

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING CHAPTERS 25-2 (ZONING) AND 25-12
2 (PROPERTY MAINTENANCE CODE) OF THE CITY CODE RELATING TO
3 SHORT-TERM RENTALS.

4 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

5 PART 1. City Code Section 25-2-791 (*License Requirements*) is amended to
6 read as follows:

7 §25-2-791 LICENSE REQUIREMENTS.

- 8 (A) This section applies to a license required under Section 25-2-788 (*Short-*
9 *Term Rental (Type 1) Regulations*), Section 25-2-789 (*Short-Term Rental*
10 *(Type 2) Regulations*), and Section 25-2-790 (*Short-Term Rental (Type 3)*
11 *Regulations*)
- 12 (B) To obtain a license, the owner of a short-term rental use must submit an
13 application on a form approved [~~provided for that purpose~~] by the director.
14 The application must include the following:
- 15 (1) a fee established by separate ordinance;
 - 16 (2) the name, street address, mailing address, and telephone number of
17 the owner of the property;
 - 18 (3) the name, street address, mailing address, and telephone number of
19 the [a] local [responsible] contact required by Section 25-2-795 (*Local*
20 *Contacts*) [~~for the property~~];
 - 21 (4) the street address of the short-term rental use;
 - 22 (5) proof of property insurance;
 - 23 (6) proof of payment of hotel occupancy taxes due as of the date of
24 submission of the application; [~~and~~]
 - 25 (7) if applicable, the fee required by Section 25-2-797 (*Non-Compliance*
26 *Fees*); and [~~any other information requested by the director.~~]
 - 27 (8) any other information requested by the director.
- 28 (C) The director shall issue a license under this section if:

- 1 (1) the application includes all information required under Subsection (B)
2 of this section;
- 3 (2) the proposed short-term rental use complies with the requirements of
4 Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*), Section
5 25-2-789 (*Short-Term Rental (Type 2) Regulations*), or Section 25-2-
6 790 (*Short-Term Rental (Type 3) Regulations*);
- 7 (3) for a short-term rental use regulated under Section 25-2-789 (*Short-*
8 *Term Rental (Type 2) Regulations*), no more than 3% of the single-
9 family, detached residential units within the census tract of the
10 property are short-term rental (Type 2) uses as determined by the
11 Director under Section 25-2-793 (*Determination of Short-Term Rental*
12 *Density*); and
 - 13 (a) the structure has a valid certificate of occupancy or compliance,
14 as required by Chapter 25-1, Article 9 (*Certificates of*
15 *Compliance and Occupancy*); or
 - 16 (b) the structure has been determined by the building official not to
17 pose a hazard to life, health, or public safety, based on a
18 minimum life-safety inspection;
- 19 (4) for a short-term rental use regulated under Section 25-2-790 (*Short-*
20 *Term Rental (Type 3) Regulations*), located in a non-commercial
21 zoning district, no more than 3% of the total number of dwelling units
22 at the property and no more than 3% of the total number of dwelling
23 units located within any building or detached structure at the property
24 are short-term rental (Type 3) uses as determined by the Director
25 under Section 25-2-793 (*Determination of Short-Term Rental*
26 *Density*); and
 - 27 (a) the structure and the dwelling unit at issue have a valid
28 certificate of occupancy or compliance, as required by Chapter
29 25-1, Article 9 (*Certificates of Compliance and Occupancy*); or
 - 30 (b) the structure and the dwelling unit at issue have been
31 determined by the building official not to pose a hazard to life,
32 health, or public safety, based on a minimum life-safety
33 inspection;[-]
- 34 (5) for a short-term rental use regulated under Section 25-2-790 (*Short-*
35 *Term Rental (Type 3) Regulations*), located in a commercial zoning
36 district, no more than 25% of the total number of dwelling units at the

1 property and no more than 25% of the total number of dwelling units
2 located within any building or detached structure at the property are
3 short-term rental (Type 3) uses as determined by the Director under
4 Section 25-2-793 (*Determination of Short-Term Rental Density*); and

5 (a) the structure and the dwelling unit at issue have a valid
6 certificate of occupancy or compliance, as required by Chapter
7 25-1, Article 9 (*Certificates of Compliance and Occupancy*); or

8 (b) the structure and the dwelling unit at issue have been
9 determined by the building official not to pose a hazard to life,
10 health, or public safety, based on a minimum life-safety
11 inspection; and[-]

12 (6) the owner does not meet the standards described in Section 25-2-796
13 (Repeat Offenses).

