

Short Term Rental ProposalJuly 19th Draft

Recommendations from the Sponsors of the informal working group.
(Commissioners Chimenti, Dealey and Kirk)

The following questions and comments were raised at the July 19th meeting of the Planning Commission Committee on Codes and Ordinances.

KEY:

Text of the original draft is included in italics for reference

- ? Questions and comments raised at the July 19 meeting.
- ✓ Responses to questions and comments.

A. Definition

Short Term Rental (STR) use is the rental of a single family residential structure for a period of time between one and 30 consecutive days.

- ? What about month to month leases that last longer than 30 days? Is the time of rental the issue or the terms of the lease the key factor? Example: A tenant may have rented a home for a year, and at the end of that year switched to a month to month extension of the lease. Is the intent of this proposal to regulate this kind of rental agreement?
 - ✓ Month-to-month extensions of existing leases have not been part of the discussion. Staff recommends the adding the language “This does not include short term extensions of previously existing rental agreements of more than 30 days.”
- ? What about instances where a house has been sold, and then leased back to the seller for a period of weeks until they can move. This is a very common occurrence in the sale of houses.
 - ✓ Excluding this kind of situation has never been part of the discussion Staff recommends adding the language “This does not include short term rental of a property to a previously established long term resident.” This might also address the previous point.

STR is an allowed use in any Single Family (SF) residential zoning category.

- ? Would this be implemented as a new residential land use in 25-2-3, or as an addition to 25-2-893 Accessory use for a Principal Residential Use?
 - ✓ Planning Commission has stated that it is intended as a new residential land use.
 - ✓ Staff recommends that not be added to either section, instead that the requirements be spelled out in Article 4 Additional Requirements for Specific Uses, Division 1 Residential Uses, Subpart A Requirements for Specific Uses, by adding a new section (possibly numbered 25-2-780) “Additional Uses for Single Family Residential Use.” Additionally, 25-2-3 Residential Uses Described should be amended by striking the word “nontransient” from Paragraph A.
- ? If it is added as a new residential land use, is it allowed in multi-family zoning?
 - ✓ The Planning Commission does not intend to address, nor has it discussed multi-family zoning. Staff recommends that the issued be addressed within the context of requirements for single family use and not zoning.
- ? Would it be allowed in other base zoning that have a mixed use (MU) overlay?

- ✓ Staff recommends that the issued be addressed within the context of requirements for single family use and would therefore be allowed in an MU overlay that permitted the single family residential use..
- ? Would it be allowed in non-single family zoned property where the *use* is single family residential?
 - ✓ Staff recommends that the issued be addressed within the context of requirements for single family use and would therefore be allowed

Residential use is the occupancy of living accommodations. An STR property is inclusive of all permanent structures on a Single Family lot; i.e. a primary house and secondary apartment, or duplexes.

- ? Can separate buildings on a property be rented separately? Example, can a property owner remain in the primary residence, but rent out the secondary apartment. Could both halves of duplex be rented separately on a short term basis?
 - ✓ Staff interprets the proposal that separate rental of individual structures or halves of duplex would be considered separate instances of short-term-rental.

The separate short term rental of individual rooms within a residential structure is prohibited in SF zoning with the exception of Bed and Breakfast use.

The rental of STR residential property as a site for gatherings is prohibited.

- ? “gatherings” is not defined.
- ? Would this be akin to those portions of the code addressing B&B’s (25-2-786)?
- ? What about family reunions, Thanksgiving dinners, parties....
- ? Would only those on the lease be allowed on the site?
 - ✓ There is no clear definition of “gathering” in the code. Staff recommends this provision be deleted.

B. Registration

The City of Austin (COA) requires Registration of all Short Term Rental (STR) properties.

The Registration Application requires the following information:

- *the identity of the property owner or site manager*
- *a Tax ID number*
- *a designated Local Responsible Contact (LRC)*
- *a local emergency contact phone number, and*
- *STR address.*

The COA will provide each applicant a packet of requirements and guidelines to:

- *facilitate rentals compatible with SF zoning residential uses, and*
- *minimize conflict with adjacent properties.*

C. General Requirements

The following requirements pertain to all STRs regardless of type:

- *All property owners of STRs must pay appropriate Hotel Occupancy Taxes.*
 - ? Does the City plan any additional enforcement of this provision?
 - ✓ No additional enforcement staff are budgeted for this proposal.

