International Municipal Lawyers Association
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Las Vegas, Nevada

Work Session V: The Sharing Economy: Uber and Airbnb– Can They Exist in a Regulated World? Will They Save or Destroy Your Community?

Presented by:

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Short-Term Rentals

Bureau of Planning and Sustainability
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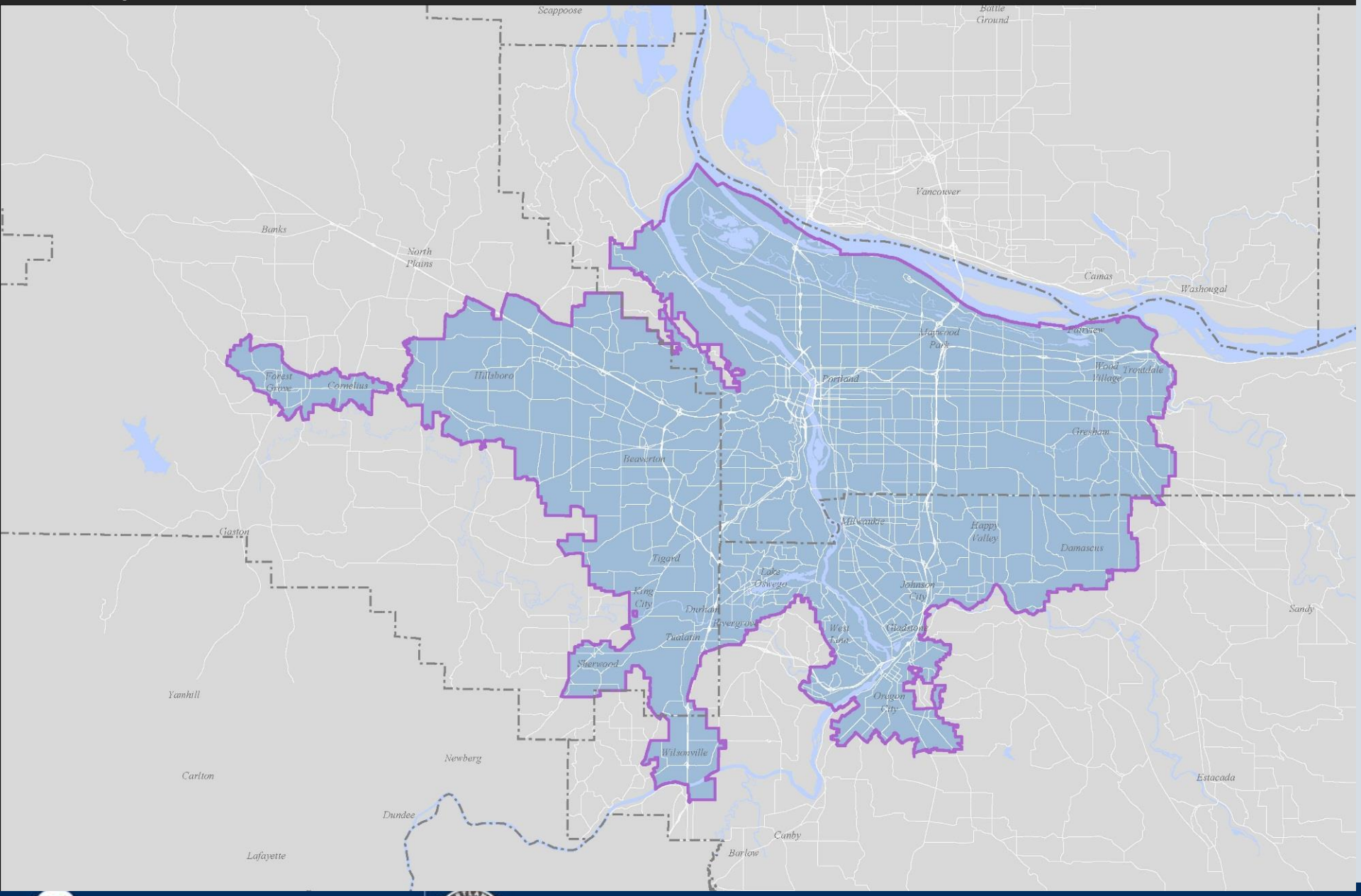
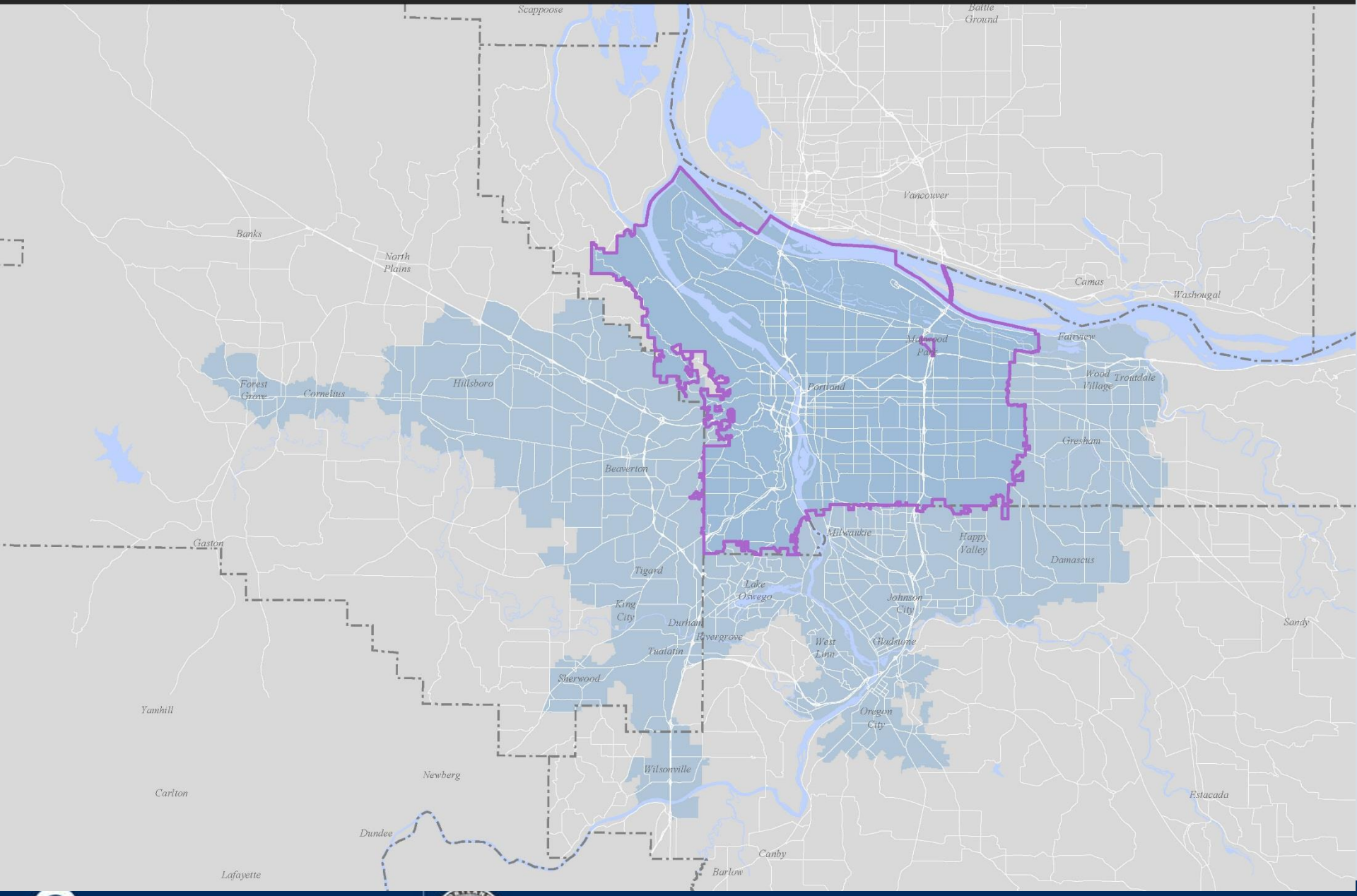
Overview

- Portland's context
- Background
  - Types of short-term rentals
  - Previous regulations
- Single-Dwelling Permit – effective
- Biggest challenges
- Multi-Dwelling Permit – proposed