14 (D) A license issued under this section:

15 (1) is valid for a maximum of one year from the date of issuance, subject
16 to a one-time extension of 30 days at the discretion of the director;

17 (2) may not be transferred by the property owner listed on the application
18 and does not convey with a sale or transfer of the property; and

19 (3) satisfies the requirement for a change of use permit from residential to
20 short-term rental use.

21 (E) Except as otherwise provided in this Subpart, a [A] license may be renewed
22 annually if the owner:

23 (1) pays a renewal fee established by separate ordinance;

24 (2) provides documentation showing that hotel occupancy taxes have
25 been paid for the licensed unit as required by Section 11-2-4
26 (*Quarterly Reports; Payments*) for the previous year; ~~and~~

27 (3) provides updates of any changes to the information required under
28 Subsection (B) of this section; and[-]

29 (4) if applicable, pays the fee required by Section 25-2-797 (Non-
30 Compliance Fees).

31 (F) The director may deny an application to renew a license if the license for a
32 short-term rental is suspended as authorized under Section 25-12-213,
33 Section 1307(E) (License Suspension) [An advertisement promoting the

1 ~~availability of short term rental property in violation of city code is prima~~
2 ~~facie evidence of a violation and may be grounds for denial, suspension, or~~
3 ~~revocation of a license].~~

4 ~~(G) [Notwithstanding any provision of Section 25-2-791(F) to the contrary, a~~
5 ~~person may advertise the availability of an unlicensed short term rental and~~
6 ~~the advertisement is not grounds for license denial if the director determines~~
7 ~~all of the following:~~

8 ~~(a) — The person owns the property advertised or has obtained the~~
9 ~~owner's authorization to advertise the property for short term~~
10 ~~rental solely to gauge public interest in the property for short~~
11 ~~term rental use;~~

12 ~~(b) — The advertisement does not depict or describe availability of the~~
13 ~~property for uses or occupancy that would violate code, except~~
14 ~~for the lack of a short term rental license; and~~

15 ~~(c) — The property advertised is not in operation as short term rental.]~~

16 **PART 3.** City Code Chapter 25-2, Subpart C, Article 4, Division 1 (*Residential Uses*) is
17 amended to add a new Section 25-2-794 (*General Requirements for Short-Term Rentals*),
18 a new Section 25-2-795 (*Local Contacts*), a new Section 25-2-796 (*Repeat Offenses*), and
19 a new Section 25-2-797 (*Non-Compliance Fees*) to read as follows:

20 **§25-2-794 GENERAL REQUIREMENTS FOR SHORT-TERM RENTALS.**

21 (A) A licensee must maintain a register of guests.

22 (B) A guest of a short-term rental may not use or allow use of sound equipment
23 that produces sound audible beyond the property line between 10:00 p.m.
24 and 10:00 a.m..

25 (C) A guest of a short-term rental shall not make or allow another to make noise
26 or play a musical instrument audible to an adjacent business or residence
27 between 10:30 p.m. and 7:00 a.m..

28 (D) If a building permit prohibiting occupancy of the structure is active, no
29 person may occupy, for sleeping or living purposes, the structure until final
30 inspections have been passed and the building permit is closed.

31 (E) A licensee or operator may not advertise or promote a short-term rental
32 without including:

33 (1) the license number assigned by the city to the short-term rental; and

1 (2) a statement stating the applicable occupancy limit for the short-term
2 rental.

