

**From:** [Bill Glenn](#)  
**To:** [Participate](#)  
**Subject:** Proposed Ordinance #1230  
**Date:** Monday, December 6, 2021 8:56:28 AM

---

In attempting to address the affordable housing crisis, it seems that short-term rentals have become the convenient scapegoat, the sheer number of short-term rentals being blamed for the lack of long-term rental housing. It's more complicated than that.

No doubt there are some examples of previous long-term rentals having been rented short-term, but the vast majority of short-term rentals do not fit this scenario. During the Great Recession, owners of vacation property, who rarely felt the need to rent out their place short-term when they were not using their properties themselves, sought help with the financial cost of owning these properties, and this coincided with the ever increasing presence of online resources to market one's property, such as Vacation Rentals by Owner (VRBO), Home Away, and Airbnb. Once accustomed to the ability to defray some of the cost of vacation property ownership, many of these owners continue to rent the property in their absence.

The city's own study, conducted by Arizona State graduate student Genevieve Peartree in 2016, found that 90% of the short-term rentals in Ketchum were vacation properties. These properties, used by their owners part-time during the year, were never available, and are not available now for long-term rent. Consequently, the presence of these properties on the various online listing sites cannot be used as evidence to support the contention that short-term rentals are negatively affecting the stock of long-term housing in Ketchum.

What can be supported is that these vacation properties, when offered short-term when not being used by their owners, offer a broad selection of tourist housing, with an array of amenities not available to hotel guests, thus the popularity of these rentals. Restricting such rentals would place Ketchum at a competitive disadvantage vis-a-vis other resorts, while arguably adding nothing to the long-term rental stock.

It should also be noted that there are certainly any number of full-time, long-term home owners who rely on occasional short-term rentals to defray the cost of living here. Such rentals do not in any way compromise the availability of long-term rentals for other locals, while at the same time preventing or delaying the sale of these properties to out-of-towners who may occupy their vacation property only occasionally.

In addition to the proposed ordinance being based on the faulty premise that short-term rentals are the major culprit as to affordable housing, the standards to be met under the proposed ordinance are unquestionably problematic.

The only building code to which a building must conform is the code in place at the time of construction, or a major remodel, the exception being when there is a substantial change in use. Idaho Code 67-6539 states: "A short-term rental or vacation rental shall be classified as a residential land use for zoning purposes subject to all zoning requirements applicable thereto." Consequently, use of a residential structure as a short-term rental rather than a long-term rental or an owner-occupied residence, does not constitute a change in use that could require a structure to meet current building codes. Any attempt to force the owner of an existing structure to meet current building codes absent the criteria noted above would likely violate the owner's right to due process.

Similarly, residential use is residential use, period, regardless of the term of occupancy. Attempting to differentiate in any way, short-term residential use from other residential use, even under the guise of health and safety, is clearly at odds with Idaho Code 67-6539. For example, if a residential structure presents a health and safety issue, say bedroom windows too small under current building codes for egress in case of fire, the issue exists independent of the nature of the occupancy, owner vs. renter or long-term renter vs. short-term renter. Attempting to apply different standards to a structure being used for short-term rentals clearly violates Idaho Code 67-6539 that states, "Neither a county nor a city may enact or enforce any ordinance that has the express or practical effect of prohibiting short-term rentals or vacation rentals throughout the jurisdiction of such county or city." The standards proposed by Ordinance #1230, directed only at short-term rentals, clearly have the practical effect of prohibiting these rentals by making compliance impossible in the example used above, and unreasonably expensive in any event.

Examples of nightly rental rates for short-term rentals are often used to imply that it's a no-brainer for landlords to

choose the short-term over the long-term. This is a bit like the gambler who brags about his winnings, but is not so forthcoming about his losses. What is never discussed about short-term rentals is the expenses incurred and the often dismal occupancy rate.

Historically, the summer season does not really get going until the third week of June, with strong demand in July and August. September slows way down after Labor Day, resulting in 80-90 days of strong demand for the summer. Depending on local events and the weather, September can be hit or miss, providing 50% occupancy at best. After that, it's a dead zone until Thanksgiving, which depends on ski conditions. Another dead zone runs until Christmas, which is strong for a week, followed by January, which is traditionally slow for the first half. February and March can be strong, again depending on snow conditions, then April through mid-June is quite slack. The nightly rental rate is meaningless absent information as to the occupancy rate.

What proof does the city have that short-term rentals are more lucrative than renting long-term, and what proof does the city have that units that are listed year 'round on the online sites are actually rented year 'round, without time being blocked out for the owner's use?

These comments must not be construed to be a denial that there is an affordable housing crisis, only that this proposed ordinance is based on a false premise, and will not stand scrutiny when challenged. Short-term rentals are but a symptom of the real problem, which is the prevalence of vacation property in Ketchum, as opposed to housing occupied by people who live here. In this way, we are a victim of our own success in creating an attractive community that people want to be a part of. Some alpine villages in Europe discourage foreign ownership to prevent locals having to compete with outside money. Vancouver, B.C. has what is called a vacancy tax of 3% on the assessed value on housing stock that is unoccupied more than six months during the year, the money used for affordable housing. While interesting to contemplate, measures such as these would likely be unconstitutional in the U.S.

This proposed ordinance, if enacted, will not solve the problem, but will surely result in it being challenged, wasting tax dollars to defend it.

William Glenn  
207 Hillside Drive  
Ketchum