- ? What are the penalties for failure to pay?
 - ✓ The City has the option of pursuing legal action against owners who do not pay the Hotel Occupancy Tax.
- *All STRs are subject to COA Single Family Zoning occupancy limits.*
 - ? What about properties not zoned single family? Is the intent to apply the standard occupancy limits that exist for a single residential unit (no more than 6 unrelated persons per residential unit)?
 - ✓ Occupancy limits are based on use, not zoning. The occupancy limits of a single family use would still apply.
- *During rental periods, the Local Responsible Contact must provide Emergency Contact Information by either posting it on the property or distributing it to adjacent residences.*
 - ? Is “adjacent” intended to include residences across the street?
 - ? Do adjacent commercial properties need to be noticed?
 - ✓ Staff interprets in the intent of the proposal to include properties across the street and commercial properties as well as residential properties.
- *The property owner is liable for damages resulting from renters’ actions.*
 - ? Is this legally enforceable, and if so by what mechanism?
 - ✓ This falls outside the purview of City land use code.

The Local Responsible Contact must attach a packet of requirements and guidelines to STR rental agreements (provided by COA at registration) and provide such packet to renters. The packet must include applicable excerpts from City Ordinances or comparable information. Renters must comply with all requirements and guidelines regarding:

- *Occupancy Limits*
- *Noise Restrictions applicable to SF zoning including exclusion of outdoor amplified sound*
- *Parking Restrictions*
- *Prohibition of Gatherings*
- *Trash Collection Schedule.*

D. Requirements for Homesteaded STRs

- ? Claiming a homestead exemption is the distinction, or owner-occupied?
 - ✓ Homestead exemption would be the simplest to verify and enforce.

Two Tiered Permit Process for Homesteaded Homes

1. *Limited Rental: Permit Required — \$25 Fee covers up to 15 total days per year occasional rentals (Accommodates ACL, SXSW, F1)*
 - ? Is this an annual permit?
 - ✓ Staff interprets the intent of the proposal is for this to be an annual permit.
2. *Periodic Rental: Permit Required — \$50 Fee covers periodic or frequent STRs that exceed 15 days per year up to a maximum of 60 days.*

- ? If a primary residence is owner occupied and a secondary unit is rented out on a short term basis, which set of proposed regulations apply?
 ✓ This question requires additional input from the Committee as to the intent of the proposal.

E. Requirements for Business STRs

- ? Is a “Business STR” is any property rented for more than 60 days in increments of 30 days or less – or – any property that is rented for less than 30 days that is not homestead-exempted (or owner-occupied?)
 ✓ This question requires additional input from the Committee as to the intent of the proposal.
- ? Does this mean STRs have to report the number of nights a property was rented? How would they report this? How would it be verified?
 ✓ This question requires additional input from the Committee as to the intent of the proposal.
- ? What about properties that are homesteads and owner occupied, but a secondary building is rented, sometimes for less than 30 days?
 ✓ This question requires additional input from the Committee as to the intent of the proposal.

Non-Owner Occupied and Investment Rentals

1. Repeat STR Business Per Site: License Required – \$100 Fee

- ? Is this an annual license?
 ✓ Staff interprets the intent of this proposal is for an annual fee.
- ? Does a license have to be used? What would keep a property owner from obtaining a license and never using it for the sole purpose of excluding actual STR’s from locating near his property?
 ✓ This question requires additional input from the Committee as to the intent of the proposal.
- ? Would a license convey with the sale of property?
 ✓ This question requires additional input from the Committee as to the intent of the proposal.

2. Multiple STRs Per Owner/Property Manager: License Required – \$100 Fee per site.

- ? What is the definition of site?
 ✓ One subdivided lot.
- ? If there are more than one residential structure on a property, do they require separate licenses?
 ✓ Staff interprets the intent of this proposal is that if the structures are rented separately, they would require separate permits..