Metropolitan Area



Portland City Limits



Portland by the numbers…

600,000+

people

250,000

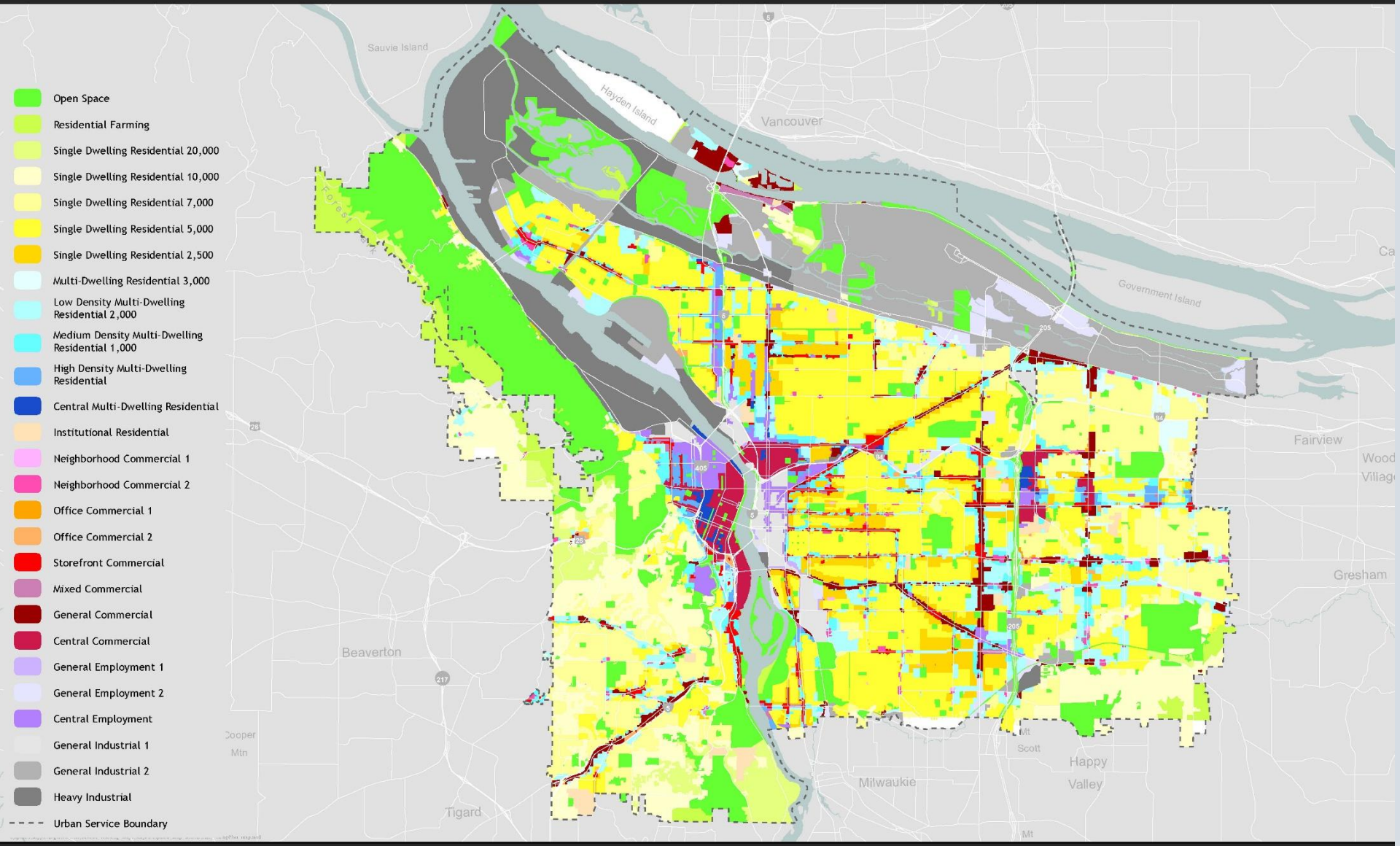
dwelling units

66/34 → 45/55 by 2035

single-dwelling / multi-dwelling

Zone Designations

City of Portland



October 23, 2014
City of Portland, Oregon
Bureau of Planning & Sustainability
Geographic Information System

Bureau of Planning and Sustainability
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City of Portland, Oregon
Charlie Hales, Mayor - Susan Anderson, Director

Residential Zones

- Preserve land for housing
- Create, maintain and promote residential neighborhoods.
- Allow for some non-residential uses but not to such an extent as to sacrifice the overall image and character of the residential neighborhood.

Home Sharing



Home Sharing Sites













Types of Listings









Majority of listings are in houses

Condominiums and Apartments

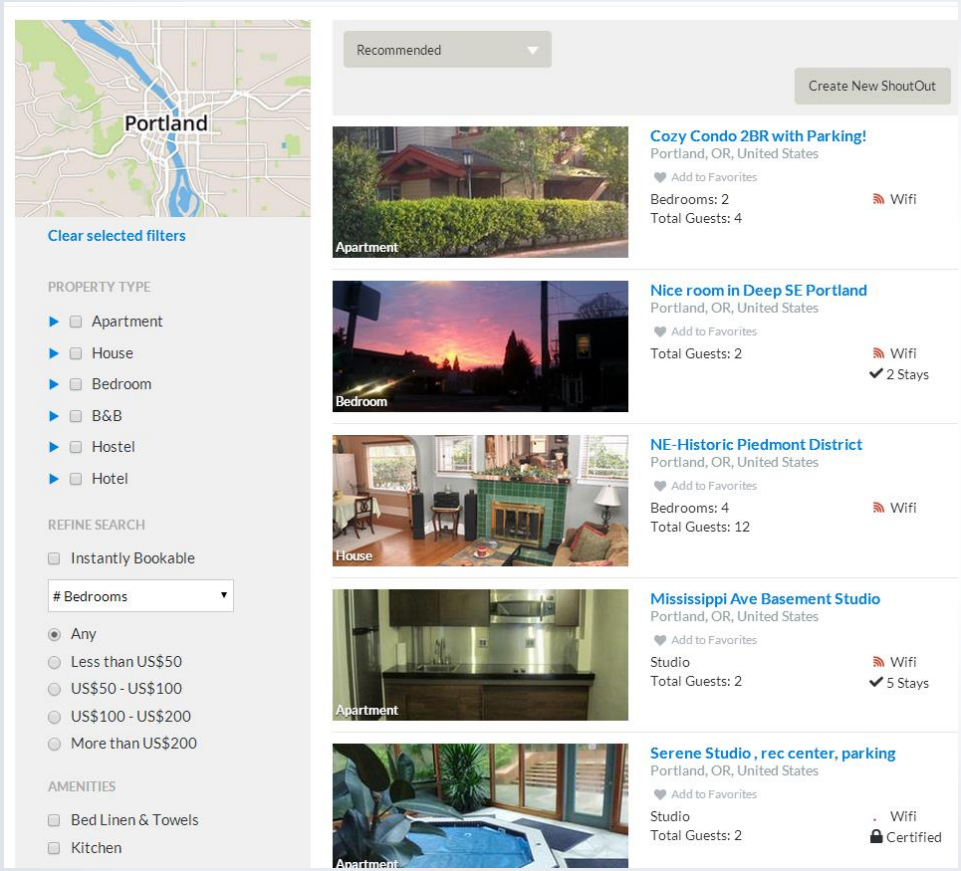




Accessory Dwelling Units (ADU)



Peer-to-Peer Rentals



Short-term rentals were all regulated as Bed and Breakfast Facilities

Prior Type II Conditional Use Review

- Administrative land use decision
- Appealable to Hearings Officer
- 8-10 week process
- Fee: $4,130
- Public notice sent to property owners and recognized organizations within 150 feet

Short-term rentals by the numbers…

2000

Portland listings on airbnb.com as of May 2014

24

Bed & Breakfast facilities approved since 2004

27

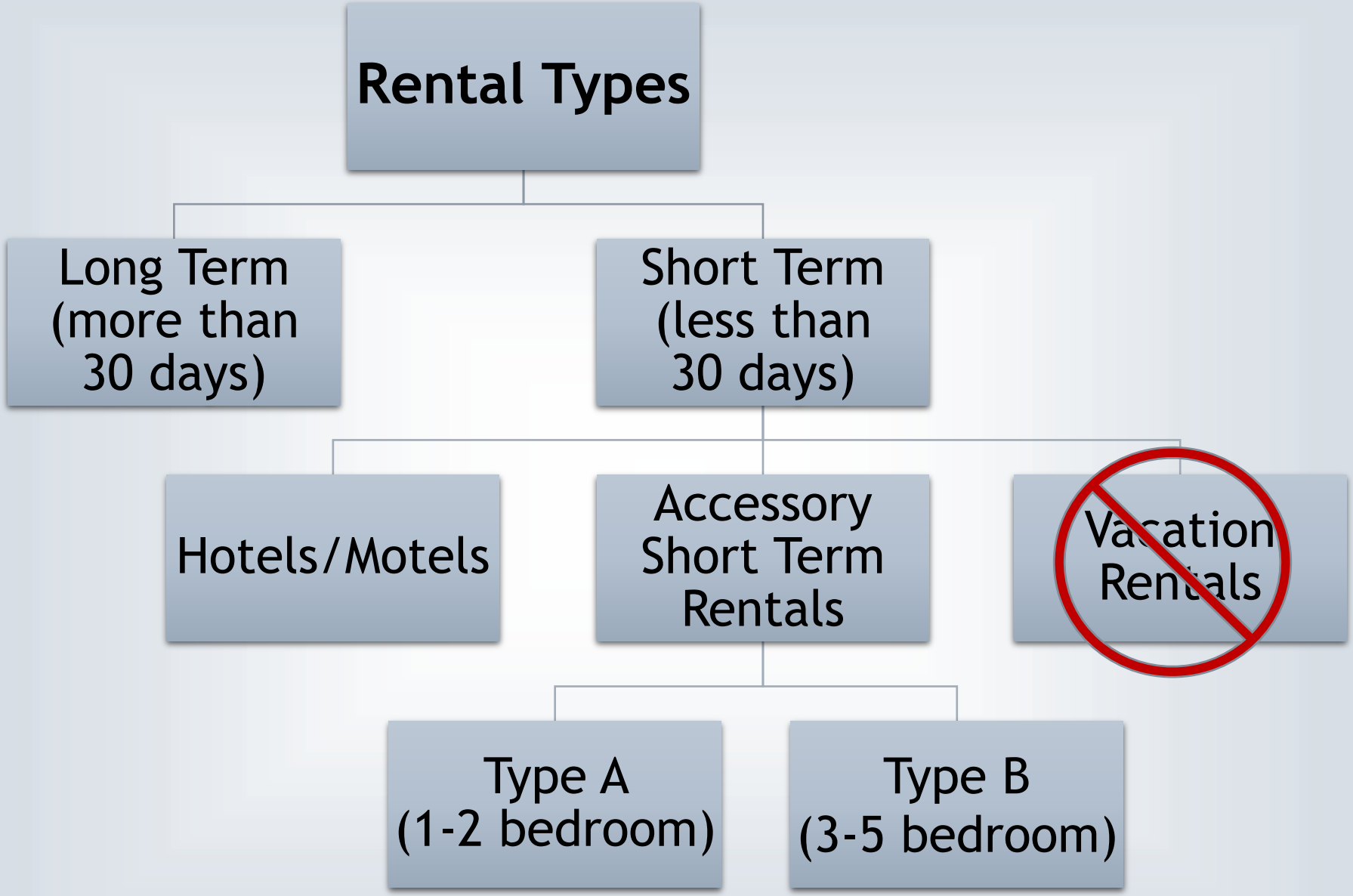
Code compliance cases in 2013

Non-Residential Uses Allowed in Residential Zones

- Schools - CU
- Religious Institutions - CU
- Bed and Breakfast Facilities - CU
- Home Occupations – Permit
- Market Gardens – Allowed outright
- Family Daycare – Allowed outright

Short-Term Rentals in Single-Dwelling Residences




Rental Types
Long Term (more than 30 days)
Short Term (less than 30 days)
Hotels/Motels
Accessory Short Term Rentals
Vacation Rentals
Type A (1-2 bedroom)
Type B (3-5 bedroom)

Type A Accessory Short-Term Rental Regulations

1. Accessory Use
2. Building Types
3. Cap
4. Bedroom Requirements
5. Process
6. Required Notice
7. Posting Permit Number
8. Number of Guests
9. Home Occupations
10. Employees

1. Accessory Use

- Allow as accessory to residential use.

