

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2015-012 Short-Term Rentals

Description: Consider amendments to Title 25 of the City Code related to short-term rentals.

Proposed Language: See attached draft ordinance.

Summary of proposed code changes:

- Inspection every 3 years for renewals.
- Adds a distance limitation between Type 2 short-term rentals: 500 feet from an existing Type 2 short-term rental, unless grandfathered (if the license is issued prior to a certain date, the license is not suspended, and is timely renewed).
- Requires an applicant to provide local contact information.
- Requires a certification related to outstanding City Code violations at the property.
- Limits reliance on certificates of occupancy to certificates issued within the last 10 years.
- Requires a determination from Austin Water that the septic system complies with City Code.
- Authorizes the director to deny a renewal application if the license is currently suspended, other violations exist, or if repeat offenses occur at the property.
- Deletes “test the waters” provision.
- States that a violation of the short-term rental regulations is grounds to deny, suspend, or revoke a license.
- New general requirements:
 - Maintain a guest registry.
 - Limits use of sound equipment and noise/music.
 - Prohibits occupancy of a short-term rental if the building permit does not allow occupancy.
 - Requires advertisements or promotions to include license numbers and occupancy limit.
 - Prohibits advertising or promoting a short-term rental if it is not licensed.
 - Prohibits advertising or promoting a short-term rental in a manner that violates the City Code.
- Creates specific occupancy limits for assemblies at short-term rentals and general use of short-term rentals. (Council initiated.)
- Authorizes the director to deny an initial application for a license if applicant violates City Code (or, if applicable, state law) a certain number of times during a specific timeframe.
- Requires a non-compliant property owner to pay a non-compliance fee when applying for or renewing a short-term rental license.
- Creates evidence standards that show a violation of the occupancy and advertising requirements.

- Removes short-term rental use from 25-2-511 (Dwelling Unit Occupancy Limit)
- Phases out existing Type 2 short-term rentals by April 1, 2022.

Background: Initiated by Council on 8/20/15, 9/17/15, 9/22/15, and 10/15/15.

In June of 2015 Council directed the City Manager to provide recommendations to improve enforcement and amend the City Code as necessary regarding short-term rentals. In August, September, and October of 2015, Council initiated amendments to the City Code related to short-term rentals (STRs) and directed the City Manager to bring the amendments within 150 days.

Staff Recommendation: Approve the proposed amendments.

Board and Commission Actions

November 17, 2015: Recommended by the Codes and Ordinances Subcommittee on a 5-0 vote (Commissioner Stevens absent) with changes to the occupancy limit:

- (1) a short-term rental site maximum occupancy limit of 10 –regardless of relationship- and 6 unrelated adults; and
- (2) a process to expand the occupancy limit in certain circumstances.

December 8, 2015: To be reviewed by Planning Commission.

Council Action

December 10, 2015: A public hearing has been set.

Ordinance Number: NA

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ORDINANCE NO. _____

1 **AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-2 AND 25-12 OF**
2 **THE CITY CODE RELATING TO SHORT-TERM RENTALS.**

3 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

4 **PART 1.** City Code Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*),
5 Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), and 25-2-791
6 (*License Requirements*) are amended to read as follows:

7 **§ 25-2-789 SHORT-TERM RENTAL (TYPE 2) REGULATIONS.**

8 (A) This section applies to a short-term rental use that:

- 9 (1) is rented for periods of less than 30 consecutive days;
10 (2) is not part of a multifamily residential use; and
11 (3) is not owner-occupied and is not associated with an owner-occupied
12 principal residential unit.

13 (B) A short-term rental use under this section may not:

- 14 (1) include the rental of less than an entire dwelling unit;
15 (2) operate without a license as required by Section 25-2-791 (*License*
16 *Requirements*);
17 (3) operate without providing notification to renters as required by
18 Section 25-2-792 (*Notification Requirements*); or
19 (4) include a secondary dwelling unit or secondary apartment except as
20 provided by Sections 25-2-774(C)(6) (*Two Family Residential Use*)
21 and 25-2-1463(C)(6) (*Secondary Apartment Regulations*).

22 (C) If a license for a short-term rental (Type 2) use meets the requirements for
23 annual renewal under Section 25-2-791(E) (*License Requirements*), the
24 property is subject to an inspection every three years by the building official
25 to determine if the structure poses a hazard to life, health, or public safety.

