VALTA

VIRGINIA ASSOCIATION OF LOCAL TAX AUDITORS

JUNE 28, 2019

FAIRFAX COUNTY GOVERNMENT CENTER

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Short Term Lodging

JUAN B. RENGEL, DIRECTOR

PERSONAL PROPERTY DIVISION

Short-Term Lodging (STL)

- Transient Occupancy of a dwelling for less than 30 consecutive days
- Advertised through online platforms such as Airbnb, FlipKey, HomeAway, VRBO, etc
- Listings include the rental of a whole house or individual room(s)
- Operated in all types of dwelling

Do you know how many STL platforms are out there today?

airbnb
HomeAway
tripping
VRBO Vacation Rentals by owner from HomeAway
FLIPKEY by tripadvisor
iStopOver
hometogo

craigslist
Beach Vacation RENTALS
couchsurfing
Dwellable
VacationRentalPros.com
COLLINS VACATION RENTALS
SHORELINE Vacation Rentals

HomeSource RENTALS
evolve
Lodgix.com
ENDLESS VACATION RENTALS
VacationRental.org – Since 1998
holidaylettings from tripadvisor

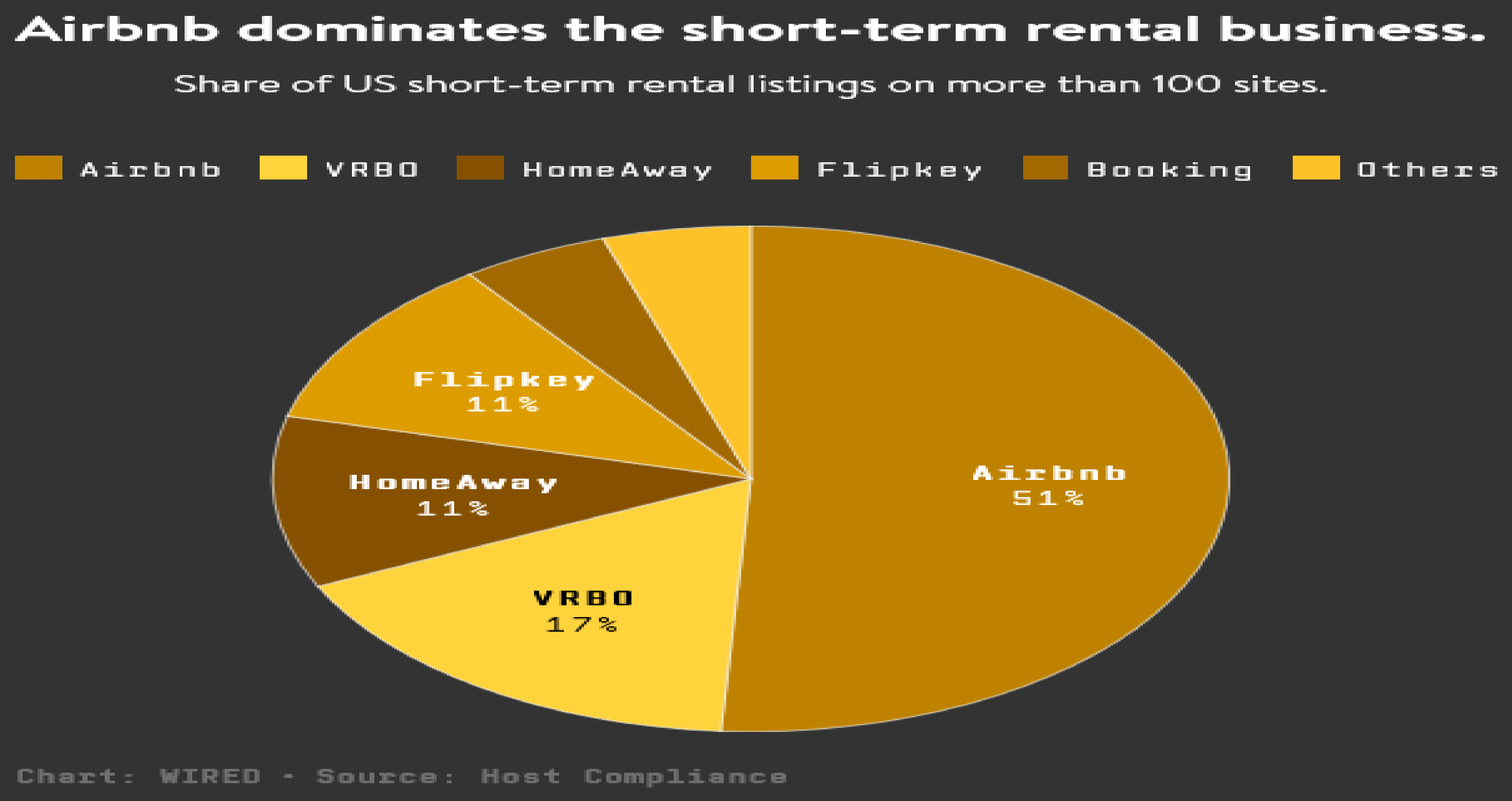
RENT my VACATION HOME.com
For Rent By Owner
VacationRoost.
1stVacation RENTALS
Vacation Rentals.com
RENTbyOWNER
nest VACATION RENTALS

