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mail:

U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; or

fax:

(833) 256-1665 or (202) 690-7442;

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correo postal:

U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; o

fax:

(833) 256-1665 o' (202) 690-7442; correo electrónico: program intake@usda poy

Esta institución ofrece igualdad de oportunidades

Fern AC-475 A.- Assessed Protect Revised Seaton

Presenters



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What we will cover

- 1. Status of STRs (international, national, state)
- 2. Thinking about regulating? FAQs
- 3. Common regulatory approaches
- 4. Approaches to STR regulation: Michigan examples
- 5. Administration and enforcement options
- 6. STR innovations yurts, glamping, tree houses, farm hosts, oh my!
- 7. Legislative Update



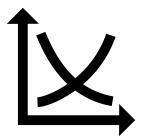
POLL

Status of STRs



STR Demand

- Demand driven by:
 - Convenience of online platforms, booking and payment systems
 - Flexibility and personalized experiences
 - Unique locations
 - Privacy, cleanliness...



- STR Market currently valued at \$100.8 billion (2022)
- By 2030, projected to reach a value of \$228.9 billion by 2030
 - Compound Annual Growth Rate of 10.8% (2023-30)

Vantage Market Research, 2023



STR reservations – national trends

Change since 2019

•	Small	City/Rural	105%
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Large City-Suburban 12%

• Mid-Size City 30%

• Large City-Urban -26.7%

Destination Resort

Mountains/Lakes 46.7%

Coastal 15.3%





AirDNA, December 2022



STRs in Michigan

- Communities experiencing (or are now acknowledging) increase in STRs
- Mostly rural and waterfront (French, 2023)
 - 24% increase Traverse City and Frankfort; 16% increase Williamsburg (east of T.C.)
- With year over year increase in supply, revenue is declining in some areas- Grand Traverse Region (Thompson, 2023)
- Some communities revisiting STR policy
 - Park Township, Ottawa County (Watson, 2023); Lake Township, Huron County (Hardy, 2023)



STR effects on housing and rent

- Boston: Researches found a 3% premium in asking rents attributed to STRs at the Census tract. Horn and Merante (2017)
- Los Angeles: Effect of STRs on home values in aggregate accounted for a 3.6% price increase. Koster, Ommeron, and Volkhausen (2021)
- National study: STR growth accounted for about 1% of home price appreciation (\$2.00 growth in monthly rent) between 2015–2018. Tourism Economics (2019)





General conclusions: Negative externalities

- Effects of STRs are more pronounced in popular tourist areas.
- Higher home prices translate to higher rents where there is easy substitution between the STR and long-term rental markets.
- STR housing/rent appreciation most likely to affect up-market assets and renters.





General conclusions: Positive externalities

 There are positive externalities associated with other spending and business development that must be considered as partial offsets to any negative externalities.