26 (D) A short-term rental (Type 2) use may not be located on a lot that is within
27 500 feet of a lot on which another short-term rental (Type 2) use is located
28 unless the license:

- 29 (1) was issued on or before November 23, 2015;

(2) is not suspended after November 23, 2015; and

(3) is renewed timely.

§ 25-2-790 SHORT-TERM RENTAL (TYPE 3) REGULATIONS.

(A) This section applies to a short-term rental use that:

(1) is rented for periods of less than 30 consecutive days; and

(2) is part of a multifamily residential use.

(B) A short-term rental use under this section may not:

(1) include the rental of less than an entire dwelling unit;

(2) operate without a license as required by Section 25-2-791 (*License Requirements*); or

(3) operate without providing notification to renters as required by Section 25-2-792 (*Notification Requirements*).

§ 25-2-791 LICENSE REQUIREMENTS.

(A) This section applies to a license required under Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*), Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), and Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*).

(B) To obtain a license, the owner of a short-term rental use must submit an application on a form approved ~~[provided for that purpose]~~ by the director. The application must include the following:

(1) a certification by the property owner and, if applicable, property manager that the property is not subject to outstanding City Code or state law violations ~~[a fee established by separate ordinance];~~

(2) the name, street address, mailing address, and telephone number of the owner of the property;

(3) the name, street address, mailing address, and telephone number of the [a] local [responsible] contact required by Section 25-2-796 (*Local Contacts*) ~~[for the property];~~

(4) the street address of the short-term rental use;

(5) proof of property insurance;

(6) proof of payment of hotel occupancy taxes due as of the date of submission of the application; and

(7) any other information requested by the director.

(C) Except as provided in subsection (H), the director shall issue a license under this section if:

(1) the application includes all information required under Subsection (B) of this section;

(2) the proposed short-term rental use complies with the requirements of Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*), Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), or Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*);

(3) for a short-term rental use regulated under Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), no more than 3% of the single-family, detached residential units within the census tract of the property are short-term rental (including Type 2 and Type 1 second dwelling unit or secondary apartment) uses as determined by the Director under Section 25-2-793 (*Determination of Short-Term Rental Density*); and

(a) the structure has a valid certificate of occupancy or compliance, as required by Chapter 25-1, Article 9 (*Certificates of Compliance and Occupancy*), issued no more than ten years before the date the application is submitted to the director; or

(b) the structure has been determined by the building official not to pose a hazard to life, health, or public safety, based on a minimum life-safety inspection;

(4) for a short-term rental use regulated under Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), located in a non-commercial zoning district, no more than 3% of the total number of dwelling units at the property and no more than 3% of the total number of dwelling units located within any building or detached structure at the property are short-term rental (Type 3) uses as determined by the Director under Section 25-2-793 (*Determination of Short-Term Rental Density*); and

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

1 issued no more than ten years before the date the application is
2 submitted to the director; or

3 (b) the structure and the dwelling unit at issue have been
4 determined by the building official not to pose a hazard to life,
5 health, or public safety, based on a minimum life-safety
6 inspection;

7 (5) for a short-term rental use regulated under Section 25-2-790 (*Short-*
8 *Term Rental (Type 3) Regulations*), located in a commercial zoning
9 district, no more than 25% of the total number of dwelling units at the
10 property and no more than 25% of the total number of dwelling units
11 located within any building or detached structure at the property are
12 short-term rental (Type 3) uses as determined by the Director under
13 Section 25-2-793 (*Determination of Short-Term Rental Density*); and

14 (a) the structure and the dwelling unit at issue have a valid
15 certificate of occupancy or compliance, as required by Chapter
16 25-1, Article 9 (*Certificates of Compliance and Occupancy*),
17 issued no more than ten years before the date the application is
18 submitted to the director; or

19 (b) the structure and the dwelling unit at issue have been
20 determined by the building official not to pose a hazard to life,
21 health, or public safety, based on a minimum life-safety
22 inspection;[:]

23 (6) if applicable, the Austin Water Utility determines the septic system
24 complies with Chapter 15-5 (*Private Sewage Facilities*);

25 (7) the property is not subject to outstanding City Code or state law
26 violations;

27 (8) the owner pays the fee established by separate ordinance; and

28 (9) if applicable, the owner pays the fee required by Section 25-2-798
29 (*Non-Compliance Fees*).

