!

**Money**  
 Bitcoin, Dogecoin, Namecoin, Peercoin, Our Crowd, Indiegogo, Finding Circle, Kickstarter, Circle Up, Pave, Upstart, Green Note, Kiva, Lending Club, Prosper, Zopa

**Learning**  
 Thinkful, Khan Academy, Udacity, Helpouts, Coursera, Instructables, Skillshare, Gibbon, Maverr, Chegg

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## What is the scope?

**Municipal**  
Velib, Yardclub, MuniRent, Musketeer, Live360, Bannerman, Kitestring

**Utility**  
Open Garden, Serval, Fon, Mosiac, Vandebrom

**Corporate**  
Button, Near Me, Tilt, Local Motion, Cargomatic, Wenels, Warpit, TwoGo


**Logistics**  
Nimber, Friendshipp, PiggyBee, Shipster, Bellhops, Shyp, Postmates, Instacart, Uber Rush, Ghostruck, Deliv

**Health & Wellness**  
Cohealo, MacMallan Teams, Stat, Help Around, Eaze, Mediacast, Popexpert, Vint, Kindly

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## Implications for Municipalities

- Municipal responsibility: Protect established industries or promote innovation?
- Declining Sales Tax Revenues
- Worker issues
- Insurance Questions
- Regulatory Issues
- Health and Safety Concerns



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*"It'll have to be your place. I Airbnb'd myself out of my apartment tonight."*

CN COLLECTION

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## Short Term Rentals

- What Are They and Where are They?
- Policy Decisions for your Municipality
- Does Your Code Support Your Policy?
- If Allowed, How to Regulate
- How to Handle if it Becomes Nonconforming



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## Short Term Rentals

**"short-term rental" (STR) = typically, a residential property that is rented to a visitor for less than 30 days.**

Month

1	2	3	4	5	6	7	8
9	10	11	12	13	14	15	16
17	18	19	20	21	22	23	24
25	26	27	28	29	30	31	
32	33						

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## Different Models

**Vacation Rental:** A dwelling or part of a dwelling where lodging is furnished for compensation for fewer than thirty consecutive days without concurrently being occupied by the property owner

**Homestay:** An owner-occupied dwelling unit where bedrooms are provided for compensation for fewer than thirty consecutive days with a maximum of four adult overnight guests.

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## It's Prolific Airbnb

Glenside Camping - 100% 5-star reviews  
Entire home/apt - Pine Plains, Denver

\$160

1967 Chevy Schoolbus, Refurbished  
Entire home/apt - 15 reviews - Maroon

\$75

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## It's Prolific

Mountain Air Feel with City Access.

VRBO: Rent a house for half the price of a hotel®

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## It's Prolific Airbnb

Worldwide 1,000,000+  
Over 1,000 in Denver  
97 in Durango  
13 in Pueblo  
Listings even where laws don't allow

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## It's Prolific

Northwest: All Cities, Aspen, Avon, Beaver Creek, Breckenridge, Copper Mountain, Dillon, Frisco, Grand Lake, Keystone, Silverthorne, Steamboat Springs, Vail, Wilderrest, Winter Park Area, Utah, Arizona, New Mexico, Oklahoma.

Front Range: All Cities, Boulder, Estes Park.

Denver Area: All Cities, Denver, Evergreen.

Southwest: All Cities, Crested Butte Area, Durango, Telluride Area.

South Central: All Cities, Loveland, Fort Collins, Greeley, Weld County, WY, CO.

Southeast: All Cities, Denver, Evergreen.

VRBO: 16,522 Colorado listings

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## It's Prolific

[TripAdvisor, 2014]

Over 52% of surveyed individuals plan to stay in a vacation rental in 2014, up from 44% in 2013.

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## Policy Questions?

### Does Your Community Support This?

The Good

Tourism spending and tax dollars  
Owner rental income used to supplement income to:

- improve properties,
- stay in houses,
- spend in local economy

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## Does Your Community Support This?

**The Good**

Advocacy Groups  
Industry  
"Landlords"





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## US Conference of Mayors Resolution, unanimously passed June 2012

**PROMOTION OF ECONOMIC DEVELOPMENT THROUGH THE VISITORS INDUSTRY**

WHEREAS, communities throughout the United States rely on local hotel taxes to promote travel and tourism and support the local visitors industry; and

WHEREAS, local hotel taxes often fund convention and visitors bureaus, convention centers, sports arenas and sports teams; and

WHEREAS, local hotel taxes often support local cultural programs including music, film, gaming, visual arts, dance and more; and

WHEREAS, short-term rental of homes can often be subject to hotel taxes; and

WHEREAS, short-term rental of homes can provide a flexible housing stock that allows family travelers spending longer periods of time in a community a safe accommodation while contributing to the local economy; and

WHEREAS, short-term rental of homes can provide homeowners an opportunity to hold property as an investment, for a better sales market, or for future planning; and

WHEREAS, fair regulation of short-term rentals ensures greater compliance and greater receipt of local hotel taxes; and

WHEREAS, regulations of short-term rentals that establish a reliable way for a municipality to identify and contact the short-term rental owner, make the tax collection and remittance obligation clear and treat the short-term rental owner the same as long-term rental owners can achieve the highest level of compliance; and

WHEREAS, onerous regulations of short-term rentals can drive the industry underground, thus evading local regulations and local hotel taxes;

NOW, THEREFORE, BE IT RESOLVED, that the U.S. Conference of Mayors urges support for economic development opportunities through the visitors industry by encouraging regulations of the short-term rental industry that (1) establish a reliable way for the municipality to identify and contact the short-term rental owner; (2) make the tax collection and remittance obligations clear to the short-term rental owner; and (3) treat short-term rental tenants the same as long-term rental tenants. Regulations that accomplish all three can achieve a high level of compliance, and are highly effective.