- The individual or family who operate the Accessory Short-Term Rental must occupy the unit for at least 9 months out of the year.

2. Building Type

- Houses
- Attached houses
- Duplexes
- Manufactures Homes
- Accessory Dwelling Units (ADUs)

2. Building Type

Single-Dwelling Code

Building Code Occupancy – R3



Allows “Lodging House” – renting up to 5 guest rooms

2. Building Type

Multi-Dwelling Code

Building Code Occupancy – R2



When long-term changes to short-term tenancies, the occupancy must change to R1.

2. Building Type

Commercial Code

Building Code Occupancy - R1



Change of occupancy from R2 to R1 requires:

- Architect's structural research and analysis
- Fire sprinklers
- New doors / windows
- "Rated" corridors

3. Cap

No cap in single-dwelling neighborhoods.

4. Bedroom Requirements

The City verifies that bedrooms:

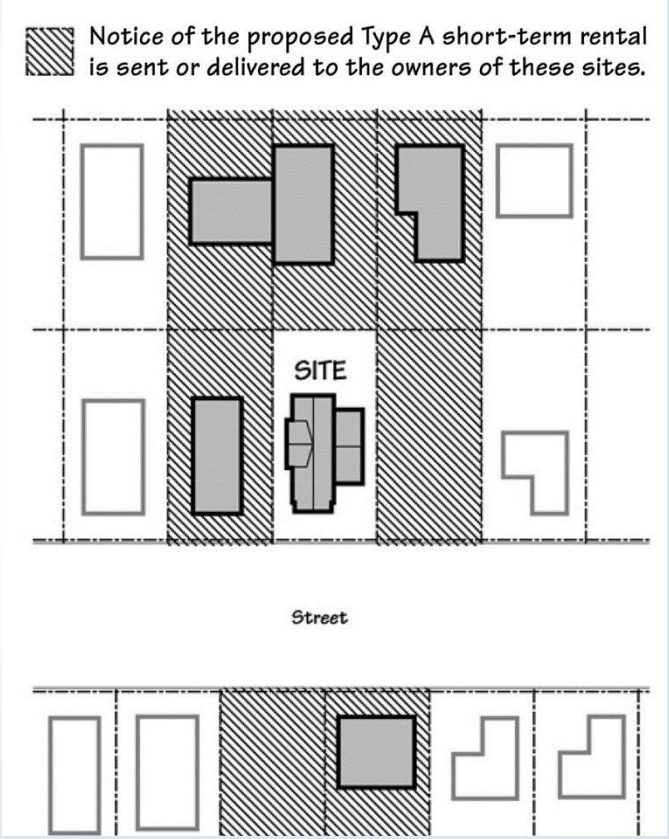
- Met the building code requirements for sleeping rooms at the time they were created or converted
- Interconnected smoke detectors
- Carbon monoxide detectors

5. Type A Permit Process

- Administrative permit
- 1-2 week process
- Inspection required for initial permit and every 6 years; self-certification intervening years
- Renewal required every 2 years
- Fee: $180
- May be revoked for failure to comply with the regulations

6. Required Notice

Operator sends a notice to all recognized organizations and owners of property abutting or across the street from the residence.



Permit Number, Number of Guests, Home Occupations, and Employees

7. Permit number must be posted.
8. Number of guests is the same a household (related persons + 5 non-related persons)
9. Home Occupations are not allowed.
10. Nonresident employees are not allowed.

What we heard

General Support

- Efficient use of underutilized rooms
- Flexibility, similar to home occupations
- Income to be able to stay in homes in times of job and income insecurity
- Tourism dollars to neighborhood businesses
- Alternative form of lodging

What we heard

General Opposition

- Impacts neighborhood livability:
  - noise, parking, traffic, privacy, security, housing affordability, neighborhood stability
- Increases activity in residential “enclaves”
- Economically benefits one household at the expense of the neighborhood

Biggest Challenges

- Vacation rentals vs. accessory short-term rentals
- What does “primary residence” mean?
- On-site vs. off-site host
- Inspections and safety
- Single- vs. multi-dwelling

Short-Term Rentals in Multi-Dwelling Residences



Multi-Dwelling Regulations

- Limit number to 1 or 25% of total number of units, whichever is greater
- Require notarized signature of resident, operator, and property owner
- Exempt bedrooms from inspection req'mnt
- Self-certification of smoke and carbon monoxide detectors
- Notification

Summary of Adopted Regulations for Accessory Short-Term Rentals in Multi-Dwelling Units

Type A Accessory Short-Term Rental Permit Regulations

Underline language reflects changes to existing regulations for accessory short-term rentals in single-dwelling units; all language for multi-dwelling units is new.

		Single-Dwelling Units	Multi-Dwelling Units
1	**Accessory Use**	Allow as accessory to residential (Household Living) use. This means that the individual or family who operate the accessory short-term rental must occupy the unit for a least 270 days each year.	
2	**Building Type**	Allow in all single-dwelling units, including: houses, attached houses, duplexes, accessory dwelling units (ADUs), manufactured dwellings, houseboats, and single-dwelling units in multi-dwelling development.	Allow in residential units in multi-dwelling buildings (3+ units).
3	**Cap**	No cap.	Limit number to 1 or 25% of the units.
4	**Bedroom Requirements**	Allow the operator to rent bedrooms that the Bureau of Development Services has verified: a. Met the building code requirements for sleeping rooms at the time they were created or converted; and b. Have smoke detectors that are interconnected with smoke detectors in adjacent hallways and carbon monoxide detectors where carbon monoxide sources are present.	Allow the operator to rent bedrooms. Portland Fire & Rescue conducts an inspection of the multi-dwelling buildings every two years. Resident self-certifies that the bedrooms have smoke detectors that are interconnected with smoke detectors in adjacent hallways within the dwelling unit and carbon monoxide detectors where carbon monoxide sources are present.
5	**Process**	Allow 1 and 2 bedroom Accessory Short-Term Rentals through a Type A permit process: - 1-2 week process - Initial BDS Inspection required, then one every six years. Intervening years the resident certifies there has been no changes to room to be rented since BDS inspection and it has smoke and carbon monoxide detectors. - Renewal required every 2 years - Fee: $180 for initial permit - Property owner notarized signature required - May be revoked for failure to comply with the regulations	Allow 1 and 2 bedroom Accessory Short-Term Rentals through a Type A permit process: - 1-2 week process - No inspection required through this permit, as Fire & Rescue conducts an inspection every 2 years - Resident certifies for smoke and carbon monoxide detectors. - Renewal required every 2 years - Fee: $100 - Property owners notarized signature required - May be revoked for failure to comply with the regulations
6	**Required Notice**	Resident sends a notice, including their contact information, to residents and owners of property abutting or across the street from the residence and to all ONI recognized organizations.	Resident sends a notice, including their contact information, to the property manager (if there is one), residents and owners of units adjacent, across the hallway, above, and below the unit, and all ONI recognized organizations.
7	**Posting Permit No.**	Accessory short-term rental permit number must be included in all advertising and posted in the dwelling unit.	
8	**Number of Guests**	Maximum number of occupants is the same as what is currently allowed in a household. Household is defined as "One or more persons related by blood, marriage, domestic partnership, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit…"	

9	**Home Occupations**	Do not allow in conjunction with a Type B home occupation which allows residents to use their homes as a place of work, and either one employee or up to 8 customers a day can come to the site.
10	**Employees**	Do not allow nonresident employees. Allow hired service for normal maintenance of the residence or site, such as yard maintenance and housecleaning.

GUIDING PRINCIPLES FOR REGULATION OF TRANSPORTATION NETWORK COMPANIES

1. GUIDING REGULATORY PRINCIPLES

A. FRAMEWORK

1. Regulatory principles applied to Transportation Network Companies ("TNCs") should be based on the premise that those companies are engaged in private "for-hire" transportation. Thus, the goal of any regulations is guided by general principles applied to all private "for-hire" transportation. The principles or values that guide a regulatory framework should include:

    a. Promoting innovation and adaptation to changing needs and allow competition, so long as the public interest is served thereby.

    b. A variety of modes of private for-hire transportation are accommodated throughout the jurisdiction.

    c. An environment is created so that Taxi and TNCs (and Drivers) are able to compete based on efficient and effective delivery of services to passengers.

    d. No competitive advantage is granted to any provider for excluding classes of passengers or opting out of compliance with City, State and Federal laws or standards.

    e. The ability for drivers, for Taxis and TNCs to earn a living wage is promoted.

    f. Reliable and timely services for all passengers and destinations in Portland are provided by Taxis and TNCs, including disabled passengers.

    g. A realistic and effective enforcement component insures that Taxis, TNCs and Drivers meet standards, regulations and codes.

    h. Consistent data reporting from all for-hire entities is provided. Analytics should be used where possible to search for patterns in data in order to optimize performance.

    i. Regulations do not operate as a barrier to marketplace innovation.

2. INSURANCE

A. COMMENTS

Insurance coverage has been a major focus of efforts to regulate TNCs. Most jurisdictions have chosen to regulate TNC insurance requirements by adopting a model based on the status of the application: (1) the application is off and the driver's personal insurance is primary because the driver is not engaged in for-hire service; (2) The app is on and the driver has yet to accept a ride request, during which the TNC provides primary liability coverage for death, bodily injury and property damage if the driver's personal policy will not cover them; and (3) Commercial auto liability insurance from the point when a fare has been accepted until completion of the fare.