Vacation Rentals on-line.com
GREAT RENTALS
My Vacation Rental Site
PET FRIENDLY VACATION RENTALS
VacationRentals.com Part of the HomeAway Family

VACATION HOME RENTALS
SEASIDE VACATIONS
roomorama
PREMIER Vacation Rentals
VacationHomeRentals.com by tripadvisor
CyberRentals a HomeAway company

Serenity VACATION RENTALS
ReserveMyHome.com
Southern VACATION RENTALS
Vacation Rentals Listed Your next perfect vacation just a click away
SureRentals
Purple Roofs we are gay travel.
HOUSE TRIP

Wimdu travel like a local
Guestflouser
9flats.com
Home escape
travelmob
VB VILLABOUND


Airbnb dominates the short-term rental business.
Share of US short-term rental listings on more than 100 sites.
Airbnb
VRBO
HomeAway
Flipkey
Booking
Others
Flipkey
11%
HomeAway
11%
VRBO
17%
Airbnb
51%
Chart: WIRED - Source: Host Compliance

Background: State Code Changes

- 2015-2016 – Initial review by General Assembly
  - Potential to limit or prohibit local regulation of STLs
  - Would have local TOT collected anonymously at state level
  - Would have prohibited audit by local jurisdictions

- 2017: General Assembly passed SB 1578
  - Preserves ability to establish local regulation
  - Allows for the creation of a registry
  - Penalty not to exceed $500 for violating registry requirements

- Va. Code 15.2-983 allows localities to create registry for STL
  - Includes a penalty not to exceed $500 for not registering
  - Registry provides jurisdictions information needed to regulate and collect TOT

What is at Stake

- Continued push from platforms for a statewide approach
- Uncollected local revenues
- Uniformity and fairness - level playing field
- THIS SHOULD STAY LOCAL

STLs in Fairfax - A Team Effort

- Department of Planning and Zoning
  - Handled all the zoning code amendments
  - Administration of the STL Application Process
- Office of County Attorney
  - Assisted with all county ordinance amendments
  - Provides legal advice and handles all STL legal matters
- Department of Code Compliance
  - Investigates and processes all STL complaints
- Office of Public Affairs
  - Provides subject matter expertise on communication with public
  - Handled news releases

COUNTY OF FAIRFAX 1742 VIRGINIA

STLs in Fairfax - A Team Effort

- Department of Tax Administration
  - Discovery and Compliance with TOT requirements
  - Processes monthly TOT filings and payments
- Department of Procurement and Material Management
  - Assisted with procurement needs
- Department of Information Technology
  - Development and implementation of the TOT Online File and Pay Portal

Steps in Zoning Ordinance Amendments (Code of Va. § 15.2-2285)

- Draft of the ordinance amendments
- Referral to the Planning Commission for recommendation
- Planning Commission must hold at least 1 public hearing
- Planning Commission makes recommendation to the Board of Supervisors
- Board of Supervisors must hold at least 1 public hearing before adopting.

STL Regulations in Fairfax County (Zoning) Effective October 1, 2018

- Fairfax County did not enact registry but a zoning permit process starting on October 1, 2018 for residential dwellings only.
- Apply for a $200 two-year zoning permit

- Operate STL at your permanent residence (185 days)
- Rental nights -> no more than 60 nights/year
- # of Lodgers per night -> no more than 6 adults
- # of rental contracts per night -> one

STL Regulations in Fairfax County (Taxes)

- STL Host must collect TOT taxes for each rental contract
  - 6% for county properties
  - 4% for town properties (Vienna, Herndon, Clifton)
- STL Host must file a TOT return with the taxes collected
  - On or before the last day of the month following the reporting month
  - A monthly return must be filed even if no taxes are due
- STL Host must file a BPOL application if gross receipts exceed $10K
  - Within 75 days of business start date
  - Annual BPOL renewal due with payment by March 1