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## Does Your Community Support This?

**The Bad**

Opponent groups consist of:

- Affordable housing advocates
- Some neighborhood groups
- Hotel industry or unions representing hotel workers
- Some municipalities: housing reduction and price increases



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## Does Your Community Support This?

**The Bad**

Against the intent of residential zones.

Being operated as businesses

- bachelor/bachelorette parties or other noisy events
- noise
- parking problems
- trash
- lack of neighborliness





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## Does Your Community Support This?

**The Bad**

Like a hotel but no:

- code inspections
- licensing or
- other requirements





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## Does Your Community Support This?

Existing "good neighbor" laws

- noise ordinances,
- parking regulations
- trash guidelines


Apply to residents and guests

Proper enforcement = sufficient protection against disruptive behavior






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Airbnb Present: Airbrb

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## You Want It or It's Allowed

### Regulatory Considerations

- Only Certain Zone Districts?
- Permitting?
- Concentration Limits?
- Comply with additional safety standards?
- Parking

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## You Want It or It's Allowed


### Regulatory Considerations

- Limits on Number of Overnight Guests?
- Property Owner Occupancy and/or Presence?
- Limits on Number Per Year?
- Signage issues
- Are Tax Collection and Remittance Obligations Clear?

ENFORCEMENT CHALLENGES



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## Review Your Code


### It's All About the Definitions

Language in your Code may not clearly allow or prohibit

- What is the zoning?
- What is a SFR?
- What is a dwelling unit?
- What is a family?



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## Caselaw



- Do Courts see STR as allowable in SFR zones?
  - Jackson & Co. v. Avon*, 166 P.3d 297 (Colo. App. 2007)
  - Siwinski v. Town of Ogden Dunes*, 949 N.E.2d 825 (Ind. 2011)

**But See *Brown v. Sandy City Board of Adjustment*, 957 P.2d 207 (Utah App. 1998).**

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## Nonconforming Use

Take action to disallow = nonconforming use issue

1. Must be an "existing" use
2. Must have been lawfully established
3. Must be sufficiently substantial to warrant invocation of constitutional protection (not required under Colorado law)


Rathkopf, *The Law of Zoning and Planning*, § 72:2 at 72-6 (2013)

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## Nonconforming Use

- Considerations:
  - When does the nonconforming use terminate?  
At the conclusion of the then current STR?
  - Abandonment
  - Be aware of current number and location within your community.
  - Require registration




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## Nonconforming Use

Considerations:


- Can't amortize or terminate nonconforming uses  
C.R.S. Section 38-1-101(3)(a)
- Can regulate nonconforming uses pursuant to police powers – *Trailer Haven v. Aurora*
- How far can you regulate?



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## Overview of Denver's Proposed Approach

- Allow short-term rentals where residential uses are currently permitted
  - Defined as an accessory use permitted with limitations
- Require a business license to conduct short-term rentals
- Prohibit absentee landlords from conducting short-term rentals
  - Only the primary resident may conduct a rental
- Protect short-term rental guests


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## Zoning vs. Licensing

Zoning	Licensing
Basic rules for all properties	Rules for operating a business
Attached to the land	Attached to a specific business
Remains the same when properties change ownership	May require periodic renewal
Enforcement may be lengthy due to property-rights considerations	May be revoked
	Tax information can be required at time of application.

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## Potential Requirements

Zoning	Licensing
Where short-term rentals are permitted	License fee
Permitted locations on a property (primary and accessory dwelling units?)	Tax license
Number of guests allowed	Proof of primary residency
	Affidavit of Lawful Presence
	Proof of premises
	Posted host contact info at premises
	Posted host contact info at premises
	Host maintains liability insurance
	Posted exit information at premises
	Smoke & CO detectors at premises

\*\* Requirements in green self-certified on a general applicant questionnaire \*\*

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## Still Under Consideration

- **How Many Guests Would be Allowed?**
  - Most cities relate to the number of bedrooms in the host dwelling
  - Some cities relate to other occupancy rules (such as maximum number of unrelated adults)
- **Should there be a license exception for a limited number of short-term rentals?**
  - De minimus exception for two or three short-term rentals per year?

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## Uber, Taxis and Tuk Tuks

- Deregulation – why do we regulate?
- Fractional Employment - someone can take on extra work when they want for how long they want.
- When payment is not cash.
- Unique, locally-driven solutions.

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