What insurance products are available on the market and are beyond the control of most local jurisdictions. At the moment, however, based on a compromise reached with a group of major insurers and the TNCs, insurance products are offered to TNCs and/or TNC drivers as part of their personal automobile liability lines of insurance with the following insurance coverages:

1. Commercial Business Insurance. TNC company permit holders can secure and maintain a Commercial General Liability policy reflecting limits of no less than $1 million per occurrence and $2 million aggregate for covered claims arising out of, but not limited to, Bodily Injury, Property Damage, Personal and Advertising Injury, and Contractual Liability in the course of the permit holder's work under a for-hire transportation company permit.

2. Commercial Automobile Insurance. Require all for-hire company permit holders, regardless of whether the company holds title to a vehicle or not, to provide the jurisdiction with proof of the following coverages for the following periods of "for-hire" service:

    i. Primary auto liability insurance coverage during Period 1. (Driver is logged into the application and available) with minimum liability limits of ***at least*** $50,000 per person for bodily injury or death/$100,000 per occurrence for bodily injury or death, and $25,000 for property damage plus any other state compulsory coverage. Coverage is to be maintained by the TNC, TNC Driver, or a combination of the two.

Primary auto liability insurance coverage during Periods 2 and 3, (in route to pick up and carrying passengers) with minimum liability limits of $1 million in combined single limit coverage for death, personal injury and property damage per incident; and $1 million in combined single limit under/uninsured motorist

coverage for death, personal injury and property damage per incident; and contingent collision coverage of $50,000 per incident. Proof of insurance to be carried by TNC drivers. The required Commercial Auto Liability policy must comply with the mandatory laws of the State and/or other applicable governing bodies.

Mandatory claim investigation cooperation between auto insurers and TNCs.

The goal is to ensure that the required coverage matches what the market offers in Period 1, at least on the personal lines policies, and to mirror the more usual commercial lines coverage for Periods 2 and 3. These levels of coverage in Period 1 are often less than the commercial auto liability policies required of taxi companies and jurisdictions should consider whether they are adequate.

B. INSURANCE ISSUES TO CONSIDER

Do you require parity of coverage between taxi companies and TNCs during **all** periods when the application is on? Particularly for the period when the driver has turned on the application but is not matched with a passenger.

Do you allow for authorization of surplus lines insurance rather than admitted insurers in the state?

Do you require the TNC to provide some form of occupational disability insurance if they are not otherwise required to provide workers' compensation coverage by state law?

Do you require TNC drivers to carry proof of TNC insurance for all periods in the vehicle? If so, is it by paper or electronic means?

Is the Period 1 limit based on a risk assessment or merely a compromise struck between the insurance industry and TNCs? Should that matter?

Do you require TNCs make disclosures to their drivers regarding the driver's personal automobile policy and when it will or will not cover them during their provision of TNC services?

3. VEHICLE INSPECTIONS AND AESTHETICS

A. FRAMEWORK

Most jurisdictions require taxis and TNC vehicles to undergo the same level of inspection (usually by a certified mechanic) before they are considered authorized to operate.

Scope of Inspection Requirement. All "for-hire" vehicles including TNC vehicles, require first aid kits and functional heating/cooling systems. The National Institute for Automotive Service Excellence (A.S.E.) representatives indicate that they view functional heating/cooling systems and first aid kits to be a critical safety features.

B. VEHICLE INSPECTION ISSUES TO CONSIDER:

Do you exempt vehicles less than one year old, or those that have a limited number of miles regardless of model or year, from inspection?

Who is an Authorized Inspector? Private inspectors that are a Blue Seal Certified Shop (having at least 75% of their technical staff ASE certified) or by a Master Certified Mechanic? Lesser certification? Local jurisdiction?

Is there a cleanliness or aesthetic inspection performed by the regulator?

How frequent are the inspections?

4. BACKGROUND CHECKS

A. FRAMEWORK

Jurisdictions that regulate TNCs require driver background checks, either conducted by the regulating government or the TNC. Many jurisdictions put the burden on the TNCs to conduct the checks, and many of these jurisdictions provide the TNC with guidelines such as using a designated background check company, listing offenses that automatically disqualify applicants, or giving the regulator audit powers over the check process.

Few jurisdictions have resolved the problem of keeping background checks current, but those that address this issue take one of three approaches: 1) require either the TNC or the driver to notify the regulator of changes within a certain period of time upon having knowledge of any disqualifying event; 2) Require the TNCs to update each background check periodically; or 3) use fingerprints based live-scan tracking.

B. ISSUES TO CONSIDER

What standards will be applied?

How burdensome are the requirements on applicants?

Are there equity issues if the requirements are too burdensome?

How far back will the background checks be required?

Who will perform them? A third-party or the jurisdiction? Are there legal hurdles to allowing for third-party background checks, (i.e. the Fair Credit Reporting Act)?

Are there issues with receiving multi-state motor vehicle record and criminal background checks?

If the jurisdiction allows for Third-Party checks, what level of oversight will the government perform? Require an authorized executive of the certifying entity to attest to records?

What is the jurisdiction's audit role?

What type of recordkeeping will be required of TNC?

5. DRIVER REQUIREMENTS

A. FRAMEWORK

In addition to listing a number of driver conduct requirements and prohibitions, most jurisdictions require that a TNC driver can only accept rides booked through a TNC digital platform and cannot solicit accept street-hails, or stop in any approved taxi or hotel zones.

B. ISSUES TO CONSIDER

Must TNC drivers carry proof of insurance while operating as a TNC driver?

Must TNC drivers obtain a business license (if applicable) and display or carry that with them at all times while operating as a TNC driver?

Should TNCs have a Zero Tolerance Policy for intoxicant use for all drivers?

Should TNCs perform periodic drug and alcohol testing?

Are TNC drivers required to utilize hands-free accessories for mobile devices? Should TNCs be required to provide them?

How can passengers make complaints?

Does the TNC need a physical office with normal business hours?

6. DRIVER TESTING & TRAINING

A. FRAMEWORK

Many jurisdictions require training and testing to become a "for-hire" driver that include:

1. Relevant Code provisions and Administrative Rules;

2. Area attractions;

3. Driver safety training;

4. Customer service training.

B. ISSUES TO CONSIDER:

Who administers the testing? How frequently?

What type of testing program is acceptable if administered by the companies?

7. EQUITY & INCLUSION

A. FRAMEWORK

TNCs must implement service performance measures to provide timely and equitable city-wide service to all persons, including persons with disabilities.

TNCs should be required to provide an option for riders to request wheelchair accessible vehicle ("WAV") service.

Service animals must be reasonably accommodated.

TNCs will be prohibited from applying additional fare charges for wheelchair accessible vehicle service.

All applicable laws must be followed, (ADA, state disability law, etc.).

B. ISSUES TO CONSIDER:

Is there a fleet requirement for Wheelchair Accessible Vehicles, (WAVs) based on a percentage of the fleet used for a particular TNC?

What are the Performance Measures that the jurisdiction will utilize to determine whether there is equitable service provided?

How will the jurisdiction measure any service requirements? How do you insure

that under-represented communities are being served?

Will there be an accessibility surcharge on all fares? If so, how will the surcharge be used? A subsidy for vehicles? A subsidy for WAV rides recognizing that they are the most costly (i.e., up to 275% more than a typical for-hire ride)?

What is the mechanism by which a jurisdiction delivers subsidies for WAV trips? How is it documented? How is it audited?

Is surge pricing prohibited on all WAV trips, or only on WAV trips to the extent surge pricing is not otherwise in effect?

8. DATA SHARING AND REQUIRED REPORTING

A. FRAMEWORK

Each TNC should enter into an agreement with the jurisdiction to provide aggregate and anonymized trip data that generally includes information on the following:

Wait times;

Type of ride requested (wheelchair accessible);

Trip origin zip code;

Trip destination zip code;

Identification of every request that is unfulfilled.

Required reporting of the number of collisions, including type of loss, date of loss, loss value, claim status (open or closed), fault, injuries, estimated damage and other information as requested;

Required reporting of the number and type of crimes against drivers;

Required reporting of the total number of passenger complaints.

B. ISSUES TO CONSIDER

What is considered confidential information provided by the TNC?

What is subject to public records disclosure?

What is the process if a public records request comes in for confidential information?

How will the data be used to inform the regulatory process?

What type of driver/vehicle information is provided during an audit?

How do you measure environmental footprint and traffic impacts?

9. FARE RATES

A. FRAMEWORK

All fare rates must be made clear and transparent to the passenger prior to the passenger accepting a ride.

B. ISSUES TO CONSIDER

Is there any cap on fares? Does the cap apply only to taxis or to all "for-hire" transportation?

If there are no caps on all "for-hire" transportation, how do you regulate and enforce that in the context of non-app based transportation?

Should there be a limitation or prohibition on surge pricing?

Is there a limitation or prohibition on surge pricing during a declared State of Emergency?

Is there a prohibition or limitation on surge pricing at certain hours of the day (i.e., overnight hours)?

Is there prohibition on surge pricing for WAVs?

Do you allow TNC to operate at the airport?

Do you require TNCs to accept cash payments as a matter of equity and inclusion?

10. ENFORCEMENT

A. Jurisdiction must enforce all requirements through a combination of the following:

Driver and company penalties;

Permit suspension and revocation;

Criminal charges (if applicable);

Towing and forfeiture of private for-hire vehicles.

11. OTHER LEGAL ISSUES

A. Lawsuits seeking to classify drivers as employees or independent contractors.

Lawsuits involving the improper withholding of tips.

Lawsuits enforcing TNC responsibilities under the Americans with Disabilities Act.

Administrative actions regarding provision of data.

Legal actions involving the accuracy of background checks.

Legal actions regarding adherence to Fair Credit Reporting Act.

Regulatory complaints alleging violations of Equal Protection Clause in alleged disparate regulations between taxis and TNCs.