3 (F) An operator or a person in control of a property may not advertise or
4 promote the property as a short-term rental if it is not licensed by the
5 director.

6 (G) An advertisement promoting the availability of short-term rental property in
7 violation of City Code is prima facie evidence of a violation.

8 (H) A violation of this Subpart may be grounds for denial, suspension, or
9 revocation of a license.

10 **§25-2-795 LOCAL CONTACTS.**

11 (A) A licensee who does not reside within the Austin Metro Area must identify
12 an individual or individuals that can respond to emergency conditions.

13 (B) The individual or individuals described in subsection (A) must be present
14 within the Austin Metro Area and be available to respond within two hours
15 after being notified by a guest of the short-term rental or a City employee of
16 an emergency during any 24-hour period.

17 (C) If there is a change related to the local contact, the licensee must provide
18 updated or new information to the director in writing within three business
19 days.

20 **§25-2-796 REPEAT OFFENSES.**

21 (A) If the director finds that the short-term rental licensee did not comply with
22 Section 25-2-794(E) at least twice in a 12-month period, the director may
23 deny an application to renew a short-term rental license for a period of 12
24 months.

25 (B) If the director finds that an owner or person in control of a property violated
26 Section 25-2-794(F) at least twice in a 12-month period, the director may
27 deny an application for a short-term rental license for a period of 12 months.

28 (C) A licensee may appeal the director's decision to deny an application in
29 compliance with the process in Section 25-12-213, Section 1308 (*Appeal*
30 *From License Suspension or Denial*).

1 **§25-2-797 NON-COMPLIANCE FEES.**

- 2 (A) If the director sends a property owner a notice of violation or cites a property
3 owner for operating a short-term rental without a license, the applicant shall
4 pay an additional fee set by separate ordinance.
- 5 (B) If the director sends a property owner a notice of violation or cites the
6 property owner for operating with an expired short-term rental license, the
7 applicant shall pay an additional fee set by separate ordinance.
- 8 (C) The fee described in this Section shall be based on the City's cost to enforce
9 the licensing requirements.

10 **PART 4.** Section 1307 (*License Suspension*) of City Code Section 25-12-213 (*Local*
11 *Amendments to the International Property Maintenance Code*) is amended to read as
12 follows:

13 1307 License Suspension.

- 14 (A) Except as provided in subsections (D) and (E), w[~~W~~] whenever the code
15 official finds on inspection of the physical premises or review of applicable
16 records of any boarding house, hotel, rooming house, short-term rental, or
17 bed and breakfast establishment that conditions or practices exist that violate
18 any provision of the International Property Maintenance Code, City Code, or
19 any rule or regulation adopted under this Code, or that the establishment has
20 failed to comply with any provision, prohibition, or requirement related to
21 the registration, reporting, collection, segregation, accounting, disclosure, or
22 payment of local hotel occupancy taxes, the code official shall give written
23 notice to the owner of the property and the operator of the boarding house,
24 hotel, rooming house, short-term rental, or bed and breakfast establishment
25 that unless the violations are corrected by an identified deadline, the license
26 shall be suspended.
- 27 (B) At the end of the time provided for correction of the violation(s), the code
28 official shall re-inspect the location or records of the boarding house, hotel,
29 rooming house, short-term rental, or bed and breakfast establishment and, if
30 the conditions or practices have not been corrected, shall suspend the license
31 and give written notice to the licensee that the license has been suspended.
- 32 (C) On receipt of notice of suspension, the licensee shall immediately stop
33 operation of the boarding house, hotel, rooming house, short-term rental, or
34 bed and breakfast establishment, and no person may occupy for sleeping or
35 living purposes any rooming unit therein, except that the code official may
36 allow continued occupancy by the property owner of a short-term rental use

1 subject to Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*). The
2 notice required by this subsection shall be served in accordance with the
3 notice provisions of applicable law.