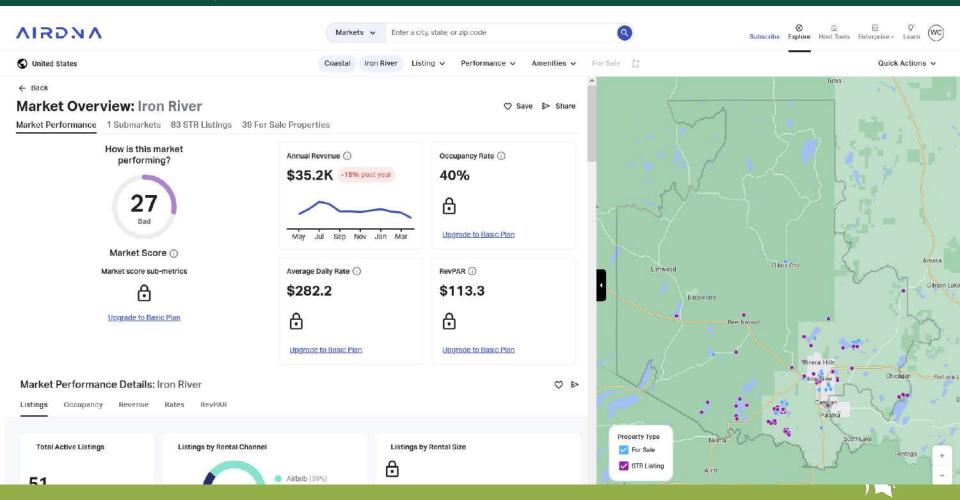


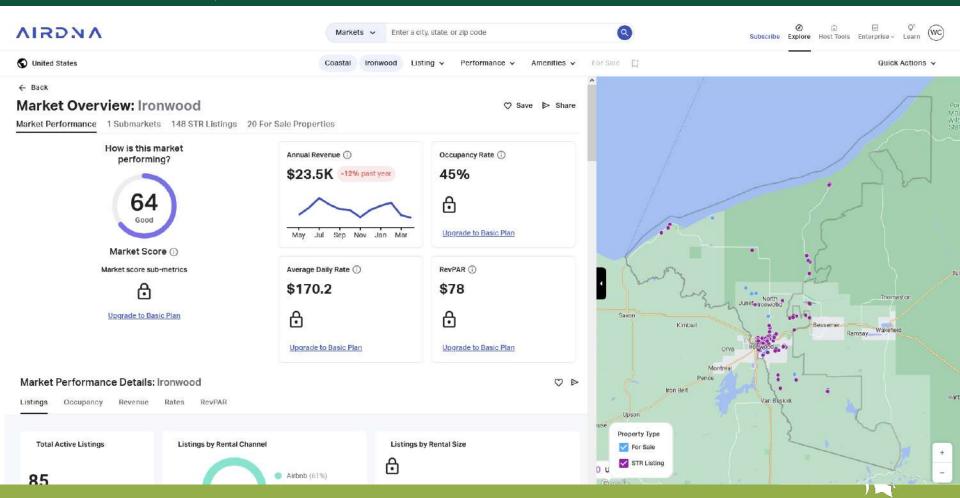
The local context: How do you know?

- Assessment from a monitoring/compliance service (may be a fee)
 - www.hostcompliance.com
 - www.lodgingrevs.com
 - Airdna.com (break out by zip code)

- Housing assessment
- Surveys
- Census data
- Tax information (PRE?)
- Elected officials made it a priority
- Community meetings/focus groups
- Other?







Michigan Housing Data Portal

- Online hub to make housing, demographic, and economic data easily available at several geographics levels
 - State, County, Combined Statistical Areas (CBSA), Cities/Towns
- Easy to track statewide progress towards housing plan goals
- Download housing data and generate reports
- Compare data across geographies



State of Michigan Housing Data Portal

The Michigan Housing Data Portal provides easily accessible housing, demographic and economic data to help community members and housing stakeholders across the state understand key local trends, compare these trends to other geographies, and create detailed reports.

ACCESS THE HOUSING DATA PORTAL

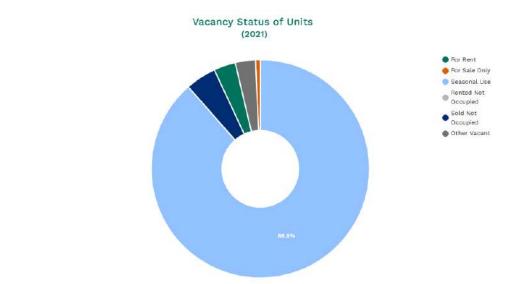
VIEW MICHIGAN'S PROGRESS TOWARDS STATEWIDE HOUSING GOALS



Housing Data Portal Example

Vacancy Trends

When determining the share of housing stock available for new renters and owners, only units that are 'for rent' and 'for sale only' can be occupied by new renters and owners. So while 837 of units were vacant in New Buffalo in 2021, only 3.2% of these units were vacant and for rent, and 0.7% were vacant and for sale. 88.5% of all vacant units were for seasonal use, in which the home is unoccupied most of the year.



Note: "Other Vacant" may include homes foreclosed on, in need of repair, or if the status is vacant and reason unknown.

Source: American Community Survey (ACS), US Census Bureau



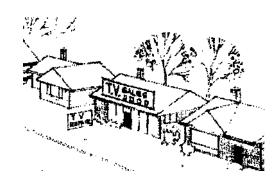
Thinking about regulating STRs?
Frequently Asked Questions (FAQs)





Are the current STRs nonconforming? (grandfathered)

- Regulating with zoning means <u>legally established</u> STRs must be allowed to continue if a regulation is changed
 - As long as it operates in the same manner and to the same extent as it was when it became nonconforming.
- May not amortize (sunset) nonconformities under zoning
 - De Mull v. City of Lowell, 368 Mich. 242 (1962)
- If it was never legal, it is a violation





Nonconformities

- Court: prior STR is not nonconforming use (if never permitted)
- A ZAs interpretation is not binding
 - ZA #1"as long as one family is occupying a dwelling at a time, the ordinance permitted the use regardless of length of stay"
 - ZA#2 "one-week rentals are not for residential purposes, and are prohibited in the R1-B zoning district:
- Definitions of "dwelling" and "dwelling unit" central to this case
 - "Because short-term rentals are inherently transitory, by limiting the use to 'family' dwelling units, Ordinance 10 plainly prohibited short-term rentals."