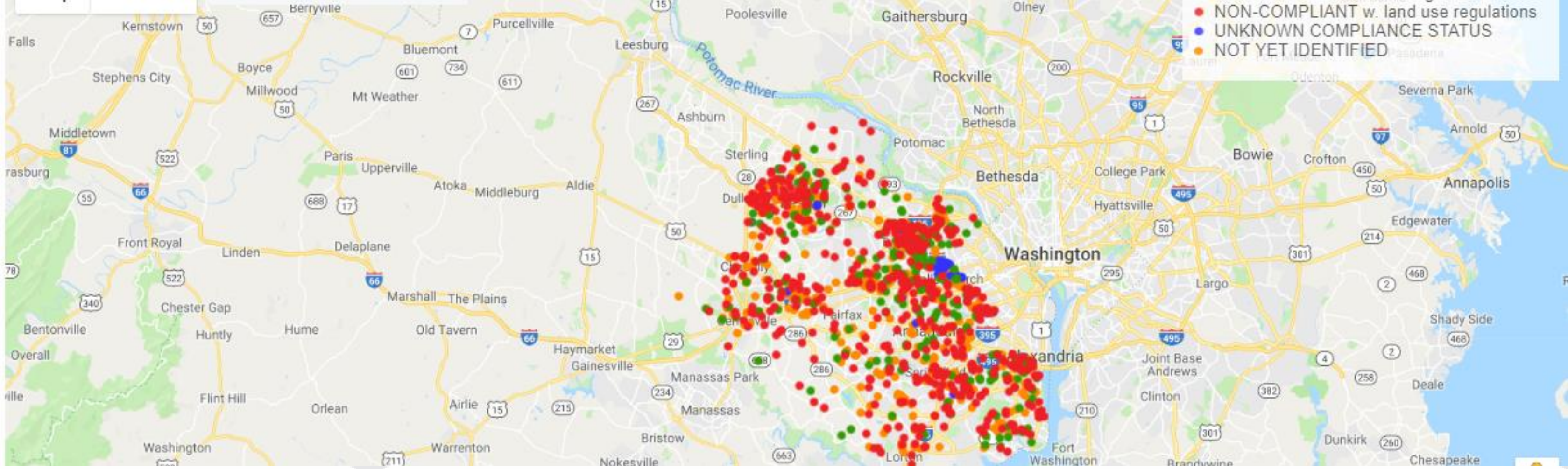
Discovery

- Fairfax County uses Host Compliance LLC
- Address Identification Module
  - Live web-delivered dashboard
  - Complete address information and screenshots of all identifiable STRs in Fairfax County
  - Up-to-date list of jurisdiction's active STR listings
  - Full address and contact information for all identifiable STRs in jurisdiction
  - All available listing and contact information for non-identifiable STRs in jurisdiction
- Rental Activity Monitoring
  - Aggregate statistics on the short-term rental activity
  - Active monitoring of short-term rental listings across 15+ STR websites
  - Monthly analysis of jurisdiction's STR activity scale, scope and trends

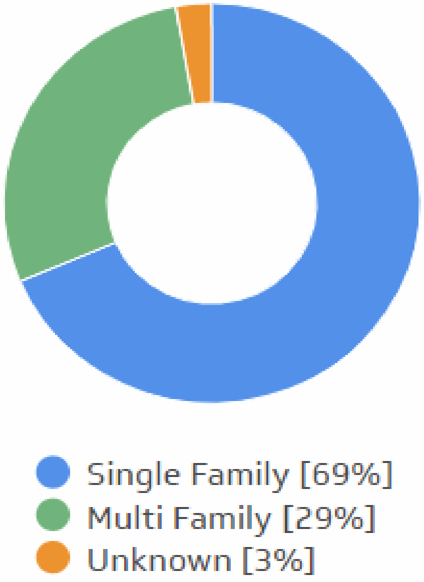
1292
STR Rental Units in or near Jurisdiction

