



City of San Antonio

Agenda Memorandum

File Number:18-1385

Agenda Item Number: 4.

Agenda Date: 1/25/2018

In Control: Community Health and Equity Committee

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 former 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 are currently no 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. The five elements of the CCR were explored in detail by city staff and the STR Task Force:

1) Research impact on property values and neighborhood safety

While limited research is available, studies from Cornell University, Williams University, and Massachusetts Institute of Technology, University of Southern California, and University of California were reviewed which generally indicated that STRs do not negatively impact existing property values, but rather can increase property values and help to shield individual property owners from downturns in the housing market. Note that there are no studies identified which are specific to either San Antonio or the Texas region.

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.

2) Review municipal codes or ordinances in other cities for this industry

Many municipalities across the country have created some form of short term rental regulation, including Austin, New Orleans, Denver, and Nashville, but review of these ordinances indicates 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.

3) Research remittance of Hotel Occupancy Taxes (HOT)

HOT, at a rate of 16.75% is required by State law and City ordinance already for all stays less than 30 days. The City’s Finance Department collects the tax, including currently collecting from approximately 260 STR owners (although estimates indicate approximately 1,800 units online in San Antonio). The Finance Department is working on options like online registration, online payment, and agreements with platforms for tax capture at platform level.

4) Review options for registering hosts and permit processes

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, and Real Estate Council of San Antonio). The stakeholder meetings discussed current issues

related to STRs, HOT requirements, comparisons of regulations from other cities, 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 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; these will be allowed by right in both residential and commercial zoned properties.
- Type 2: un-hosted sharing, where the owner or primary lessee of a residence do not occupy the unit as their primary residence; these will be allowed by right in commercial and multi-family zoned properties, but will require a Special Exception from the Board of Adjustment for residential zoned properties.

The ordinance also includes permitting and application process, minimum parking requirement and addresses legal non-conforming STRs:

A. Permit

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, if revoked.
8. A Special Exception process to the Board of Adjustment for Type 2 (Non-hosted Sharing) short term rentals in residential districts; to include public notifications, public hearing process, and distance/density requirements

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*

5) Determine policies and procedures to enhance public safety in the short term rental industry

The ordinance creates an inspection process for basic life and safety requirements and allows the revocation of both the registration permit and the special exception by DSD for repeat violation and bad actors. The enforcement of city rules and regulations would be a joint effort of DSD's Code Enforcement and SAPD.

DSD has provided briefings on the proposed ordinance to the following boards, commissions, and committees:

- March 22, 2017 - Governance Committee - gave direction to DSD to move forward with the CCR

- November 13, 2017 - Planning Commission
- November 27, 2017 - Planning Commission Technical Advisory Committee
- December 4, 2017 - Board of Adjustment
- December 5, 2017 - Zoning Commission

On January 8, 2018, the Board of Adjustment recommended approval of the proposed amendments with the addition of an additional condition to be met for approval of a Type 2 short term rental special exception relating to character of the district.

On January 10, 2018, the Planning Commission recommended approval of the proposed amendments, including the proposed changes recommended by the Board of Adjustment. The Planning Commission also recommended that the City Council further review prohibiting Type 2 short term rentals in designated historic districts.

The Zoning Commission will provide recommendation on the proposed amendments on February 6, 2018, prior to consideration by the full City Council for approval. The Zoning Commission was originally scheduled to meet on January 16, 2018, but meeting was cancelled due to City closure (inclement weather).

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 the Hotel Occupancy Tax from STRs will add revenue to the general fund, and will be allocated as required by City Code. Permit issuance fees, inspection fees, and special exception application fees proposed by city staff will cover the cost of application review, 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 are proposed to 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 that the Committee move this item forward for full City Council consideration.