



CML's 93rd Annual Conference
June 16 – 19, 2015
Breckenridge, Colorado

The contents of this presentation reflect the view of the presenter, not of CML.



The Sharing Economy

Mary Beth Susman, Denver City Council, District 5
Linda Michow, Widner, Michow & Cox LLP
Maureen Juran, Widner, Michow & Cox LLP
Stacie Loucks, Director Excise and Licensing, Denver

The contents of this presentation reflect the view of the presenter, not of CML.



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

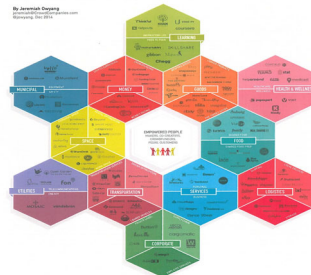
The Sharing Economy is a socio-economic ecosystem built around the sharing of human and physical resources. It includes the shared creation, production, distribution, trade and consumption of goods and services by different people and organizations.



The contents of this presentation reflect the view of the presenter, not of CML.




What is the scope?



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

The contents of this presentation reflect the view of the presenter, not of CML.



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

The contents of this presentation reflect the view of the presenter, not of CML.



What is the scope?

Services
 Timebanks, Task Rabbit, HomeJoy, Fiverr, Task Angel, Zirtual, Cloud Peeps, Crowd Spring, 99 Designs, Frelancer.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

The contents of this presentation reflect the view of the presenter, not of CML.



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, MacMallian Teams, Stat, Help Around, Eaze, Mediacast, Popexpert, Vint, Kindly



The contents of this presentation reflect the view of the presenter, not of CML.

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

The contents of this presentation reflect the view of the presenter, not of CML.



CN COLLECTION



The contents of this presentation reflect the view of the presenter, not of CML.

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





The contents of this presentation reflect the view of the presenter, not of CML.

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
16	17	18	19	20	21	22	23
23	24	25	26	27	28	29	30
30	31						




The contents of this presentation reflect the view of the presenter, not of CML.

Different Models

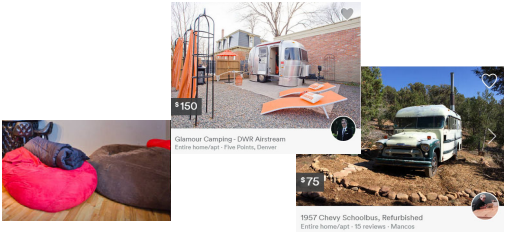
Vacation Rental: A dwelling or part of a dwelling where lodging is furnished for compensation for fewer than thirty consecutive days without concurrently being occupied by the property owner

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.



The contents of this presentation reflect the view of the presenter, not of CML.


It's Prolific Airbnb



\$150
Glamour Camping - DWR Airstream
Hillside, Colorado


\$75
1957 Chevy Schoolbus, Refurbished
Estes, Colorado

The contents of this presentation reflect the view of the presenter, not of CML.




It's Prolific

Mountain Air Feel with City Access.




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

The contents of this presentation reflect the view of the presenter, not of CML.




It's Prolific Airbnb

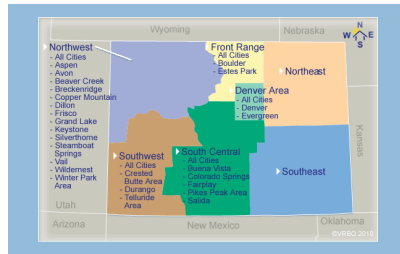
Worldwide 1,000,000+
Over 1,000 in Denver
97 in Durango
13 in Pueblo
Listings even where laws don't allow



The contents of this presentation reflect the view of the presenter, not of CML.



It's Prolific



VRBO: 16,522 Colorado listings

The contents of this presentation reflect the view of the presenter, not of CML.




It's Prolific

[TripAdvisor, 2014]

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

The contents of this presentation reflect the view of the presenter, not of CML.



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



The contents of this presentation reflect the view of the presenter, not of CML.



Does Your Community Support This?

The Good

Advocacy Groups
Industry
"Landlords"



The contents of this presentation reflect the view of the presenter, not of CML.



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.

The contents of this presentation reflect the view of the presenter, not of CML.



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

The contents of this presentation reflect the view of the presenter, not of CML.



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



The contents of this presentation reflect the view of the presenter, not of CML.



Does Your Community Support This?

The Bad

Like a hotel but no:

- code inspections
- licensing or
- other requirements



The contents of this presentation reflect the view of the presenter, not of CML.



Does Your Community Support This?

Existing "good neighbor" laws

- noise ordinances,
- parking regulations
- trash guidelines

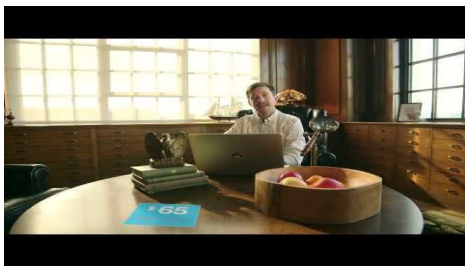
Apply to residents and guests

Proper enforcement = sufficient protection against disruptive behavior



The contents of this presentation reflect the view of the presenter, not of CML.





Airbnb Present: Airbrb

The contents of this presentation reflect the view of the presenter, not of CML.



You Want It or It's Allowed

Regulatory Considerations

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

The contents of this presentation reflect the view of the presenter, not of CML.



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



The contents of this presentation reflect the view of the presenter, not of CML.



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?



The contents of this presentation reflect the view of the presenter, not of CML.



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).

The contents of this presentation reflect the view of the presenter, not of CML.



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)

The contents of this presentation reflect the view of the presenter, not of CML.




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




The contents of this presentation reflect the view of the presenter, not of CML.





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?



The contents of this presentation reflect the view of the presenter, not of CML.

The contents of this presentation reflect the view of the presenter, not of CML.



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


The contents of this presentation reflect the view of the presenter, not of CML.



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.

The contents of this presentation reflect the view of the presenter, not of CML.




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 **

The contents of this presentation reflect the view of the presenter, not of CML.



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?

The contents of this presentation reflect the view of the presenter, not of CML.



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.**

The contents of this presentation reflect the view of the presenter, not of CML.



The contents of this presentation reflect the view of the presenter, not of CML.