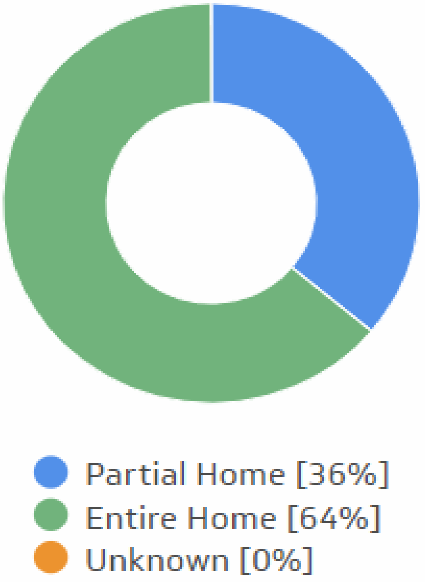
81
STR Rental Units Added Last Month

63.0%
STR Rental Units with Street Address Identified

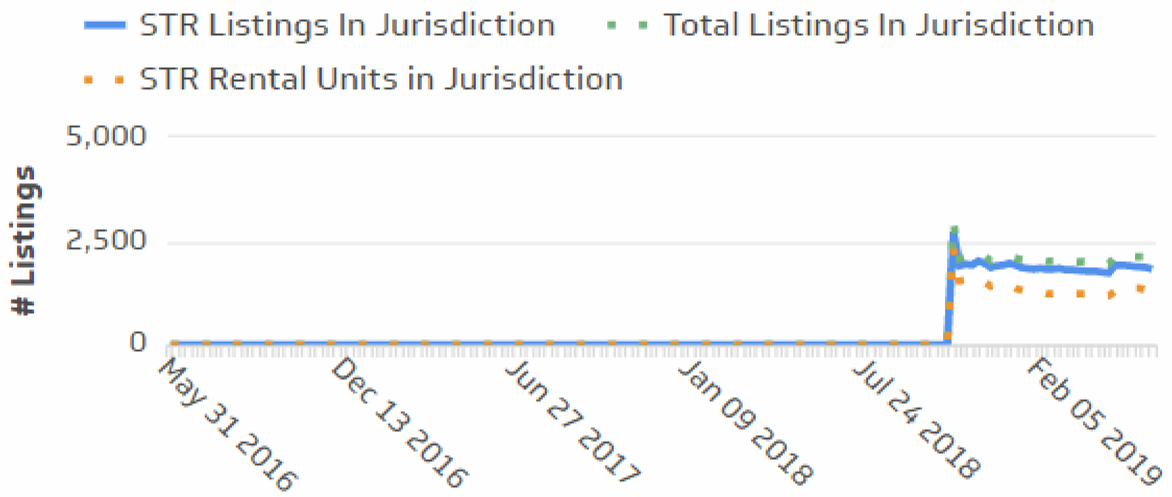


Listing types

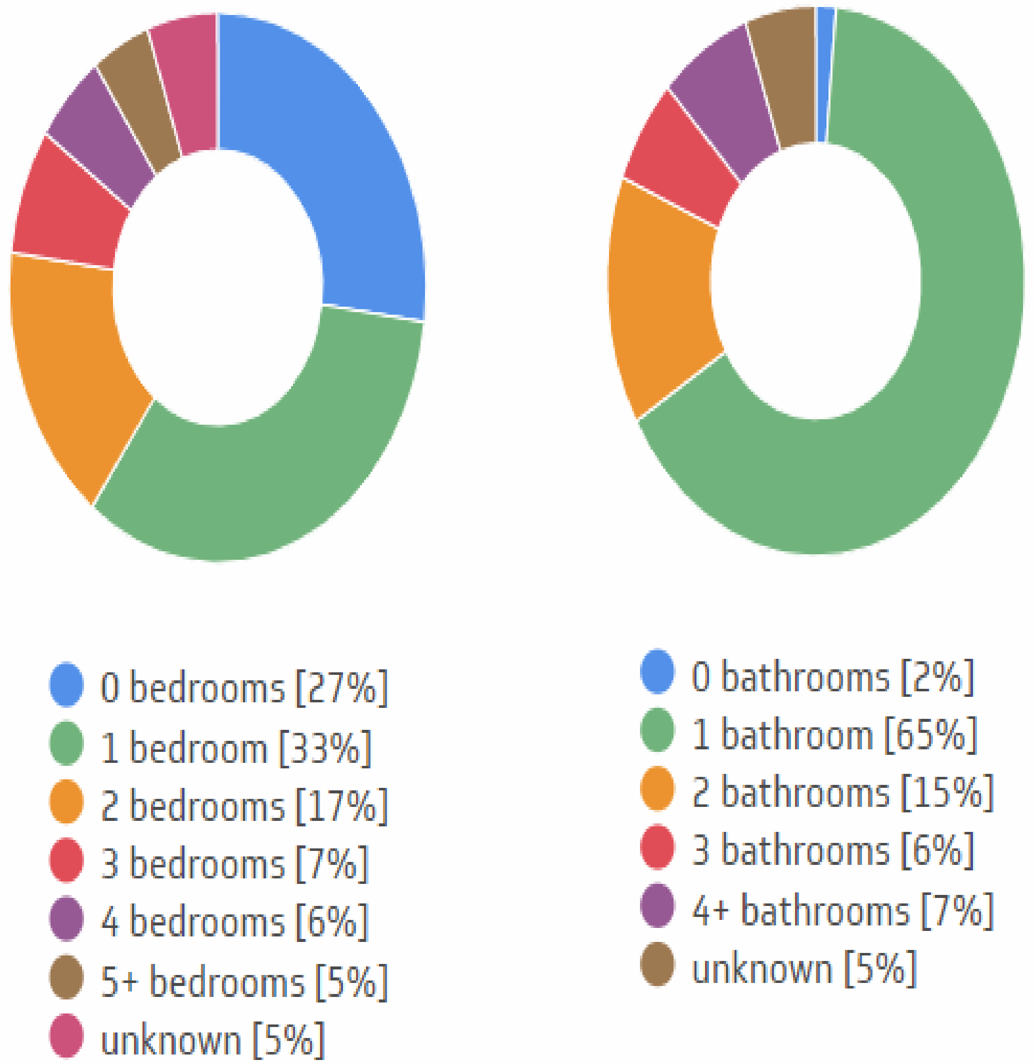




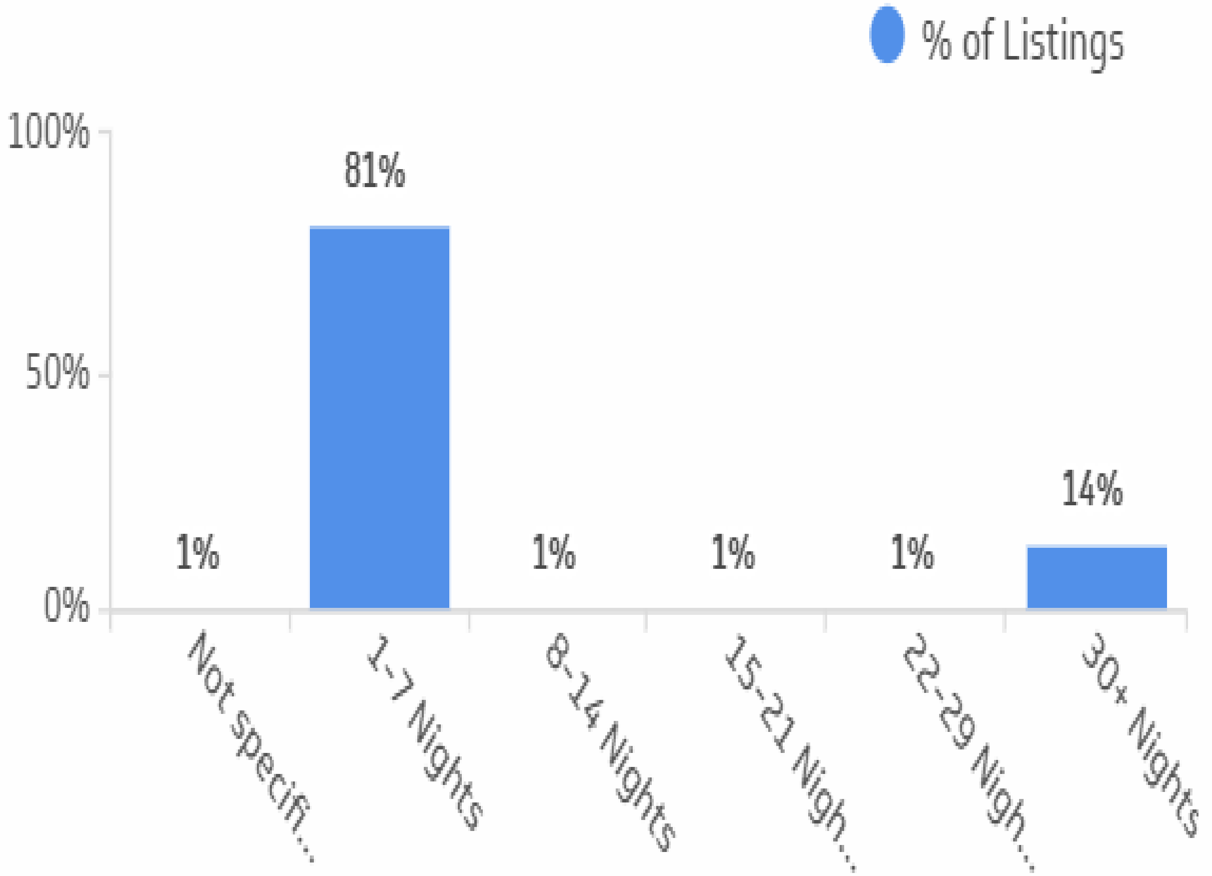
Rental Units and Listings / Week



Bedrooms / Bathrooms



Minimum Nights Stay



STL Permits

- Permit applications are administered by the Department of Planning and Zoning
- Since October 1, 2018, a total of 99 applications have been received
- 81 permits have been issued

COUNTY OF FAIRFAX
1742
VIRGINIA

STL Complaints

- Complaints are handled by the Department of Code Compliance
- Since October 1, 2018, a total of 126 complaints have been filed
  - Parking
  - Strange people coming and going
  - Parties
  - Multiple occupancy complaints

Discovery Selection Criteria

- Meet the STR definition
- Active listing
- Exclude hotels/motels
- Exclude current filers

Very manual process…..