Concerned Prop. Owners of Garfield Twp., Inc. v. Charter Twp. of Garfield, COA, 2018



Zoning vs. Police Power Ordinances

ZONING:

Regulates use of land

POLICE POWER:

Regulates activities
Blight, sound, sidewalks, fireworks,
ORV, signs, historic preservation, etc.

Counties have <u>very</u> limited police power authority. Townships under county zoning would need to adopt an STR police power ordinance and coordinate with the County for consistency/district terms.



Zoning vs. Police Power Ordinances

Zoning

- + Designate Zone Districts
- + Definitions
- + Signage
- + Overlay zone
- + Levels of intensity- permit type
- Nonconformities/grandfathering
- Districts don't align with use
- Permit revocation is difficult (vested rights)

Police Power/Regulatory

- + No nonconformities (grandfathering)
- + Everyone "starts new"
- + How many units, duration of license
- + Refer to location on a map (zoning district or other)
- + 1, 2 or 3-year fees/license
- + License can be revoked or temporarily suspended
- + Additional performance requirements (local contact, garbage, septic, "good neighbor" info.)
- County cannot adopt



In your opinion, which is most problematic for a community that has not addressed STRs?...

- "STRs are prohibited" [and we enforce it]
 - 2. "STRs are prohibited" [but we don't enforce this regulation]
- 3. "it's not addressed in the zoning ordinance, so if you start an STR, we won't enforce against it"
 - 4. "We don't regulate forms of ownership (owner or renter occupied)... if the STR is occupied by a single family, we will treat it like a single-family dwelling."

POLL





In your opinion, which is most problematic?...

- 1. "STRs are prohibited" [and we enforce]
- 2. "STRs are prohibited" [but we don't enforce]
- 3. "it's not allowed by the zoning ordinance, so if you start an STR, we won't enforce against it"
- 4. "We don't regulate forms of ownership (owner or renter occupied)... if the STR is occupied by a single family, we will treat it like a single-family dwelling."

- At this stage, purposeful exclusion of STRs in the presence of a *locally demonstrated need* may pose issues (MCL 125.3207).
- Consistent enforcement is the goal; if STRs are prohibited, yet there are dozens of STRs, might it be time to regulate? Failure to enforce does not mean an illegal use is allowed...
- Statements by **any** government official assuring nonenforcement increases legal risk.
- Caution to ZAs making statements like these. Only the ZBA should make significant interpretations (with a legal opinion). How does the ordinance define single family dwelling?

...contact your municipal attorney.



Currently allowed in zoning?

- If a use is <u>not</u> listed as a permitted or special land use in the zoning district, the use is not allowed.
- Most ordinances are written in a permissive manner:
 - "A permissive format states the permissive uses under the classification [zoning district], and necessarily implies the exclusion of any other non-listed use." (*Independence Twp. v Skibowski*, 136 Mich App 178 (1984)).



After ordinance amendment: No vested right

- Defendants sought to stop the township from enforcing amendments to the zoning ordinance to allow STR as conditional use.
- Claimed they had a vested right to continue their STR under the old ordinance (which did not allow STRs)
- Appeals Court held property owners had no vested right; Twp. had the right to change zoning (and had updated the plan prior to doing so).

Mirabella v. Twp. of Autrain, et al., 2015

"Simply put, an illegal nonconforming use cannot ripen into a legally conforming use on its own imagination or by the unilateral determination of a zoning administrator. . ."

Alger County Circuit Court
Opinion, Verhame et al v AuTrain Twp
Zoning Bd of Appeals, 09-4948-AR



Other court distinctions-centering on definitions

People v. Dorr, (COA, 2020)

STRs are not classified as a home business with "paying guests".

Reaume v. Twp of Spring Lake (MSC, 2020)

- Definitions of single-family dwelling excludes temporary occupancy because family is defined to exclude "transitory or seasonal" relationships.
- The ordinance excluded the plaintiff's property as a dwelling, because the property met the definition of a motel (and classified as such for the violation).
- "We must follow the definition provided in the ordinance."