Business STR properties must be dispersed at least 1000 feet apart from other STR properties and Bed and Breakfasts rentals

- ? Why 1000 feet?
 ✓ This question requires additional input from the Committee as to the intent of the proposal.

- ? How is 1000 feet measured, from the building footprint, or from the property line?
 ✓ Staff interprets the intent of this proposal is that the 1000 feet would be measured from property line to property line.

In order to qualify existing STRs for grandfathered property exemptions, owners must document Hotel Occupancy Tax (HOT) payments for three of the four quarters previous to adoption of the ordinance.

- ? How will the City prevent a property owner from paying back taxes on rentals that never actually occurred in a fraudulent effort to qualify for grandfathering?
 ✓

Licensing Requirements:

- *An initial safety inspection and one periodic inspection per subsequent three year cycle to ensure that the property meets COA/PACE code safety standards and requirements*
- ? What will the inspection entail?
 ✓ The details of a the proposed inspection have not been developed. **This question requires additional input from the Committee as to the intent of the proposal**
- ? Who will conduct the inspection?
 ✓ The details of a the proposed inspection have not been developed
- ? Is it anticipated that the licensing fee would cover the cost of the inspection or will additional funding be required for inspection staff?
 ✓ The details of a the proposed inspection have not been developed
- ? Will commercial building standards apply as for Bed and Breakfasts, or will residential standards apply?
 ✓ Staff interprets the intent of this proposal is that residential standards would apply.
- *Adequate on-site parking; no front yard parking*
- ? What about in neighborhoods where front yard parking is allowed? Are STR's going to be held to a different standard than neighboring properties? Why?
 ✓ **This question requires additional input from the Committee as to the intent of the proposal.**
- *Owner/Property Manager may not have unresolved citations for code violations within the past two years*
- ? "Unresolved" needs to be better defined. Sometimes a full resolution can take months.
 ✓ **This question requires additional input from the Committee as to the intent of the proposal**
- *After the issuance of a license, if three or more citations are issued within a year, additional code enforcement inspections will be performed; if citations are not resolved, the license will be revoked with a wait period of one year before reapplication*
- ? Would citations against that property apply, or against any property?
 ✓ **This question requires additional input from the Committee as to the intent of the proposal**
- ? Would tickets from APD count as well, or only code violations?

- ✓ This question requires additional input from the Committee as to the intent of the proposal
- ? Would citations against tenants count against the property owner?
 - ✓ This question requires additional input from the Committee as to the intent of the proposal
- ? How would frivolous complaints be handled?
 - ✓ This question requires additional input from the Committee as to the intent of the proposal
- *A license lapses if no Hotel Occupancy Tax is paid for one year,*
- ? One year is too short, and may actually discourage the use of the property for long term rental. The suggestion of 15 months was made.
 - ✓ This question requires additional input from the Committee as to the intent of the proposal
- ? What happens if the structure is rendered uninhabitable due to fire or other emergency for more than that time?
 - ✓ This question requires additional input from the Committee as to the intent of the proposal
- ? Would other property owners within 1000 feet be notified of the license or the lapse of the license?
 - ✓ This question requires additional input from the Committee as to the intent of the proposal
- *Additional requirements per PDRD and Legal Staff recommendations.*

STR business owners are strongly encouraged to:

- *Join rental property owners association*
- *Inform neighbors adjacent to and within one block proximity to STR.*
- ? How would they be encouraged?
 - ✓ The encouragement could come as part of the information packet provided. This question requires additional input from the Committee as to the intent of the proposal
- ? **Other Questions and Comments**
- ? Is it legal to restrict rental or short term rental based on the age of the tenant?
 - ✓ This issue lies outside the purview of the City Land Development Code.
- ? Short term rental of housing has been needed in the past as part of disaster relief. What mechanism exists to waive some of the licensing requirements, like the fees or 1000 foot spacing?
 - ✓ This question requires additional input from the Committee as to the intent of the proposal