30 (D) A license issued under this section:

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

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

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

(E) Except as otherwise provided in Subsection (F), a [A] license may be renewed annually if [the owner]:

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

(2) the licensee provides documentation showing that hotel occupancy taxes have been paid for the licensed unit as required by Section 11-2-4 (Quarterly Reports; Payments) for the previous year; [and]

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

(4) the property is not subject to outstanding City Code or state law violations;

(5) the licensee or operator does not meet the standards described in Section 25-2-797 (Repeat Offenses);

(6) if applicable, the structure is determined by the building official not to pose a hazard to life, health, or public safety; and

(7) if applicable, the owner pays the fee required by Section 25-2-797 (Non-Compliance Fees).

(F) The director may deny an application to renew a license if, on to the date the renewal application was submitted, the license for a short-term rental was suspended as authorized under Section 1307 (License Suspension) of Section 25-12-213 (Local Amendments to the International Property Maintenance Code) [An advertisement promoting the availability of short term rental property in violation of city code is prima facie evidence of a violation and may be grounds for denial, suspension, or revocation of a license].

(G) A violation of any provision of the City Code or other applicable law is grounds to deny, suspend, or revoke a license [Notwithstanding any provision of Section 25-2-791(F) to the contrary, a person may advertise the availability of an unlicensed short term rental and the advertisement is not grounds for license denial if the director determines all of the following:

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

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

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

(H) After November 23, 2015, the director may not issue a license to operate a short-term rental use described in Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*) except for an application received prior to September 17, 2015. In any event, the director may not issue a license pursuant to an application received after November 12, 2015.

(I) The limitation in subsection (H) does not apply to an annual renewal authorized in subsection (E).

PART 2. City Code Chapter 25-2, Subchapter C, Article 4, Division 1, Subpart C (*Requirements for Short-Term Rental Uses*) is amended to add new Sections 25-2-794, 25-2-795, 25-2-796, 25-2-797, 25-2-798, and 25-2-799 to read as follows:

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

(A) A licensee must maintain a register of guests, either in electronic, ink, or typewritten form that includes the following information:

- (1) the name and address of each guest and the total number of guests;
- (2) the day, month, year and time of arrival of each guest; and
- (3) the date that each guest is scheduled to depart.

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

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

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

(E) A licensee or operator may not advertise or promote or allow another to advertise or promote a short-term rental without including:

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

(2) the applicable occupancy limit for the short-term rental.

(F) An owner or a person in control of a property may not advertise or promote or allow another to advertise or promote a short-term rental on the property that is not licensed by the director.

(G) A licensee or operator may not advertise or promote or allow another to advertise or promote a short-term rental in violation of the City Code or state law.

(H) A person must obtain a license to operate a short-term rental before a property may be used as a short-term rental.

§ 25-2-795 OCCUPANCY LIMITS FOR SHORT-TERM RENTALS.

(A) Unless a stricter limit applies, not more than two adults per bedroom plus two additional adults may be present in a short-term rental between 10:00 p.m. and 7:00 a.m.

(B) A short-term rental is presumed to have two bedrooms, except as otherwise determined through an inspection approved by the director.

(C) A licensee or guest may not use or allow another to use a short-term rental for an assembly between 10:00 p.m. and 7:00 a.m.

(D) A licensee or guest may not use or allow another to use a short-term rental for an outside assembly of more than six adults between 7:00 a.m. and 10:00 p.m.

(E) For purposes of this section, an assembly includes a wedding, bachelor or bachelorette party, concert, sponsored event, or any similar group activity other than sleeping.

(F) A short-term rental use may not be used by more than:

(1) ten adults at one time, unless a stricter limit applies; or

(2) six unrelated adults.

§ 25-2-796 LOCAL CONTACTS.

(A) A licensee of a short-term rental use who does not reside within the Austin Metro Area must identify an individual or individuals to serve as local contacts and respond to emergency conditions.

(B) A local contact designated under subsection (A) must be present within the Austin Metro Area and be available to respond within two hours after being

1 notified of an emergency by a guest of the short-term rental, by a City
2 employee, or by an individual entitled to notice of the contact information
3 under Section 25-2-792(C) (*Notification Requirements*), during any 24-hour
4 period.

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

8 **§ 25-2-797 REPEAT OFFENSES.**

- 9 (A) If the director finds that the licensee or operator failed to comply with
10 Section 25-2-794 (*General Requirements for Short-Term Rentals*) or Section
11 25-2-795 (*Occupancy Limits for Short-Term Rentals*) at least twice in a 12-
12 month period, the director may deny an application to renew a short-term
13 rental license for a period of 12 months.