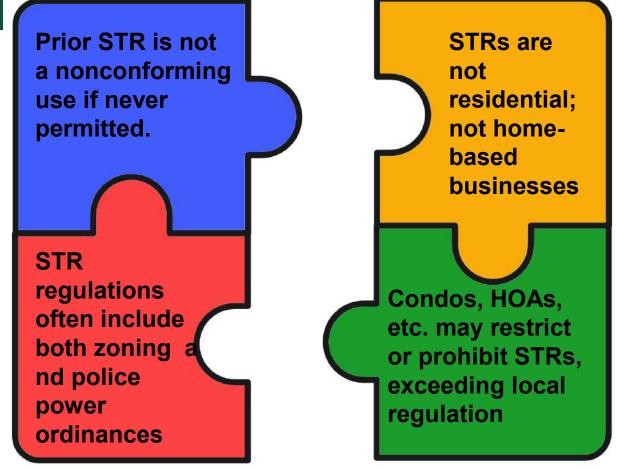


Condos, homeowner associations, deed restrictions

- May restrict or prohibit STRs, exceeding local regulation.
- STR is inconsistent with single-family private residences.
- Renting for short-term use is a commercial use, even if the activity is residential in nature.
 - · Apache Hills Prop. Owners Ass'n v. Sears Nichols Cottages, LLC, 2022
 - Cherry Home Ass'n v. Baker, 2021
 - Aldrich v. Sugar Springs Prop. Owners Ass'n, 2023
 - Eager v. Peasley, 2017



Let's pause to summarize...





Common regulatory approaches



Develop clear intent and objectives for regulation

- Intent should speak to the biggest STR issues as determined by the community:
 - e.g. protect single-family homeowners
 - Decrease concentration of STRs in certain areas
 - Encourage STRs in other areas (downtown/mixed use)
 - Other?
- By listing objectives that are health, safety, and welfare oriented, if challenged, the court does not have to speculate



East Bay Charter Twp- assess current data to substantiate revised regulation

- Rent cost (STR v. long term rental) & associated owner gross revenue
- Current Listings (# of STRs, # long term rentals)
- Price to rent ratio (average cost to own v. monthly rent)
- Housing tenure
- Growth rate
- # of owners vs. investors of STRs
- Concentrated areas (mapping)
- Violations and complaints





Regulatory options

Regulation	Purpose
Set maximum number	STRs are interfering with housing market: increasing housing prices, decreasing ability for permanent residents to find housing
Set minimum distance between rentals	Neighborhoods within high asset areas (waterfront, near beach, near attractive downtown) can become overburdened or saturated with STRs
Limit length of stay	One or two night turn over can be a burden to neighbors. One week stay is aligned with more traditional cabin rental in historically tourist areas (East Bay Twp.)



Regulatory options

Regulatory Ordinance	Purpose
Limit occupancy - often based on septic capacity or building official (if sewer)	Establishes maximum capacity for the unit, dissuades gatherings, tenting. Preserves septic system often in conjunction with Public Health.
Establish a local contact within X minutes to respond to complaints	A local contact must be established for nights and weekends to promptly deal with complaints.
Limit the number of licenses per parcel	If there are two residences (duplex or ADU) on parcel, only one of the units can be used as STR. Encourages permanent occupancy on site.



Regulatory Options

Regulatory Ordinance	Purpose
Limit the number of nights per year	Balances the use of the property with long-term rental and short-term rental or permanent occupancy part of the year.
Limit permits per applicant	Does not allow a single company, individual, LLC to purchase multiple STRs in the area. "Share the pie"
Type of structure (glamping, condo, apt. multi-unit, RV, single room occupancy)	STRs can come in many forms including backyard RVs and canvas tents (glamping). Restrictions on certain forms (if any) should be included in the regulatory ordinance.



Regulatory options

Zoning Ordinance	Purpose
Restrict to certain zoning districts (Zoning)	Can limit STRs to certain zoning districts, or designate different levels of STRs within zoning districts
Different classification of STRs	Commercial/downtown: fewer restrictions Residential areas: increased restrictions such as 7 night minimum, separation distances.
STR Overlay Zone (Grand Haven Charter Township)	Designates specific areas where STRs are permitted, STR licensing not eligible outside of overlay.