Discovery/Compliance Efforts

- Mailings
  - September 2018
  - December 2018
  - May 2019

  - Prior to October 2018, 6 STL hosts were filing TOT

  - We currently have 153 STL hosts in our tax system

- Issue summons to non-responses

- Statutory Assessments

Short-Term Lodging in Fairfax County

What is a Short-Term Lodging (STL)?

STL is any occupancy of a dwelling for a period of less than 30 days. STLs are typically advertised on Airbnb, VRBO and FlipKey, etc.

Are STLs Permitted in Fairfax County?

STLs are permitted as **accessory use** in any zoning district that permits residential uses, and in all types of dwellings i.e. **single-family homes, townhouses, condos, mobile homes and apartments**.

Can anyone operate STLs?

In order to use any part of a residence as a STL location, Fairfax County requires that the owner or tenant secure a permit and meet certain criteria prior to commencing STL operation. A STL Permit **costs $200** and is valid for **two years**.

New regulations effective
October 1, 2018

The STL use is subject to the following use limitations:

- A dwelling or mobile home may be used for STL for **no more than 60 nights** per calendar year.
- The maximum number of lodgers per night may **not exceed 6 adults**, except where the Virginia Uniform Statewide Building Code requires fewer occupants.
- The maximum number of rental **contracts per night is one**. All lodgers occupying a STL must be associated with the same rental contract.
- Events and activities—including luncheons, banquets, parties, weddings, meetings, fund raising, commercial or advertising activities, and any other gathering of persons other than the authorized lodgers, whether for direct or indirect compensation—are **prohibited in association with any STL**.
- **All advertisements** for STL, posted on any platform online or in any other format, **must include the STL permit number and identify the location of the required parking space** and any other available parking or public transportation options.
- Transient Occupancy Tax must be collected for each rental contract. Operators must file a monthly return and remit the transient occupancy tax due to the Department of Tax Administration on or before the last day of the month following the reporting month. A monthly return must be filed even if no taxes are due.
- Additionally, if gross receipts exceed $10,000 per calendar year, a Business Professional and Occupational License (BPOL) is required.
- STL is **prohibited** in a detached accessory structure, accessory dwelling unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.

Short-Term Lodging in Fairfax County

Contact Us

If you have any questions regarding operation of STLs please contact the Zoning Administration Division at 703.324.1314 (TTY 711) or send an email to:
ORDADMIN@fairfaxcounty.gov

Additional information

Can be found by visiting the STL website at:
https://www.fairfaxcounty.gov/planning zoning/zoning/short term property rentals

Complaints

If you have any concerns and/or complaints, please contact the Department of Code Compliance at 703.324.1300 (TTY 711) or send an email to:
DCCCodeComplianceEmail@fairfaxcounty.gov

A dwelling or mobile home used for STL must:

- Be open, upon request, for **inspection by County** personnel during reasonable hours.
- Comply with the requirements of the applicable version of the Virginia Uniform Statewide Building or Virginia Manufactured Home Safety Regulations, as determined by the Building Official.
- Have a working multi-purpose **fire extinguisher, interconnected smoke detectors and carbon monoxide detectors** (when required for a fireplace or gas service).
- Have a **plan posted** inside the door of **each sleeping room showing the exit pathway** from the sleeping room used for STL to the nearest exit from the dwelling or mobile home.
- Have **one designated parking space** available for lodgers, which the Operator has the authority to reserve for STL purposes.

A STL Operator must:

- Be a **permanent resident** of the property hosting the STL.
- Obtain **written consent from the owner** of the property for the STL Use (when applicable).
- Assume responsibility for determining whether any regulations, prohibitions, and covenants applicable to the dwelling or mobile home prohibit STL.
- **Designate** at least one person who consents to serve as an **Authorized Agent** for the STL Operator.
- **Maintain a guest log** including the name, address and telephone number of all overnight lodgers. The guest log must be made available upon request to any County employee or agent tasked with enforcing the Zoning Ordinance or other applicable part of the County Code.

TOT Filing – 2 Ways

- Online File and Pay (Effective November 1, 2018)
  - Must be submitted by 11:59PM on or before the last day of the month following the reporting month.
  - A monthly return must be filed even if no taxes are due.
- Manual Filing
  - Must be postmarked on or before the last day of the month following the reporting month.
  - A monthly return must be filed even if no taxes are due.
- Late filers

  - Penalty of 5% applies
  - Interest of 0.42% applies on the second month of delinquency and assessed back to the original due date

TOT Form for County Businesses

County of Fairfax
Department of Tax Administration
www.fairfaxcounty.gov/taxes
12000 Government Center Parkway, Suite 223
Fairfax, Virginia 22035-0029
Phone: 703-222-8234, TTY:711, Fax: 703-324-3500

