



# City of San Antonio

## Agenda Memorandum

**File Number:** 17-6635

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**Agenda Item Number:** 29.

**Agenda Date:** 1/10/2018

**In Control:** Planning Commission

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**DEPARTMENT:** Development Services

**DEPARTMENT HEAD:** Michael Shannon, PE, CBO

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:**

Briefing and possible action of a City Council Request to review Short Term Rental best practices and proposed regulation.

**SUMMARY:**

A Council Consideration Request (CCR) was sponsored by Councilman Mike Gallagher on January 26, 2017, to review current ordinances and city code procedures for short term rentals. With direction from the Governance Committee, the Development Services Department (DSD) facilitated an extensive public meeting and stakeholder input process to develop a proposed ordinance that creates the registration, inspections, and special exception process of short term rentals (STRs) in the City. The ordinance was discussed at a number of task force meetings, general meetings, individual meetings, and neighborhood meetings. The proposed changes and new ordinance language requires City Council consideration and approval.

**BACKGROUND INFORMATION:**

The CCR requested staff review five (5) elements: 1) Research if short term rentals impact property values and neighborhood safety statistics. 2) Review how cities have updated municipal codes or ordinances to allow this industry to operate. 3) Review options for registering STRs and permitting options. 4) Research if short term rentals should be required to remit hotel occupancy taxes, also referred to as "HOT". 5) Determine policies and procedures to enhance public safety in the short term rental industry.

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 across the country and 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.

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, DSD is proposing how best to accommodate the demand for new types of lodging without undermining goals related to neighborhood characteristics, housing, land use, or transportation.

## **ISSUE:**

There is no current state or local regulation specific for short term rentals. San Antonio does have regulations for various dwellings and lodging-type facilities (e.g., Bed & Breakfasts; Hotels; etc.) in the Unified Development Code. However, these uses are not the same as, nor do they adequately address issues related to, a short term rental. A bed and breakfast is distinct from short term rentals as they generally imply food service, owner, or “Inn Keeper” attention during the stay in a dedicated facility, and no limitation of duration of stay. Hotels generally do not offer living, sleeping, bathing and eating accommodations equally but instead focus on sleeping and bathing with otherwise limited accommodations.

## **Other Cities regulations:**

Many municipalities across the country have some form of short term rental regulation, including Austin, New Orleans, Denver, and Nashville, but review of these ordinances show a variety of regulation types and level of regulation. For example:

- Austin regulates three types of short term rentals which require annual fees, insurance, inspections, certificate of occupancy, and a registration for taxation collection.
- New Orleans requires specific zoning as defined in the ordinance’s zoning matrix to allow STRs, as well as an annual license, insurance, and a change of use permit.
- Denver requires a lodger’s tax id number, annual business license, and posting of license number on any advertisements.
- Nashville requires a business license, annual permit, and insurance. Nashville enforces the ordinance through fines assessed for operating without a permit, which can be assessed daily.

Enforcement within each of these municipalities may include license suspension or revocation, and fines which can potentially be assessed on a daily basis.

## **Ordinance Creation Process**

DSD held sixteen (16) stakeholder meetings between March and November 2017. The meetings were attended by a stakeholders group comprised of neighborhood representatives, citizens, STR providers, STR platform representatives, and Industry associations (San Antonio Hotel Lodging Association, San Antonio Apartment Association, Real Estate Council of San Antonio, and San Antonio Board of Realtors). The stakeholder meetings discussed current issues related to STR’s, HOT requirements, comparisons of other cities regulations, and current state and local ordinances. We also created a STR Task Force of twenty-four (24) volunteers and industry representatives to examine the draft ordinance which met nine (9) times and reviewed, debated issues, and made recommended changes to the draft ordinance.

Based on the research and final recommendations from the Task Force, DSD is proposing an STR ordinance that will address the elements of the CCR. The proposed ordinance allows for balanced regulation of STRs that will help minimize potential negative impacts to the quality of life of neighborhoods and support the demand for the short term rental industry.

The final proposed ordinance includes:

Two types of short term rentals: Type 1: hosted sharing, in owner-occupied or lessee-occupied dwellings; Type 2: un-hosted sharing, where the owner or primary lessee of a residence do not occupy the unit as their primary residence.

### **A. Permit application process to require:**

1. Registration with City’s Finance Department for the Hotel Occupancy Tax roll

2. List of owners/operators and 24 hour contact information to address any complaints, to include criminal behavior or illegal activity.
  3. Minimum insurance requirements
  4. A site plan of property (including parking layout and floor plan)
  5. Floor plan of dwelling unit which identifies sleeping areas evacuation routes, location of fire extinguisher, and maximum number of occupants.
  6. Inspections process
  7. Enforcement requirements/penalties to assess fines for anyone operating without a permit, revocation procedures, appeals process, and identifying a one year waiting period from date of finding to become eligible to register for another permit, if revoked.
  8. A Special Exception process to the Board of Adjustment for Type 2 (Non Owner Occupied) short term rentals in residential districts. This will include public notifications, public hearing process, and a distance requirement.
    - 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.
- B. Fees: Initial fee of \$200.00 and renewal fee of \$100.00, every three (3) years, to cover the cost of permitting and inspections.
- C. Amending Article III *Supplemental Use Regulations*, Article IV *Procedures*, Article V *Parking* within the UDC, and Chapter 16 *Licensing*

In addition, DSD coordinated with SAPD on crime statistics for the list of short term rentals that are currently registered with Finance for HOT compliance. The results for the previous 3 years do not show any increase in activity from non STR homes.

DSD has briefed the Governance Committee, Planning Commission-Technical Advisory Committee, Planning Commission, Board of Adjustment, Zoning Commission, and Community, Health, and Equity Committee.

#### **ALTERNATIVES:**

As an alternative, City Council could choose not to amend the City Code, which currently does not regulate short term rentals.

#### **FISCAL IMPACT:**

The collection of short term rentals hotel motel occupancy tax base will add revenue to the general fund. Permitting and licensing fees proposed by city staff will cover the cost of staff application review and permit issuance, inspection, and enforcement. Depending on the increase of short term rentals, additional staff may be required to implement the registration and enforcement of the program.

Fees will be set as follows:

Purpose	Fee
Initial Registration Fee (New fee)	\$200.00
Renewal Fee (every three years) (New fee)	\$100.00
Reinspection Fee (Existing Fee)	\$51.50
Special Exception Fee (Existing Fee)	\$400.00

**RECOMMENDATION:**

Staff recommends approval of the proposed amendments to Chapter 16 and Chapter 35 of the City Code.