Specifically define STR to your intent

Are you allowing just one, or several:

- Hosted sharing primary occupants of a residence remain onsite with guests;
- 2. Unhosted sharing primary occupants vacate the unit while it is rented to short-term guests;
- 3. Dedicated vacation rentals no primary occupants



Exceptions to an STR in zoning

- Bed and Breakfast
- Hotel/Motel
- Adult Foster Care Homes
- Nursing Homes
- Substance Abuse- Rehab Facilities
- Dwellings that have been rented yearly since the date the ordinance took effect (i.e. 1972)



Approaches to STR regulations: Michigan examples



Discussion – No action yet? Why?

- STRs are infrequent and not an identified problem
 - STRs rented for a short period (such as two weeks/year).
- There are no concentrated STR areas
- No one is complaining...
- No or low visitor pressure
- Lack of housing/rental supply or increase housing cost not attributed to STRs
- Politics







STRs in Michigan

Considering or studying STR regulation

- Enforcement costs
- Legal considerations
- Administration, licensing
- Scoping the issue

Some early adopters 2012-2020 completed 2nd or 3d amendments

- East Bay Charter Township
- Long Lake Township
- City of Ludington
- City of South Haven
- ...and more!

A few: reversal on policy from allowing to banning STRs (with challenges, petitions, etc.)

- Park Township, Ottawa County (Watson, 2023)
- Lake Township, Huron County (Hardy, 2023)



East Bay Charter Township (Grand Traverse County) 2019 STR regulation, updated 2022-2023

Goal: preserve historic rentals while preserving the integrity of established neighborhoods and long term rentals in the Township.

Issues: concentration of STRs (near water), parking, noise, increase in home prices, high investor interest, frustration with enforcement (issues surfaced, but not quite a violation)





East Bay Charter Township (STR update)

- Cap licenses at 145 (2.5% of housing stock)
- Reduce current amount of STRs through attrition
- No new licenses issued until they fall below 145
- License transfer limited to immediate family only
- 1,000 foot separation distance
- Can only turn over once every 7-days (similar to historical rentals, reduces externalities to neighbors)
- Limit # of visitors and hours of visitation
- Require septic inspection once every 3 years
- Designate a local agent





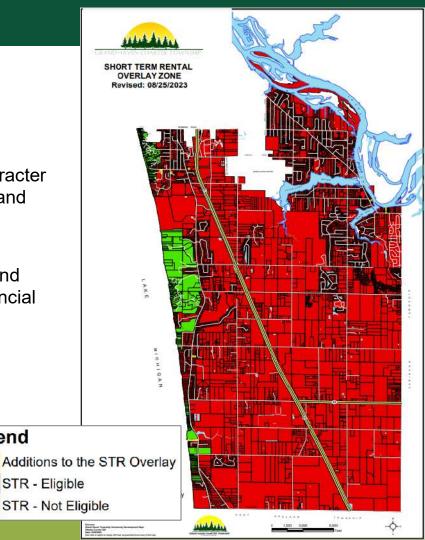
Grand Haven Charter Township- Overlay Zone

...the Township is committed to preserving the residential character of Township neighborhoods, minimizing potential nuisances, and maintaining...small town character.

...Township also recognizes the potential benefits of tourism and additional lodging opportunities for visitors, as well as the financial benefit that STRs can bring to property owners...

Legend

... Therefore, the Township wishes to achieve a balance between these considerations by providing that STRs are permitted by right in the STR Overlay Zone...



City of St. Ignace



Category 1:

Owner occupied, including B & B, where rooms are rented; 2 or more dwelling units on parcel (duplex, triplex, etc.) where separate dwelling unit exists on the same parcel.

Category 2:

Not the property owner's principal residence.

- Limit of 50 in residential zones (max 3 permits/person)
- Allowed in commercial zones (without cap)
- Those operating prior, where not the primary residence, deemed illegal



Example - New Buffalo

- Purpose: City recognizes that one of its largest industries is tourism;
 a major part of the industry is the short-term rental marketplace.
- Noteworthy provisions:
 - STRs permitted in commercial districts
 - STR does not include: transitional housing or employer housing
 - Max # of occupants in a dwelling unit during a short-term rental shall not exceed the lesser of 14 total occupants; 2 occupants per bedroom plus 2 additional occupants per finished story
 - Nonconforming STRs allowed to continue
 - Rules allow for transfer of ownership, modifications to structure, and demolition



Example - New Buffalo

Good Visitor Guideline Materials Materials prepared by the City's Zoning Administrator that include:

- A summary of the City's noise ordinance, fireworks ordinance, trash disposal ordinances.
- Rental property is in a residential neighborhood, neighbors may not be vacationing.
- 3. Neighboring property owners may contact the local agent and local police to report any issues relating to the property.