TRN-14.23 - Interim Administrative Rule for Transportation Network Companies

INTERIM ADMINISTRATIVE RULE FOR TRANSPORTATION NETWORK COMPANIES

Administrative Rule Adopted by Portland Bureau of Transportation Pursuant to Rule-Making Authority

ARB-TRN-14.23

INTERIM ADMINISTRATIVE RULE

Introduction and Background

The purpose of the City of Portland's Private For-Hire Transportation Program (PFHT) is to provide for the safe, fair and efficient operation of private "for-hire" transportation services. The City Code defines private for-hire transportation as providing vehicular, horse-drawn carriage or pedicab transportation for compensation of any kind within the Portland City limits. City Code does not regulate transportation provided by a public or governmental entity, or that is regulated entirely by the state of Oregon or the federal government.

The City of Portland's private for-hire transportation network is made up of different modes of private for-hire service with different business models, privileges and regulatory burdens, and each type of service serves an essential role in the overall city-wide transportation network. The private for-hire market has significantly changed as consumer demands have evolved and as Portland experiences population growth and a thriving tourism industry. In addition to the changing demands, an ECONorthwest study found that in 2013, Portland had 7.5 taxis per 10,000 residents in 2013, the second-lowest among 10 cities in the study and 6 of the 10 cities in the study had taxis available at twice the rate as Portland;

A new model of for-hire transportation has emerged in response to the changing markets and consumer demand. City Council has defined this new private for-hire transportation model as "Transportation Network Companies" pursuant to section 16.40.030 of City Code. Transportation Network Companies (TNC) connect passengers to drivers providing private for-hire transportation service through an internet based digital or software platform/application.

The City has an interest in ensuring that each type of private for-hire transportation provider complies

with City regulations that protect public health, safety, consumer protection, morals or general welfare. Transportation Commissioner Steve Novick convened a 12-member, community PFHT Innovation Task Force (Task Force) to provide guidance and recommendations on how the City's PFHT regulatory program should evolve and respond to new developments in the industry, including the entry of TNCs. The Task Force met ten times between January and April 2015 and eight times from May to August. The Task Force heard from taxi drivers, taxi companies, TNC drivers, TNC companies and the general public. The Task Force also convened a Listening Session for PFHT drivers and a Community Forum for the general public.

On April 9, 2015, the Task Force made recommendations to City Council with a phased approach to updating private for-hire regulations. Phase 1 included a 120-day pilot program, during which time TNC permits were made available, regulations for taxi companies were modified and market data was collected and analyzed.

Phase 2 includes the implementation of Phase 1 recommendations and additional Task Force meetings. As part of Phase 2, the Task Force created three Subcommittees to focus deliberations on specific market, operational, and accessibility issues. Each Subcommittee met four times. Following the Subcommittee process, the Task Force continued to meet, assess market data and solicit public input that will inform final recommendations to the City's PFHT rules related to the taxicab and TNC industries. The Task Force's final report for the taxicab and TNC industries is scheduled for Council presentation on August 20, 2015.

Phase 3 will include a review and public input on all LPT industry regulations (limousine, executive sedan, shuttle, and tour bus) as well as non-vehicular industry regulations (pedicabs and horse-drawn carriages). Recommendations on the LPT and non-vehicular Private For Hire Transportation industries will be presented to City Council in late September.

The City of Portland has a responsibility to ensure the safety and reliability of vehicles for-hire as a matter of public concern and has the authority, delegated by ORS 221.495, to license, control and regulate privately owned vehicles for hire operating within the City of Portland. In addition, the Portland Bureau of Transportation Director has the authority pursuant to PCC 16.40.520 J to authorize interim administrative rules that could be effective for not more than 120 days.

16.40.520 Administrative Rule Authority and Process

J. "Notwithstanding Subsections 16.40.520 C. and D., the Director may adopt an interim rule without prior public notice or Board action upon a finding that a failure to act promptly will likely result in prejudice to the public interest or the interest of the affected parties. If the Director adopts a rule under this Subsection, the Director must state the specific reason for such prejudice. Any interim rule adopted pursuant to this Subsection is effective for a period of not longer than 120 days."

While the Task Force will continue to meet and develop recommendations for a final program (Phases 2 and 3), this Interim Rule is necessary to continue implementing the Task Force recommendations in order to ensure public safety and consumer protections in light of the evolving private for-hire transportation landscape. Phase 2 Interim Rule will allow Transportation Network Companies to continue to operate in the City of Portland, allow the City to continue to receive critical data from all for-hire transportation companies, and maintain parity where possible between the Taxi Companies and the Transportation Network Companies in order to avoid any prejudice to the interests of affected parties.

This Interim Rule is necessary to provide sufficient private for-hire supply to meet currently unmet public and accessible ride service demand. This Phase 2 Interim Rule will allow the City to continue gathering critical data in an effort to improve all aspects of the private for-hire regulations and the city's transportation network, most notably service to people with disabilities.

Under the authority of 16.40.520.J I am adopting Interim Administrative Rule TRN-14.23, to allow for the continued regulation of Transportation Network Services, Transportation Network Companies, Transportation Network Vehicles, Transportation Network Drivers, and assessment of the private for-hire industry data. Interim Administrative Rule TRN-14.23 shall become effective on August 21, 2015:

1. Definitions

A. "Approved Blue Seal Shop" means a mechanic shop recognized with the ASE Blue Seal of Excellence by the National Institute of Automotive Service Excellence (ASE).

B. "Approved Mechanic" means a mechanic whom meets all the following criteria:

i. does not own, lease or drive a vehicle for-hire;

ii. has no financial interest in any for-hire transportation company operating within the States of Oregon or Washington;

iii. has received ASE (Automotive Service Excellence) A Series (Automobile/Light Truck

Certification) master certification; and

iv. is not employed by any for-hire transportation company.

C. "Pilot Program" shall mean the period of time beginning on the effective date of these Interim Administrative Rules and terminating at the end of the time period provided in 16.40.520 J.

D. "Surge Pricing" shall mean a multiplier or increase of the base fare rate used by the TNC for periods or locations of high demand, or any other charge that applies to the requested ride and increases the fare.

E. "Trade Dress Signage" shall mean the unique visual element associated with a TNC that is attached to a vehicle affiliated with a TNC so the public, passengers and City enforcement officials can identify the vehicle as being associated with that particular TNC.

F. "TNC App" or "App" means technology that allows passengers to directly request TNC Network Services via the internet based digital or software platform/application operated by the TNC.

G. Transportation Network Company (TNC). Pursuant to 16.40.030 TT means any entity, other than a taxicab or LPT company, that operates private for-hire transportation by connecting passengers to Transportation Network Drivers who offer and provide Transportation Network Services through an internet based digital or software platform/application.

H. Transportation Network Driver. Pursuant to 16.40.030 UU, means any individual operating a private for-hire vehicle who connects with passengers through an internet based digital or software platform/application operated by a Transportation Network Company.

I. Transportation Network Services. Pursuant to 16.40.030 VV means private for-hire transportation services offered or provided for compensation by a Transportation Network Company that connects passenger with Transportation network Drivers through an internet based digital or software platform/application.

J. Transportation Network Vehicle. Transportation Network Vehicle. Pursuant to 16.40.030 WW means any vehicle driven by a Transportation Network Driver to provide Transportation Network Services.

2. Permits Required - The operation of a Transportation Network Company is a privilege and not a right. For transportation network services to be provided in the City of Portland, the Transportation Network Company shall be required to obtain a permit. TNCs shall be required to certify to the City of Portland that all affiliated TNC Vehicles and TNC Drivers have met all certification and operating requirements.

A. TNC Company. Subject to 16.40.720, no person or entity may conduct business as a Transportation Network Company in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this section shall be a violation subject to the penalties provided in Sections 16.40.540 and 16.40.560.

B. TNC Driver. Subject to 16.40.730, no person or entity may conduct business as a Transportation Network Driver in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this section shall be a violation subject to the penalties provided in Sections 16.40.540 and 16.40.560. The TNC shall provide a certification to the Bureau that each TNC Driver has met all conditions consistent with the TNC Driver certification requirements. Electronic submission of the driver information shall be considered receipt of certification from the TNC. Upon receipt of a certification from an authorized representative of the TNC that a TNC Driver has met all of the requirements established in this Interim Rule, the TNC Driver is eligible to drive pursuant to 16.40.730.

C. TNC Vehicle. Subject to 16.40.740, no person or entity may operate a for-hire Transportation Network Vehicle in the City of Portland without a valid, current permit issued by the City under Chapter 16.40. Failure to comply with this section shall be a violation subject to the penalties provided in Sections 16.40.540 and 16.40.560. The TNC shall provide a certification to the Bureau that each TNC Vehicle has met all conditions consistent with the TNC Vehicle certification requirements. Electronic submission of the vehicle information shall be considered receipt of certification from the TNC. Upon receipt of a certification from an authorized representative of the TNC that a TNC Vehicle has met all of the requirements established in this Interim Rule, that TNC Vehicle is eligible to operate pursuant to 16.40.730.

3. TNC Company Permit Application Standards for Approval and/or Denial and Certification Requirements.

A. Application. An applicant for a TNC permit shall submit to the Administrator:

i. A completed application on a form supplied by the Bureau;

ii. Proof of registration with the Secretary of State for any corporate, LLC or LLP entity;

iii. Proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;

iv. A list of all persons or entities with more than 10 percent stock ownership if the company issues stock certificates, and

v. A nonrefundable application fee in the amount of $250.

vi. If the applicant TNC is individually owned, the name, business address (or home address if no business address), telephone number and date of birth of the owner;

vii. If the applicant TNC is a corporation, partnership or other business entity, the names, business addresses, telephone numbers, and date of birth of the person or persons vested with authority to manage or direct the affairs of the legal entity in Portland ("Authorized Representative") or to bind the legal entity in dealings with third parties, and any other information that the Director may reasonably require;

viii. Verification that applicant uses only one TNC App;

ix. The trade dress the applicant TNC proposes to use, if any, for each affiliated driver's vehicle, with a photo of the trade dress submitted with the application.

B. Administrator Review Process. After receiving a completed TNC company application form

and upon successful completion of all the requirements of Section 3a above, the Administrator shall review the application in order to make a recommendation to the Commissioner-in-Charge for approval or denial.

