



City of San Antonio

Agenda Memorandum

File Number: 17-2209

Agenda Item Number: 4.

Agenda Date: 3/22/2017

In Control: Governance Committee

DEPARTMENT: Development Services

DEPARTMENT HEAD: Michael Shannon, PE, CBO

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Briefing and discussion of a City Council Request to review best practices regarding short term rental regulation.

SUMMARY:

A Council Consideration Request was sponsored by Councilman Mike Gallagher on January 26, 2017, to review current ordinances and city code procedures for short term rentals. The concept of renting rooms or homes on a short term basis is not new. However, new online services that facilitate short term rentals have led to a rapid proliferation of home sharing as an alternative to more traditional visitor lodging arrangements in San Antonio. This trend has initiated debates about whether or not new regulatory or enforcement mechanisms are necessary to mitigate potential effects on neighborhoods within San Antonio.

BACKGROUND INFORMATION:

There is no current state or local regulation for short term rentals (excluding Bed & Breakfast, UDC Sec. 35 A101, 35-374). However, Senate Bill 451 was introduced February 6, 2017, at the 85th Legislature proposing to limit a municipality's ability to regulate short term rentals through zoning unless a demonstration of life, health, and safety is made. SB451 was heard at the Senate Business and Commerce Committee in Austin on March 14th. At that committee meeting, seven (7) Texas Cities registered opposition to the bill.

In San Antonio, home sharing is one facet of a larger trend commonly referred to as the "sharing economy." This phrase often encompasses a wide range of transactions mediated by websites or mobile technology related to sharing property or services. Because home sharing has the potential to change the character of established residential areas, we are proposing how best to accommodate the demand for new types of lodging without undermining goals related to housing, land use, or transportation.

There are three basic varieties of short term rentals: (1) hosted sharing, where the primary occupants of a residence remain on-site with guests; (2) un-hosted sharing, where the primary occupants of a residence vacate the unit while it is rented to short-term guests; and (3) dedicated vacation rentals, where there are no primary occupants.

Many municipalities across the country have some form of short term rental regulation. Some of those cities are Austin, New Orleans, Denver, and Nashville.

- Austin regulates 3 different types of short term rentals with a fee based (\$443 1st year, \$236 renewal) licensing which requires insurance, inspections, certificate of occupancy, and a registration for taxation collection. Austin is no longer issuing Type 2 (not owner occupied) registration certificates. Austin enforces the ordinance through complaint based investigations, code official inspections, fines for infractions, and license suspension.
- New Orleans regulates short term rentals through zoning requirements; specifically, certain zoning as defined in the ordinance's zoning matrix will allow short term rentals. They also require a license (fees from \$50-\$500 annually based on 1 of 4 types), insurance, and a change of use permit. New Orleans enforcement includes, but is not limited to revocation of the Short Term Rental license, daily fines for every day a violation continues, liens against the property, and disconnection of electrical service to the subject property. Ultimately, the Department of Safety and Permits may seek relief through Civil District Court if a property owner does not comply with the short term rental regulations after administrative action is taken.
- Denver requires a lodgers tax id number, short term business license (\$25 annually), and a posting your business license number on any advertisements. Denver enforces the ordinance through compliance monitoring combined with complaint based investigations, fines are levied, and license revocation can happen at a hearing.
- Nashville requires a business license, a permit of \$50 annually, and insurance. Nashville enforces the ordinance through fines assessed for operating without a permit. These fines are assessed daily and upon finding that the property has operated without a permit, there shall be a one year waiting period from date of finding to become eligible to register for another permit.

ISSUE:

Home-sharing and vacation rental services are growing trends that show no sign of slowing down. Practically speaking, the key is making regulations that are clear, easily enforced, and encourage residents or landlords to participate. Development Services recommends the following:

A. Permit process to include an application that requires:

1. Registration with Finance for the hotel occupancy tax roll,
2. Minimum insurance
3. A Certificate of Occupancy (if one is not found, one would need to be applied for and approved separately before a STR application is processed)
4. A site plan of property (including parking layout and floorplan),
5. Health Inspection (Chapter 15, Article IV)
6. Police Background check for owners

B. Fees:

1. Initial and annual fees to cover the cost of permitting and inspections will need to be determined through a budget analysis and stakeholder process.
2. Mirror the majority of cities in the US by requiring all short term rentals to register. This would provide for a clear distinction and no room for potential misinterpretations.

C. Explore placing amendment in Article III *Supplemental Use Regulations*, or Article IV *Procedures* within the UDC, and Chapter 16 *Licensing*

D. Identifying a threshold for the number of overnight stays that would trigger registering with COSA

E. Assessing fines for anyone operating without a permit, possibly daily, and identifying a one year waiting period from date of finding to become eligible to register for another permit.

F. Possible liens against the property for failure to comply

G. Disconnection of electrical service to the subject property

H. The city attorney may petition a district court or a county court at law for civil penalties and for

injunctive relief to restrain the continuing operation of a facility that is providing services inconsistent with those prescribed by this article and state law until such time as said facility meets the requirements to obtain a permit under this article.

ALTERNATIVES:

City Council could elect not to approve.

FISCAL IMPACT:

The addition of short term rentals to the hotel motel occupancy tax base could add additional revenue to the fund. Permitting and licensing fees would simply cover the cost of staff hour needs for permit issuance, inspection, and enforcement of any ordinance regulation. Additional staff compliment may be required to implement registration program.

RECOMMENDATION:

Staff recommends beginning a stakeholder process to develop an ordinance for short term rental regulations. That item will then be forwarded to the Neighborhoods and Livability Committee for review.