Good Visitor Guideline

Welcome and thank you for visiting the beautiful City of New Buffalo, Michigan I

We are confident that you will enjoy your stay here and will come back to visit time and time again. While enjoying the amenities that our city has to offer, we ask that you are respectful of the Quality of Life of all who call New Buffalo home. The City of New Buffalo is not only a great place to vacation, but it is also a great place to live. If you are interested in making New Buffalo your home and becoming a permanent resident, be sure to contact one of our professional local realtors. We would love to see you more often!

Sincerely.

New Buffalo City Council and City Staff

Contact Numbers:

- In Case of Emergency: Dial 911
- Police, Fire, & Medical (NON-EMERGENCY): 269-983-3060
- New Buffalo City Hall: 269-469-1500 (Monday-Friday, 8:00am-4:00pm EST)
- Local Agent's Contact Number:

Local Rules and Regulations

- Certified Rental Your Short-Term Rental (STR) must have a copy of their City of New Buffalo Rental Certificate (permit) available for you to see and a copy prominently displayed in the window, visible from the street, during your stay.
 - This assists in ensuring your safety, by documenting the STR has been inspected by qualified City Inspectors.
 - This document also states the maximum occupancy of the home. Be sure you do not exceed the number noted on the permit, between the hours of 10:00pm and 8:00am EST, or it will be an ordinance violation.
- Noise and Disturbances The City of New Buffalo noise ordinance can be found at: https://ecode360.com/30891238
 - All outdoor noise that could be heard by a neighbor must be stopped no later than midnight EST. Any outdoor basketball, horseshoes, cornhole, and other events, must end at 10:00pm EST.
 - Fireworks are not allowed in the City of New Buffalo. The few exceptions may be found at: https://www.michigan.gov/som/0,4669,7-192-29943_34759-500873-.00.html
- Outdoor Fires Any outdoor fire must be in a city approved and inspected fire pit, must be covered when burning, and the emanating smoke must not become a nuisance to your neighbors.



Example – City of Marquette





Example – City of St. Joseph



Use (Classes
-------	---------

Rental establishments

e.g. Uses Permitted

inns, and other resident lodging facilities.

a. Hotels, motels, auto courts, lodges, residence

Permitted Districts

Lodging/Accommodations

A facility offering transient lodging

accommodations to the general public and possibly providing additional services, such as Restaurants,

meeting rooms, entertainment, and recreational facilities as Accessory Uses. Includes Short-term

Bed and Breakfast establishments.

c. Short-term Rental establishments.

d. Special Event Rentals

(Temporary Use)

a. "P" in C. D

"PUD" in W b. "S" in R3

"PUD" in W

c. "C" in W

"C" in R3 (if not adjacent to residential District or

Use)

"S" in R3 (if adjacent to residential District or Use) d. "P" in all zoning Districts; Temporary Use (see

requirements of Chapter 8 of the St. Joseph Code of

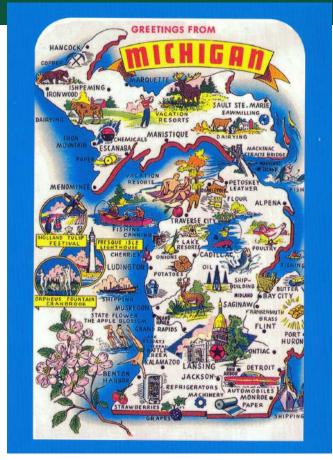
Ordinances)

"P" = Permitted Use; "C" = Conditional based on additional nondiscretionary standards; "S" = Special Use w/ PC review



Please share – What other example MI communities do you know?

"MI Tourism Map Card" by flickr user UpNorth Memories Guy is licensed under the CC BY-NC-ND 2.0 Deed license.