C. Application Approval. The Commissioner-in-Charge shall direct the Bureau to issue a Transportation Network Company permit if the application is approved.

D. Application Denial. The Application may be denied for any of the following:

i. The TNC applicant fails to submit proof of insurance;

ii. The TNC applicant provides TNC App services to anyone other than TNC Drivers meeting the requirements set forth in this Interim Rule;

iii. The TNC applicant uses more than one TNC App;

iv. The TNC applicant leases, permits, or otherwise allows other entities engaged in for-hire transportation to use its TNC App;

v. The TNC applicant affiliates with and provides TNC App services to drivers without a TNC Driver Certification;

vi. The TNC applicant affiliates with and provides a TNC App to drivers operating vehicles without a TNC Vehicle endorsement.

vii. The application has a material misstatement or omission;

viii. The TNC application is incomplete;

E. Denial Appeal. If the application is denied, the applicant may appeal the decision to the Code Hearings Officer under the provisions of Chapter 22.10.

F. Providing Transportation Network Services. TNC Services may only be provided by a permitted Transportation Network Company.

G. Certification of TNC Drivers. The Transportation Network Company shall provide a certification to the Bureau that each TNC Driver has met all conditions consistent with the TNC Driver certification requirements (Section 9 of this Interim Rule). Drivers not meeting all such conditions will not be certified as a permitted TNC Driver and will not be allowed to operate as a TNC Driver on a TNC platform. Such requirements include:

i. Criminal and Driver Background Checks;

ii. Personal Automobile Liability Insurance;

iii. Valid Driver License;

iv. TNC Driver Business License Number; and

v. Driver Training and Skills/Knowledge Testing within four months of certification of a driver's permit.

H. Certification of TNC Vehicles. Transportation Network Companies shall provide a certification to the Bureau that each TNC Vehicle has met all conditions consistent with TNC Vehicle certification requirements (Section 7 of this Rule). Vehicles not meeting all such conditions will not be allowed to operate as a TNC Vehicle. Such requirements include:

i. Vehicle safety inspection in a manner prescribed by the Portland Bureau of Transportation;

ii. Vehicle registration and licensing;

iii. Vehicle condition;

iv. TNC Commercial Automobile Liability Insurance;

v. Personal Automobile Liability Insurance, as required by state law.

I. Certifications. All certifications required shall be provided by the TNC in a format approved by the Administrator and shall be attested to, under penalty of perjury, by an authorized representative of the TNC. The form shall include, but not be limited to, the following:

i. Driver's full first and last name;

ii. Full vehicle license plate number and state issued.

J. Insurance. All TNC permit holders must comply with TNC insurance requirements (Section 5 of this Rule). All TNCs shall file a certificate of liability and applicable endorsements with the Administrator that evidences insurance coverage and terms that are in compliance with the requirements.

K. Right to a Permit. The TNC's ability to satisfy the criteria for a TNC permit does not create a right to a TNC permit.

L. Transferring Permits. Transferring permits shall be prohibited.

M. Operating at the Port of Portland. TNC Companies, Drivers, and Vehicles permitted under this

Rule are not allowed to operate at the Portland International Airport without specific permission or approval from the Port of Portland.

4. Transportation Network Company Permit Fees

A. A TNC shall be charged a flat fee of $20,000 for the 120-day period.

B. The permit fee paid for the pilot program shall be applied to the annual permit fee if the permit is renewed.

C. A TNC shall be charged a fee not to exceed $10,000 or the actual amount apportioned between all permitted TNCs for the cost of data analysis.

D. Permit Issuance. No TNC permit shall be issued until such permit fees have been received by the City.

5. TNC Insurance Requirements

A. TNC Service Periods Defined. In order to provide protection to the public, the Transportation Network Company shall provide appropriate levels of insurance during commercial activity. Transportation Network Service is defined by three distinct periods:

i. Period 1: The TNC Driver has logged into the App. The App is open and the driver is waiting for a match.

ii. Period 2: A passenger match has been accepted – the passenger is not yet picked up (i.e. the driver is on his/her way to pick up the passenger).

iii. Period 3: The Passenger is in the vehicle and until the passenger safely exits the vehicle at

the destination.

B. Providing TNC Services. Before a TNC Vehicle is used to provide TNC Services, the TNC Vehicle and TNC Driver must be covered by a primary automobile insurance policy during all periods for TNC Services secured by the TNC, the TNC Driver, or a combination of both. Evidence of TNC insurance requirements must be received and approved by the City prior to a TNC receiving a TNC permit.

C. Additional Named Insured and Notification of Policy Changes. The TNC shall provide insurance policies naming the City of Portland, its officers, agents and employees as an additional insured party and give at least 30 days' notice to the Administrator before a policy is canceled, expires, or has a reduction in coverage. Insurance coverage requirements include commercial business insurance, commercial vehicle insurance, worker's compensation and employer's liability insurance (when required by state law).

D. Ensuring Driver and Vehicle Insurance. The TNC shall be responsible for ensuring the TNC Driver and TNC Vehicle have appropriate personal insurance coverage as required by State law.

E. Insurance Requirements. Insurance requirements of this section may be satisfied by insurance issued by a licensed insurer or an eligible surplus lines insurer in the State of Oregon.

F. Commercial Business Insurance. TNC permit holders must secure and maintain a Commercial General Liability policy reflecting limits of no less than $1 million per occurrence and $2 million aggregate for covered claims arising out of, but not limited to, Bodily Injury, and Property Damage, in the course of the permit holder's work under a for-hire transportation TNC permit.

G. Automobile Insurance. All TNC permit holders, regardless of whether the company holds title to a vehicle or not, shall provide the City with proof of the following coverages:

i. Primary insurance coverage during Period 1 with minimum liability limits of $50,000 per person for death and injury, $100,000 per incident for death and injury and $25,000 for property damage, plus any other state compulsory coverage to the extent required by law. Coverage is to be maintained by the TNC, TNC Driver, or a combination of the two.

ii. Primary insurance coverage during Periods 2 and 3 with minimum liability limits of $1 million in combined single limit coverage for death, personal injury and property damage per incident; and $1 million in combined single limit under/uninsured motorist coverage for death, personal injury and property damage per incident. Coverage is to be maintained by the TNC, TNC Driver, or a combination of the two.

iii. The required Automobile Liability policy must specifically recognize the driver's provision of TNC services or other for hire transportation and must comply with the mandatory laws of the State of Oregon and/or other applicable governing bodies.

H. Certification of Auto Insurance. TNCs shall provide certification of insurance that all TNC Vehicles operating for such company maintain current insurance satisfying the requirements of Periods 1, 2 and 3 in the event the insurance maintained by the driver has lapsed or does not provide the required coverage.

I. Insurance Limits Subject to Statutory Changes. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term;

J. Subject to Approval by the City Attorney's Office. The adequacy of insurance coverage outlined in this Section is subject to the review and approval of the City Attorney's Office.

K. Continuous and Uninterrupted Coverage. The permit holder must maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.

L. Insurance Rating. All insurance companies issuing policies under this Section must carry at least an A.M. Best Company rating of A-, VIII or better;

6. TNC Company Operating Responsibilities and Prohibitions

A. Minimum Standards of Service. A permitted TNC must comply with the following minimum standards:

i. A TNC App in operation 24 hours each day capable of providing reasonably prompt service in response to requests at all times.

ii. Acceptance of any request for TNC Service received from any location within the City including requests made by persons with disabilities and requests for wheelchair accessible service.

iii. The TNC App used to connect drivers to riders must display an accurate picture of the TNC Driver and a picture or description of the type of TNC Vehicle, as well as the license plate number of the TNC Vehicle.

B. Fare Transparency. All TNC fares must be made available in a clear and transparent way to the TNC passenger on the TNC App prior to the TNC passenger accepting a ride.

C. Receipts. All TNC passengers must be provided either a paper or digital receipt for services at the termination of the ride that clearly indicates the fare paid, time of ride, name of TNC and TNC contact information.

D. Limitation or Prohibition on Surge Pricing. The Bureau Director may limit or prohibit surge pricing by any TNC or TNC Driver during a State of Emergency, as declared by the Mayor, pursuant to Portland City Code 15.04.040.

E. Agent of Service Requirements. TNCs will maintain, during all times when the TNC Permit is valid, a locally-based agent of service with regular hours of business during weekdays and the ability to leave messages 24 hours per day and 7 days per week via telephone and email. Response to messages must be made within 48 hours.

F. Data Requirements.

i. Any permitted TNC shall enter into an agreement with the City to provide aggregate and anonymized data focused on transportation, accessibility and service to help the City improve access to for-hire transportation. Examples of relevant data may include, but not be limited to,

the following:

a. type of ride requested (wheelchair accessible);

b. trip origin zip code;

c. trip destination zip code;

d. identification of every request that is unfulfilled.

ii. TNCs will be required to provide any other data identified by the Director to ensure compliance with the requirements of the Pilot Program.

iii. TNCs will be required to submit data, in aggregate form, pursuant to a data sharing agreement with the City and permitted companies.

iv. The data collected by the City will be, except as otherwise required by law, kept confidential by the City, used only within the City and not disclosed to third parties.

v. In the event disclosure of such data is required by law, the City will provide TNCs notice prior to any disclosure of such data.

G. Reporting Requirements. Each TNC shall comply with the following reporting requirements.

i. Report the number of collisions to the extent known, including type of loss, date of loss, loss value, claim status (open or closed), fault, injuries, estimated damage and other information as requested by the Bureau Director;

ii. Report the number and type of crimes against drivers to the extent known;

iii. Report the total number of passenger complaints to the TNC.

iv. TNCs must report any of the following events to the Administrator within 24 hours of it becoming known by any company officer or principal managing employee:

a. The arrest or conviction for any criminal offense of any officer or principal managing employee of the TNC involving the operation of that TNC in the City of Portland;

b. Any accident required to be reported to the State of Oregon involving a TNC Vehicle;

c. The filing of any lawsuit against or on behalf of the TNC related to the operation of the company in the City of Portland;

d. The initiation of bankruptcy proceedings or corporate or partnership dissolution by the company; and

e. Any information required to be disclosed by Section 10 G of this Interim Rule that comes to the attention of a TNC's management.