2019

Transient Occupancy Tax*
for Fairfax County

Ch. 4, Article 13, Code of the County of Fairfax and Virginia State Code Section 58.1-1743

* Do not use this filing form for properties located within the Towns of Clifton, Herndon or Vienna. Town Properties - please use the filing form TOT-CHV

Owner Name: ____________________ Reporting Period MM/YY: __________

Trade Name: ____________________ Account Number: __________

Business Address: ____________________

Mailing Address: ____________________

1. GROSS ROOM RENTALS 1 __________

2. ALLOWABLE DEDUCTIONS (add lines 2a through 2d) 2 __________
   - 2a. Exempt rentals (30 consecutive days or more) __________
   - 2b. Other (please specify) __________
   - 2c. Refunds of rentals included in gross rentals above __________
   - 2d. Refunds on rentals from previous report(s) __________

3. NET RENTALS (Subtract line 2 from line 1) 3 __________

4. TAX DUE (line 3 x 6%) 4 __________
   Tax is due on or before the last day of the month following the reporting period

5. PENALTY: (line 4 x 5%)
   - 5a. Due if remittance is postmarked later than the last day of the month following the reporting period 5a __________
   - 5b. Tax plus penalty (add lines 4 and 5a) 5b __________

6. INTEREST (line 5b x 0.42% for each month delinquent)
   If remittance is delinquent for one month or more, interest shall be charged on the unpaid balance and shall accrue from the original due date. All delinquencies are subject to collection actions authorized by §58.1 of the Code of Virginia. 6 __________

7. TOTAL AMOUNT DUE TO FAIRFAX COUNTY (add lines 5b and 6) 7 __________

(Enclose a check payable to Fairfax County for the exact amount. Mail check and form to the address at the top of the form.)

Returns postmarked later than the last day of the month following the period reported above will be assessed a 5 percent penalty.
Willful refusal to file a tax return is subject to criminal penalties.

Subject to Va. Code, §58.1-3907, I hereby certify this return has been examined by me and is, to the best of my knowledge, a true, correct, and complete return.

Name and Title Signature

Date E-mail Telephone

For Office Use Only

______	Transient Occupancy Tax	(GL 416090)	§58.1-3819	Month Ending	______
______	Transient Occupancy (Tourism) Tax	(GL 416100)	§58.1-3824	Date Received	______
______	Transportation District Transient Occupancy Tax	(GL 416095)	§58.1-1743	Received By	______

DTA Form - TOT- FCO Nov. 2019

TOT Form for Town Businesses

County of Fairfax
Department of Tax Administration
www.fairfaxcounty.gov/taxes
12000 Government Center Parkway, Suite 223
Fairfax, Virginia 22035-0029
Phone: 703-222-8234, TTY: 711, Fax: 703-324-3500

2019

Transient Occupancy Tax
Towns of Clifton, Herndon and Vienna

Ch. 4, Article 13, Code of the County of Fairfax and Virginia State Code Section 58.1-1743

Owner Name: ____________________ Reporting Period MM/YY: __________

Trade Name: ____________________ Account Number: __________

Business Address: ____________________

Mailing Address: ____________________

1. GROSS ROOM RENTALS 1 __________

2. ALLOWABLE DEDUCTIONS (add lines 2a through 2d) 2 __________
   - 2a. Exempt rentals (30 consecutive days or more) __________
   - 2b. Other (please specify) __________
   - 2c. Refunds of rentals included in gross rentals above __________
   - 2d. Refunds on rentals from previous report(s) __________

3. NET RENTALS (Subtract line 2 from line 1) 3 __________

4. TAX DUE (line 3 x 4%) 4 __________
   Tax is due on or before the last day of the month following the reporting period

5. PENALTY: (line 4 x 5%)
   - 5a. Due if remittance is postmarked later than the last day of the month following the reporting period 5a __________
   - 5b. Tax plus penalty (add lines 4 and 5a) 5b __________

6. INTEREST (line 5b x 0.42% for each month delinquent)
   If remittance is delinquent for one month or more, interest shall be charged on the unpaid balance and shall accrue from the original due date. All delinquencies are subject to collection actions authorized by §58.1 of the Code of Virginia 6 __________

7. TOTAL AMOUNT DUE TO FAIRFAX COUNTY (add lines 5b and 6) 7 __________

(Enclose a check payable to Fairfax County for the exact amount. Mail check and form to the address at the top of the form.)

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Willful refusal to file a tax return is subject to criminal penalties.

Subject to Va. Code, §58.1-3907, I hereby certify this return has been examined by me and is, to the best of my knowledge, a true, correct, and complete return.