Administration and enforcement options



Enforcement

- Add to existing full or part-time staff job duties
 - Code enforcement officer
 - Zoning administrator
 - Building inspector, Rental inspections (safety inspections)
 - Police (complaint response)
 - Clerk's office (licensing)

Structure fees to cover cost of enforcement, licensing, software

- Hire new staff (part time/seasonal/full time depending on scale)
- STR compliance software (monitor, track, contact)
 - Hamari.com; Granicus.com (Host Compliance); GovOS.com; others



License and Fees

- License fee:
 - administration
 - enforcement
 - 1, 2, or 3 year licenses
 - May include first inspection
- Inspection fee
 - 1, 2 or 3 year intervals
 - Smoke detectors, fire extinguisher, carbon monoxide, (other safety)

Community	LICENSE FEE	Inspection	Re-inspect
South Haven Business use	\$600 annual		\$100
Personal use	\$125 (2-year)		\$100
Ludington	\$1500 (3-year)	\$100 per unit	
East Bay Charter Twp	\$400 annual		
New Buffalo	\$500 (3-year)		
Suttons Bay	\$500 (3-year)		
St. Ignace Category 1	\$250 annual		
Category 2	\$350 annual		



STR innovations- glamping, yurts, airstreams, tree houses, tents, farms, wineries, single room occupancy (SRO)...



STR or bring your own tent/RV



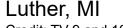
Canvas Tent/Glamping \$107/night



City Glamping \$105/night



Luther, MI Credit: TV 9 and 10



The hive in



4 sites on 10 acres, \$80/night



"Secluded Hidden Gem" \$100/night



Short term rental-land

- Hip Camp
 - Tent, lodging, RV specified
 - Host's RV or yours
 - Tiny homes/small lodging
 - Minimal or no infrastructure
 - \$20 to \$75/night
 - Hip Camp app or hipcamp.com









Harvest Hosts

- RV camping membership
- Overnight camping at farms, wineries, breweries, attractions, and more!
 - \$99 classic/year
 - \$169/year boondockers welcome
 - \$179/year all access (includes golf courses, dump stations, data layers/cell coverage)

Blind River

www.harvesthosts.com



STR innovations

- Anticipate different permanent or temporary structures
- Temporary use of land only
- Where?
- When? (seasonality)
- Concentration
- Value added options for agri-tourism
- Unique visitor experience



Photo credits: harvesthosts.com





STR Regulation Act Introduced – HB 5438

- Tie bar with HB 5437, 5439, 5440, 5441, 5442, 5443, 5444, 5445, 5446
- Key points from the package of bills:
 - Not a preemption amendment to the MZEA
 - Local governments:
 - Shall adopt a process and criteria to regulate;
 - Shall not prohibit STRs
 - Statewide excise tax is created (6% of the STR occupancy rate);
 Proceeds distributed to the local government where the STR is located.



HB 5438 – Definition of STR – Sec. 2(j)

- "Short-term rental" means the rental of:
 - a single-family residence,
 - a dwelling unit in a 1-to-4—family house, or
 - any unit or group of units in a condominium unit,
- for terms of not more than 30 consecutive days.
- Short-term rental does not include the rental of a hotel, motel, hotel condominium, home, or condominium unit that is located within a resort that offers amenities such as golf, a skiing restaurant facility, or group meeting accommodation.



HB 5438

- Sec. 11. (1) A local unit of government may enact and enforce reasonable regulations and may uphold zoning decisions for short-term rentals that do any of the following:
 - (a) Safeguard the public health, safety, and welfare
 - (b) Determine the number of units allowed as STRs
 - (c) Establish a process to reduce or expand the # of units allowed
 - (d) Establish a process to revoke a permit



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• Sec. 11. (3) A local unit of government shall not enact or enforce any ordinance, rule, or regulation, including, but not limited to, a zoning ordinance, rule, or regulation, that has the effect of totally banning or prohibiting short-term rentals.





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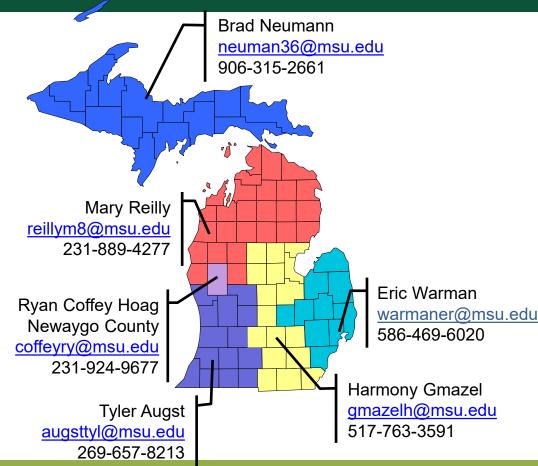
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