4 (D) The code official may immediately suspend a license if the code official
5 determines that the license was issued in error. A suspension is effective
6 until the code official determines that the licensee has complied with the
7 requirements of the City Code or any rule or regulation adopted under this
8 Code. The code official shall give written notice to the owner of the property
9 and the operator of the establishment that the license is suspended.

10 (E) If a short-term rental is the subject of repeated substantiated violations of
11 applicable law during the license period, the code official may suspend the
12 short-term rental license. The code official must give notice to the registrant
13 of its intent to suspend a registration issued under this subsection.

14 (F) In determining whether to suspend for repeated violations as described in
15 subsection (E), the code official shall consider the frequency of any repeated
16 violations, whether a violation was committed intentionally or knowingly,
17 and any other information relevant to the degree to which a licensee has
18 endangered the public health, safety, or welfare

19 **PART 5.** This ordinance takes effect on _____, 2015.

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21 **PASSED AND APPROVED**

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23 _____, 2015

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25 _____
26 Steve Adler
27 Mayor

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30 **APPROVED:** _____
31 Anne L. Morgan
32 Interim City Attorney

30 **ATTEST:** _____
31 Jannette S. Goodall
32 City Clerk

RESOLUTION NO. 20150820-052

WHEREAS, on June 18, 2015, the City Council passed Resolution No. 20150618-078, directing the City Manager to assess and develop immediate long-term solutions, among other things, for better enforcement of short-term rentals operating in violation of the City Code, or operating without a license; and

WHEREAS, the Council further directed the City Manager to present his findings, report and recommendations to the Council no later than August 13, 2015; and

WHEREAS, the Council further directed the City Manager to bring forth a resolution at the August 20, 2015 Council Meeting to initiate proposed code amendments, including: (1) add a penalty for operating without a license; (2) add a requirement to include an occupancy limit statement in advertisements; (3) add a noncompliance penalty for operating with an expired license; (4) add an inspection requirement; (5) strike Section 25-2-791(G), the "Test the Waters" provision, of the City's Land Development Code; and

WHEREAS, in response to Resolution No. 20150618-078 the Austin Code Department launched a pilot Public Assembly Code Enforcement (PACE) Team specifically to address complaints related to short-term rentals including over-occupancy of homes, noise disturbances, illegal parking, operating without a license, etc; and

WHEREAS, this pilot PACE team involved staff members from various City departments, including the Austin Code Department, Austin Police Department and Austin Fire Department, and operated during non-office hours,

including weekends and late evening and early morning hours, for the month of July to provide enhanced enforcement of City Code requirements for short-term rentals; and

WHEREAS, during the month of July some Council Offices held meetings with various stakeholders, including representatives from neighborhoods, associations, industry, and City staff, to determine whether the problem is the Austin Code Department not making full use of existing resources or if the enforcement component in City Code needs to be strengthened; and

WHEREAS, from these stakeholder meetings, hosted by Council Offices, it appears the difficulty in enforcing noncompliant and non-licensed short-term rentals is a combination of the City not taking full advantage of its existing authority and enforcement components that need to be strengthened in the current City Code; and

WHEREAS, it is in the City's best interest to ensure compliance with short-term rental regulations and other City codes including occupancy limits, noise and amplified sound restrictions, improper disposal of trash, and zoning and land use regulations, to protect the quality of life in our neighborhoods; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Manager is directed to immediately utilize all existing enforcement tools under current City Code, including, but not limited to,:

1. the authority to suspend a short term rental license for violations of the City Code, such as:

- a. advertising the availability of a short-term rental property for uses not allowed by the property's zoning; and
 - b. advertising or promoting a licensed establishment without including the license number as required in Section 1303 (B) in City Code Section 25-12-213 (*Local Amendments to the International Property Maintenance Code*); and
2. the administrative hearing process, defined in City Code Chapter 2-13 (*Administrative Adjudication of Violations*); and

BE IT FURTHER RESOLVED:

To protect the welfare of the citizens of Austin, the Council directs the City Manager to provide more information to residents on how to make a complaint about a short-term rental property in their area.