H. Digital Record Requirements - Secure, digital records with contact information from TNC Drivers and TNC passengers shall be maintained by the TNC. Such records shall provide a verifiable way to identify drivers and riders for investigatory purposes.

i. TNCs own the digital records and are responsible for their maintenance and the records produced by them.

ii. If a Portland Police Bureau Officer requests access to any record to assist in the

investigation of any crime after following appropriate legal process, the TNC must provide access thereto within 24 hours.

iii. No TNC Company or Driver may allow any unauthorized person to intentionally access any records produced by the digital record systems.

iv. The TNC Company shall notify the City of a known data security breach in the same manner as provided in ORS 646A.600 to ORS 646A.628.

I. Zero Tolerance for Drug and Alcohol Use. All permitted TNC Companies must employ at all times a Zero Tolerance Policy for intoxicants for all TNC Drivers.

J. TNC Company records requirements. TNCs will be required to keep documentation of all certification requirements. Such records must be kept on file during the term of the TNC Permit and for 2 years after the expiration of such Permit. Upon request or subpoena, TNC records shall be provided to law enforcement officers and/or the Bureau Director.

K. User Terms of Service. No disclaimer of liability for negligence or other tortious conduct contained in any TNC User Terms of Service shall have any force or effect in the City of Portland. Any tort claim against a TNC shall be governed by tort law in effect at the time of the claim.

L. Equity and Inclusion. TNCs shall implement service performance measures to provide timely and equitable service to persons with disabilities

i. Equitable Service is defined as responding to requests for wheelchair accessible vehicle service within an equivalent amount of time as comparable requests for non-wheelchair accessible vehicle service.

ii. Wait time is defined as the time between a service request and the TNC Vehicle arrival.

iii. Differential service means the difference between the wait time for wheelchair accessible service requests and the wait time for non-wheelchair accessible service requests.

iv. Equitable service performance measures include:

a. Required data collection; and

b. reasonably prompt service with a differential of no more than 10 minutes or what the previous month's data supports:

v. TNCs shall provide an option for passengers on the TNC App to request wheelchair accessible vehicle service.

vi. Wheelchair accessible service shall be provided at the same fare as non-wheelchair accessible service. TNCs shall not apply any additional charges other than those applicable to non-wheelchair service.

vii. Service animals must be reasonably accommodated by TNC Drivers.

M. Prohibition on hailing or waiting in taxi lines. TNC Vehicles and TNC Drivers shall only accept rides booked through their TNC App and shall not be allowed to accept street-hails or to wait in designated taxi zones.

7. TNC Vehicle Certification Requirements

A. TNC Vehicle Certification. A permitted TNC shall provide a certification to the Bureau that each TNC Vehicle has met all conditions consistent with TNC Vehicle requirements. Vehicles not meeting all such conditions shall not be allowed to operate as a TNC Vehicle.

B. Term of Certified TNC Vehicle During Pilot. The term of any certified TNC Vehicle shall not exceed the authority of the Interim Administrative Rule and is subject to certification requirements.

C. Application Process. Applications for authorized TNC Vehicles shall be made directly to an affiliated TNC. The TNC will certify to the Administrator, pursuant to certification requirements, that the vehicle meets all requirements before the vehicle may be put into service as a TNC Vehicle.

D. Vehicle Registration, Licensing, and Insurance. All TNC Vehicles will maintain, at all times, vehicle registration, licensing and insurance as required by the State of Oregon or the state in which such vehicle is registered.

E. Vehicle Age Requirements. No vehicle older than 10 years, based on the model year, will be allowed to operate as a TNC Vehicle. The age of a vehicle is determined by the manufacturer's model year, regardless of when the vehicle was purchased or put into service as a TNC Vehicle.

F. Vehicle Safety Inspections. Each TNC Vehicle must pass a standardized vehicle safety test as performed by either a Master Mechanic certified by the National Institute for Automotive Service Excellence (ASE) or by an ASE Blue Seal Recognized Shop if the vehicle

i. is more than one year old, based on model year, or

ii. has 10,000 miles or more on its odometer, or

iii. has the "check engine" light illuminated, regardless of model year or mileage.

iv. The ASE Master Mechanic or ASE Blue Seal Shop will then issue to the applicant a "Safety Certificate" stating that the vehicle passed the required safety inspection. The safety inspection checklist used by the ASE Master Mechanic or ASE Blue Seal Shop shall be completed on a form approved by the Administrator.

G. Vehicle Condition. Each TNC Vehicle shall meet the following requirements

i. Each TNC Vehicle shall be:

a. Kept clean;

b. Kept in good appearance and good repair;

c. Properly equipped, including but not limited to carrying a hands-free accessory for mobile devices and a standard first aid kit;

d. Kept in a safe condition; and

e. Equipped with all pollution control equipment originally installed by the manufacturer.

ii. Each TNC Vehicle shall be equipped with a fire extinguisher.

iii. The use of tobacco products shall be prohibited in any TNC Vehicle.

8. TNC Vehicle Operating Requirements and Prohibitions

A. No vehicle may operate as a TNC Vehicle unless it has been affiliated with an approved TNC Company and TNC Driver.

B. Trade Dress Signage. Trade Dress Signage is required for each TNC Vehicle in operation. Such signage must be clearly visible during all times a TNC Vehicle is operating as a TNC Vehicle. The Trade Dress Signage may be placed on the vehicle body, but not on the roof or shall not obscure any of the driver's views, vehicle lights, or obscure the view of any mirrors, and cannot exceed four square feet and must be clearly visible from a distance of 20 feet.

C. Vehicle Operating Conditions. In determining whether a vehicle meets the vehicle condition requirements, the following will apply:

i. The outside of TNC Vehicles shall be free of dirt, grease, grime, glue, tape (such as duct or masking tape), trash, litter or other substance. This shall apply to the vehicle's paint, upholstery, windows, floorboard and integrated parts of the vehicle's body.

ii. Good appearance and good repair shall include no missing nor makeshift parts for vehicles, including but not limited to, fenders, hood, trunk lid, doors, door handles, windows, chrome or rubber strips, wheel covers, upholstery, ashtrays, or carpeting; and the horn and all lights, turn signals and back-up signals are in good working order; and, the vehicle body is free of major damage and broken or cracked equipment, including but not limited to, windows, lights, light covers, top light and reflectors.

iii. Properly equipped shall include having properly functioning windshield wipers, windshield washers, interior/dome lights, heating/air conditioning systems, odometer, speedometer and mufflers, tail pipes or other exhaust components that prevent unnecessary noise and smoke emissions. All equipment and devices must be maintained in good working order.

iv. Safe condition shall require that the vehicle is in compliance with the standards contained in ORS Title 59, Oregon Vehicle Code, Chapters 801 through 823.

D. Transferring Certification is Prohibited. Transferring certification of a certified TNC Vehicle shall be prohibited.

E. Vehicle Registration, Insurance, and Business License. A copy of the vehicle's registration and proof of insurance must be kept in every TNC Vehicle. In addition, the City requires proof of TNC insurance and proof of a TNC Driver's business license number be kept in every TNC Vehicle and accessible by the driver upon request.

9. TNC Driver Certification Requirements

A. TNC Driver Certification. A TNC shall certify all affiliated TNC Drivers in accordance to City requirements and subject to certification requirements. Upon certification of such requirements, the TNC shall submit to the City active TNC Driver information.

B. Term of Certified Driver during Pilot. The term of any certified TNC Driver will be consistent with the term of the Interim Administrative Rule.

C. Application Process. Applications for TNC Driver certification shall be made directly to the affiliated TNC. The TNC shall certify to the Administrator, pursuant to certification requirements, that the driver meets all requirements before the driver may operate as a TNC Driver.

D. TNC Driver Criminal and Driving Background Checks. A TNC shall conduct a national criminal and driving background check for each driver through a third-party provider, accredited by the National Association of Professional Background Screeners. A TNC Driver will not be certified and cannot provide Transportation Network Services if any of the following conditions exist:

i. The applicant has a felony conviction of any kind in the 10 years preceding the submission of the application;

ii. The applicant has a felony involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred;

iii. During the 5-year period preceding the submission of the application, the applicant has been convicted of any criminal offense involving:

a. any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or

b. any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident;

iv. During the 5-year period preceding the submission of the initial application, the applicant had greater than 10 traffic infractions as defined in ORS 801.557; greater than five serious traffic violations as defined in ORS 801.477; greater than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or, greater than five of any combination of serious traffic violations or motor vehicle accidents as provided above;

v. During the 10-year period preceding the filing of the initial application, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident;

a. the TNC shall conduct a full Motor Vehicle Records (MVR) check for each jurisdiction where the driver applicant has been licensed to drive within 10 years immediately prior to application; and

b. the TNC shall conduct a MVR check to the fullest extent available under applicable law in each jurisdiction.

vi. The applicant has more than two traffic violations or infractions of any kind within the previous 12 months from the date of the application;

vii. The applicant has more than four infractions of any kind within the previous 12 months from the date of the application;

viii. The applicant does not have at least 2 years' worth of continuous driving experience in a United States jurisdiction immediately prior to the date of the application's submission;

ix. The applicant is less than 21 years old; or

x. The applicant is unable to obtain car insurance for any reason.

E. Driver Background Checks. Driver background checks must include a check of driving records

in Oregon and in any jurisdiction where the applicant was licensed to drive in the last 10 years.