Name and Title Signature

Date E-mail Telephone

For Office Use Only

______	Transient Occupancy (Tourism) Tax	(GL 416100)	§58.1-3824	Month Ending	______
______	Transportation District Transient Occupancy Tax	(GL 416095)	§58.1-1743	Date Received	______
				Received By	______

TOWN: DTA Form - TOT- CHV Nov. 2019

Airbnb's Voluntary Collection Agreement (VCA)

- Collects TOT on behalf of hosts
- Enables Airbnb to step into the shoes of their hosts for occupancy tax collection and remittance purposes.
- Before engaging with a jurisdiction, Airbnb reviews all applicable laws/ordinances to make sure that they are able to accommodate and track on their platform.
- There are approximately 43 states using VCAs
- In Virginia there are 3 jurisdictions that signed a VCA with Airbnb
  - City of Alexandria
  - Town of Abingdon
  - Town of Blacksburg

COUNTY OF FAIRFAX 1742 VIRGINIA

Airbnb's Voluntary Collection Agreement (VCA)

- Airbnb does make it significantly easier to collect TOT by adding it onto bills when customers pay online, so localities don't have to collect from each host individually.

- However, localities are not provided information Airbnb already has at its disposal
  - A list of addresses where the rooms are booked
  - Names of the taxpayers who are hosts.

- Jurisdictions need the information to ensure taxes are being assessed and paid in the correct amount. The authority to audit Airbnb hosts, which is a standard tool for us as tax administrators is forfeited.

- Most hosts providing transient rentals in homes advertise on several platforms simultaneously. So, localities would still need to know the location of the provider in order to assess taxes for rentals provided via other platforms.

And coming July 1, 2019….

Airbnb and Sales Tax Collections

- Airbnb will start collecting and remitting sales tax to the Virginia Department of Taxation for all reservations booked **on or after July 1, 2019.**
- Guests will see a separate line item for the sales tax when booking.
- Airbnb will be filing one tax return per jurisdiction with the total combined reservation revenue for all Airbnb bookings.
- All hosts will be represented by one payment amount, and Airbnb will not provide host's personal information on the return.
- If not on a VCA, TOT continues to be collected by hosts from their guests and remitted to the local jurisdiction.

Hi XXXX ,

Great news! Airbnb will start collecting and remitting the following tax(es) administered by the below State for all reservations booked on or after July 1, 2019.

State Name:

- Virginia State

Tax(es) Name(s):

- Sales Tax

Guests will see a separate line item for the tax(es) when booking. Airbnb will collect and pay the tax(es) to the jurisdiction at the next filing due date.

Will my payouts be affected?

No. The tax(es) will be charged to guests.

How do you know what tax(es) to apply to my listing?

The tax(es) applied will be determined by the address you have entered for your listing. Please double check the details of your address in the Manage Your Space page to ensure you have entered a complete and accurate address for your listing. Airbnb will not be responsible for any tax collection errors due to a typo in the address.

How can I see the amount of tax collected on my behalf?

The amount is displayed in the Gross Earnings tab of yourTransaction History.

How will you be remitting tax on my behalf?

We will be filing one tax return per jurisdiction with the total combined reservation revenue for all Airbnb bookings in the area. This means that all hosts will be represented by one payment amount, and we will not be providing your personal information on the return. We may provide your personal data only in cases where we receive a binding request by a competent authority pursuant to applicable law, including data protection laws, and our Privacy Policy.

I've been collecting the above tax(es). What do I do now?

You'll no longer need to collect this tax for transactions completed through the Airbnb platform from guests who book their reservation on or after July 1, 2019.

Are there other taxes that I need to collect?

You are responsible for understanding and fulfilling all of your tax obligations. For a summary of the taxes collected by Airbnb for a listing, visit the Manage Your Space page and click Local Laws. If there are other applicable taxes that you need to collect from your guests, the process for collecting is outlined here. As always, you must be upfront about any such taxes with guests before booking.

Do I have any other tax reporting obligations?

You may be responsible for other tax reporting obligations. Please contact your respective taxing authorities for more information on what these obligations are.

Do I have any other obligations related to my listing?

You may be responsible for complying with local rules and regulations that apply to your listing. Please contact your respective local government agencies for more information on what these obligations are.

To learn more, please visit our Help Center or contact your local tax authority for more details.

Thanks,
The Airbnb Team

Note: Under the Airbnb Terms of Service, you instruct and authorize Airbnb to collect and remit Occupancy Taxes on your behalf in jurisdictions where Airbnb decides to facilitate such collection. If you believe applicable laws exempt you from collecting a tax that Airbnb collects and remits on your behalf, you have agreed that, by accepting a reservation request, you are waiving that exemption. If you don't want to waive an exemption you believe exists, you should not accept the reservation.


Q&A


That's all Folks!