- This information should be posted on the City's short-term rental website or a similar City website that can be easily found by a resident.
- This information should also be included in any short-term rental notification sent to surrounding properties as outlined in City Code Section 25-2-792 (*Notification Requirements*).

BE IT FURTHER RESOLVED:

The City Manager is directed to re-evaluate existing processes to better track complaints related to short-term rentals.

BE IT FURTHER RESOLVED:

The City Manager is directed to take immediate necessary steps to achieve the following objectives:

1. Include statements in short term rental applications that are similar to the following:
 - a. "I understand that I am responsible for complying with any deed restrictions and restrictive covenants prohibiting certain uses on this property. If a conflict should result with any of these restrictions, it will be my responsibility to resolve it;"
 - b. "I hereby certify that to the best of my knowledge and ability, the information provided in this application is complete and accurate;"
and
 - c. "I attest that the property will not be rented above the occupancy limit defined in City Code or in violation of the current short-term rental ordinance."
2. Provide a funding proposal, which can be discussed by Council during the Fiscal Year 2015-16 budget process that will ensure that the Austin Code Department recovers its costs for the short-term rental program.
3. Improve communication with the Travis County Sheriff's Office as it relates to short-term rentals located within the City's limited purpose district and, if necessary, explore negotiating an interlocal agreement.

BE IT FURTHER RESOLVED:

The City Council initiates and directs the City Manager to process amendments to the City Code that are necessary to achieve the following objectives:

1. Add the existing requirement to include license numbers in advertisements as required by Section 1303 in City Code Section 25-12-213 (*Local Amendments to the International Property Maintenance Code*) to Subpart C under Division 1 of Article 4 - Additional Requirements for Certain Uses of City Code;
2. Add a Bad Actor Clause similar to City Code Section 25-2-818(N);
3. Require operators to maintain a guest registry;
4. Require short term rental license holders to comply with noise requirements;
5. Prohibit occupancy of a short term rental when the building permit prohibits occupancy of the structure;
6. Authorize the Code Official to suspend or revoke a license when false information is included in a license application and when the license is issued in error, similar to City Code Section 25-1-411 (*Suspension of a Permit or License*):

§ 25-1-411- SUSPENSION OF A PERMIT OR LICENSE.

(A) The accountable official may suspend a permit or license if the official determines that:

- (1) the permit or license was issued in error; or
- (2) the permit or license holder has not complied with the requirements of this title.

(B) A suspension is effective until the official determines that the permit holder has complied with the requirements of this title.

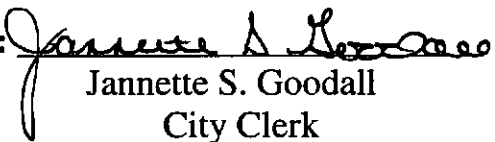
7. Add a non-compliance penalty for operating without a license and with an expired license
 - a. Type 1 the penalty should equal at least the cost of a license; and

- b. Type 2 and Type 3 the penalty should equal to at least twice the cost of a license;
8. Require an occupancy limit statement in advertisements or promotions;
 9. Delete Section 25-2-791(G) (commonly referred to as “testing the waters”);
 10. Require the local contact to reside within the Austin Metro Area (five-county metropolitan area that surrounds the City of Austin) and be available to respond within two hours after being notified by the City (or occupant) of an emergency; and
 11. Consider amending the penalty range for administrative citations similar to the penalty range in Section 25-1-462 (*Appeal; Criminal Enforcement*), which sets a specific penalty range for a specific category of violation.

BE IT FURTHER RESOLVED:

The City Manager is directed to bring the proposed code amendments to Council for consideration within 150 days. Changes that do not require code amendments should be fully implemented within six months, with monthly updates to be provided until all of the changes have been implemented.

ADOPTED: August 20, 2015

ATTEST: 
Jannette S. Goodall
City Clerk