F. TNC Driver Skills/Knowledge Testing and Training.

i. Driver Skills/Knowledge Testing Requirements. TNC Drivers shall successfully complete each of the following Bureau approved tests as administered by the Bureau or a permitted TNC within 4 months of the driver's certification:

a. Map-reading;

b. Relevant City Code provisions and Administrative Rules; and

c. Portland-area attractions.

ii. Driver Safety Training Requirements. Drivers must successfully complete a Bureau-approved driver safety training program within 4 months of certification of the driver's permit. The following driver safety programs are approved by the Bureau:

a. Fifty Five Alive;

b. National Traffic Safety Institute classroom program with additional Passenger/Van module;

c. Any driver safety program offered by a TNC Company that is approved by the Administrator as being equivalent to those programs listed in this Section.

iii. Customer Service Training Requirements. Drivers must successfully complete a Bureau-approved customer service training program within 4 months of certification of the driver's permit. The following customer service programs are approved by the Bureau for purposes of

this Rule:

a. Travel Oregon's online customer service training. A score of 80% or better is required to pass.

b. The Administrator will approve a TNC Services specific customer service training as this becomes available.

iv. A TNC shall immediately de-activate from the TNC App (or platform) any TNC Driver that does not complete the driver skills/knowledge testing or training requirements within 4 months of the driver's certification pursuant to this Interim Administrative Rule.

G. Insurance Requirements. All TNC Drivers affiliated with a TNC must maintain current, valid personal automobile insurance that meets the State of Oregon requirements.

H. Business License Requirements. All TNC Drivers affiliated with a TNC must comply with all provisions of the Business License Law, Chapter 7.02 prior to being activated on the TNC App. Any TNC Driver without a valid City of Portland Business License must be de-activated from the TNC App and is not allowed to operate as a TNC Driver in the City of Portland until such Business License is obtained.

10. TNC Driver Conduct Requirements and Prohibitions

A. Driver Conduct. No permitted TNC Driver shall:

i. Allow another person to use his/her driver's permit;

ii. Drive or allow another person to drive a TNC Vehicle without a valid driver's license while the vehicle is being used to provide TNC Services;

iii. Operate any TNC Vehicle while consuming, or while under the influence of intoxicants, or in a careless or reckless manner or in a manner contrary to the laws of this City or the State of Oregon;

iv. Operate any for-hire transportation vehicle while consuming, or while under the influence of illegal drugs;

v. Operate any for-hire transportation vehicle if impaired by any legally-prescribed or over-the-counter drugs;

vi. Use a for-hire transportation vehicle in the commission of any crime;

vii. Use profane or obscene language offensive to the passenger while operating a for-hire transportation vehicle;

viii. Smoke any substance or use tobacco in any form inside a TNC Vehicle;

ix. Allow any passenger to smoke any substance or use tobacco in any form inside a TNC Vehicle;

x. Defraud a passenger in any way;

xi. Be discourteous to a passenger;

xii. Refuse to issue a fully completed receipt for a fare paid if one is requested;

xiii. Drive passengers to their destination by any other than the most direct and safe route, unless requested to do so by the passenger;

xiv. Operate any TNC Vehicle while using a mobile communications device without a hands-free accessory as defined in ORS 811.507(1);

xv. Refuse to transport to a requested destination any passenger of proper demeanor whose request for service has been accepted on the TNC App.

B. Maximum hours of driving. No person may provide private for-hire transportation after engaging in more than 14 hours of commercial activity in any given 24-hour period.

C. Street-Hails and Taxi Zones. A TNC Driver shall only accept rides booked through a TNC digital platform and shall not solicit or accept street-hails or stop in any City-approved taxi zones.

D. Insurance. TNC Drivers shall carry proof of TNC insurance at all times while operating as a TNC Driver.

E. Portland Business License. TNC Drivers shall carry documentation of the driver's City of Portland Business License at all times while operating as a TNC Driver.

F. Transferring Permits is Prohibited. Transferring TNC Driver Permits from one Driver to another shall be prohibited.

G. Driver Reporting. Every TNC Driver must report any of the following events to the Administrator and to all affiliated TNCs within 24 hours of its occurrence:

i. Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation, that occurs during, or arises out of, the driver's operation of a for-hire transportation vehicle;

ii. Any arrest, charge or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or any related offense;

iii. Any vehicle accident required to be reported to the State of Oregon involving any vehicle operated as for-hire transportation by the driver; and

iv. Any restriction, suspension or revocation of the driver's motor vehicle driver's license.

11. Compliance with all Federal, State, and Local Laws. Any TNC permitted company, driver or vehicle that is not in compliance with all federal, state or local laws is likewise not in compliance with this Interim Rule, and is subject to penalties, suspension or revocation.

12. Enforcement

A. Authorized Enforcement. Pursuant to PCC 16.10.660 designated City Employees are authorized to enforce the provisions of Chapter 16.40 and its administrative rules, including the Interim Rule, and other related work under the direction of the Director of the Portland Bureau of Transportation.

B. Prohibition from blocking City Employees from the TNC App or TNC Services. TNCs, TNC Vehicles, and TNC Drivers are prohibited from blocking access to the TNC App to any City employee authorized to enforce the provisions of this rule.

C. The City may audit any TNC certification and other records with 24 hours verbal or written notice including:

i. Company requirements

ii. Vehicle requirements

iii. Driver requirements

D. The Administrator shall have the authority to demand that a TNC Vehicle be made available for inspection within 48-hours' notice. In addition, authorized City personnel will have the authority to inspect any TNC Vehicle at any time if the vehicle is within the City limits, does not have a passenger inside and is parked in the public right of way or on public property.

E. Complaints. The Administrator, or designee, has the authority to investigate any and all complaints concerning possible violations of this Interim Rule adopted hereunder and to fine accordingly if a violation is found.

i. For the purposes of investigating citizen complaints and to aid in enforcement of the Interim Rule, the Administrator or designee may require a TNC to report financial and operating data, in such form and at such times as the Administrator requires.

ii. The company must compile the necessary data and submit reports to the Administrator as requested and within the timeframe demanded subject to the requirements of the Interim Rule, but in no event must the TNC be forced to submit this information without at least 72 hours prior notice by the Administrator or designee.

F. Suspension and Revocation.

i. Certified TNC Drivers may be suspended by the Director, or designee, if the TNC Driver does not maintain a required current business license issued by the City of Portland. The TNC will immediately de-activate the TNC Driver from the TNC App or platform upon notification of suspension of a driver's certification to operate.

ii. The certifications issued to TNC Drivers and TNC Vehicles, and permits issued to TNCs may be suspended or revoked during the 120-day Pilot Program if not in compliance with any of the provisions of this Interim Rule. The TNC will immediately de-activate the TNC Driver from the TNC App or platform upon notification of suspension or revocation of a driver's certification to operate.

iii. The Administrator may revoke any TNC permit or TNC certification if applicable provisions of PCC 16.40.550 B are found. The TNC will immediately de-activate the TNC Driver from the TNC App or platform upon notification of revocation of a driver's

certification to operate.

iv. In the event that a TNC permit is revoked, all TNC Drivers and TNC Vehicles affiliated with that company are simultaneously revoked and void unless they are certified by another permitted TNC.

G. Except as otherwise required by law, information submitted to the Administrator under the Interim Rule can only be used within the City government. Such information may not be released to the public except in aggregate form.

H. Information submitted under the Interim Rule may become a matter of public record as necessary to initiate, prosecute and defend an enforcement action.

I. The City has the ability to issue civil penalties against TNCs, TNC Vehicles, and TNC Drivers, up to and including suspension and revocation.

TNC CIVIL PENALTY TABLE

Requirement	1st Offense	2nd Offense	Subsequent Offenses
TNC Permit	$1,500	$2,500	$5,000
TNC Vehicle Conditions	$1,250	$2,500	$5,000
TNC Driver Business License	$500	$1,000	$2,000
Minimum Standards	$500	$1,000	$2,000
Surge Pricing	$1,500	$2,500	$5,000
Accessible Service Measures	$2,500	$5,000	$10,000
TNC Required Equipment	$1,250	$2,500	$5,000
TNC Vehicle Identification	$1,250	$2,500	$5,000
TNC Driver Conduct	$1,250	$2,500	$5,000
Driver Maximum Hours	$1,250	$2,500	$5,000
TNC Vehicle Requirements	$1,250	$2,500	$5,000
TNC Vehicle Inspection	$1,250	$2,500	$5,000
TNC Insurance	$1,250	$2,500	$5,000
TNC Data Reporting	$1,250	$2,500	$5,000

J. Civil Penalties for Vehicle Non-Compliance. If the Administrator, or designee, determines that the TNC Vehicle violates any provision of this Interim Rule, the Administrator, or designee, may issue a civil penalty and set a deadline of not less than 48 hours in which the vehicle must be in compliance. If the vehicle is not in compliance at the time of the deadline, the Administrator, or designee, may suspend the vehicle certification until the violations are corrected.

K. Civil Penalty Payments. Any civil penalty assessed must be paid in full within the time ordered and under the terms and conditions specified. If either the payment is not made or the required conditions are not met, any permit or certification may be suspended unless a timely appeal has been filed. Any suspension will take effect immediately upon the deadline given for payment of the civil penalty. The suspension will remain in effect until the penalty is paid in full and/or the conditions required are met.

L. Protection of Public Safety. The Administrator may suspend any TNC permit or TNC Driver certification if the suspension is necessary to protect public safety, or the TNC or TNC Driver insurance is not current.

M. Violations Not Found in Penalty Table. Any violation of an Interim Rule section that is not found in the Civil Penalty Table and which is not specifically prescribed by Rule Section, but which places an obligation or requirement on a driver or company, will result in a penalty of $100 for the 1st violation, $500 for the 2nd violation and $1,000 for subsequent offenses.

N. Criminal Offense. Under City Code Chapter 16.40, operating private for-hire vehicles without permits is a criminal offense, subjecting the operator to arrest and vehicle impoundment. Continued violations of criminal provisions of Chapter 16.40 and the property that is used to commit such prohibited conduct could be subject to civil forfeiture.

13. SAT Vehicles providing Wheelchair Accessible Rides. Any medical transportation (SAT) operator, may operate on demand for-hire transportation services for the duration of the Pilot Program as long as

A. the vehicle has completed all safety inspections as required by the City of Portland; and

B. the driver has a City of Portland Driver's permit or TNC certification.

HISTORY

Adopted by Assistant Director of Portland Bureau of Transportation August 14, 2015 and effective August 21, 2015.

Filed for inclusion in PPD August 17, 2015.