- 14 (B) If the director finds that an owner or person in control of a property violated
15 Section 25-2-794 (*General Requirements for Short-Term Rentals*) at least
16 twice in a 12-month period, the director may deny an application for a short-
17 term rental license for a period of 12 months.

- 18 (C) If a property is the subject of repeated substantiated violations of City Code
19 or state law during a 24-month period prior to applying for a license to
20 operate a short-term rental, the director may deny the short-term rental
21 license based on:

- 22 (1) the frequency of any repeated violations;
23 (2) whether a violation was committed intentionally or knowingly; and
24 (3) any other information that demonstrates the degree to which the
25 owner or occupant has endangered public health, safety, or welfare.

- 26 (D) A licensee may appeal the director's decision to deny an application in
27 compliance with the process in Section 1308 (*Appeal From License*
28 *Suspension or Denial*) of Section 25-12-213 (*Local Amendments to the*
29 *International Property Maintenance Code*).

30 **§ 25-2-798 NON-COMPLIANCE FEES.**

- 31 (A) If the director sends a property owner a notice of violation or cites a property
32 owner for operating a short-term rental without a license, the applicant shall
33 pay an additional fee set by separate ordinance.

(B) If the director sends a property owner a notice of violation or cites the property owner for operating with an expired short-term rental license, the applicant shall pay an additional fee set by separate ordinance.

(C) The fee described in this Section shall be based on the City's cost to enforce the licensing requirements.

§ 25-2-799 PRIMA FACIE EVIDENCE OF A VIOLATION.

(A) An advertisement promoting the availability of a short-term rental in violation of any City Code or state law requirement is prima facie evidence of a violation and is cause to issue an administrative citation for a violation of Sections 25-2-794(E),(F), or (G) (*General Requirements for Short-Term Rentals*).

(B) A visual inspection of more than six adults by a city employee at a short-term rental is prima facie evidence of and is cause to issue an administrative citation for a violation of Sections 25-2-795(A), (D), and (F)(2) (*Occupancy Limit for Short-Term Rentals*).

(C) A visual inspection of more than ten adults by a city employee at a short-term rental is prima facie evidence of and is cause to issue an administrative citation for a violation of Section 25-2-795(F)(1) (*Occupancy Limits for Short-Term Rentals*).

PART 3. Subsection (D) of City Code Section 25-2-511(*Dwelling Unit Occupancy Limit*) is amended to read:

(D) Except as provided in Subsection (E), for a conservation single family residential, single family attached residential, single family residential, small lot single family, duplex residential use, or two-family residential use, [~~or short term rental use~~] not more than four unrelated adults may reside on a site, in the following zoning districts:

- (1) Lake Austin Residence District (LA) Zoning District;
- (2) Rural Residence District (RR) Zoning District;
- (3) Single Family Residence Large Lot (SF-1) Zoning District;
- (4) Single Family Residence Standard Lot (SF-2) Zoning District;
- (5) Family Residence (SF-3) Zoning District;
- (6) Single Family Residence Small Lot (SF-4A) Zoning District;
- (7) Single Family Residence Condominium (SF-4B) Zoning District;

(8) Urban Family Residence (SF-5) Zoning District; and

(9) Townhouse and Condominium Residence (SF-6) Zoning District.

PART 4. The table in City Code Section 25-2-491(C) (*Permitted, Conditional, and Prohibited Uses*) is amended to replace the existing reference to “Short-Term Rental” with “Short-Term Rental (Types 1 and 3)” and to reflect the following:

Short-Term Rental (Type 2) is a permitted use in the following base districts:

central business (CBD)

downtown mixed use (DMU)

planned unit development (PUD)

general-retail – mixed use (GR-MU)

commercial services – mixed use (CS-MU)

commercial services – vertical mixed use (CS-V)

general retail – vertical mixed use (GR-V).

PART 5. City Code Chapter 25-2, Article 7 (*Nonconforming Uses*) is amended to add a new Section 25-2-950 (*Short-Term Rental Type 2*) to read as follows:

§ 25-2-950 DISCONTINUANCE OF NONCONFORMING SHORT-TERM RENTAL (TYPE 2) USES.

A person shall discontinue a nonconforming short-term rental use that is regulated under Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), not later than the earlier of:

(1) April 1, 2022; or

(2) if the license for a short-term rental use is not renewed, the date on which the existing license expires.

PART 6. Section 202.1 (*Supplemental and Replacement Definitions*) of City Code Section 25-12-213 (*Local Amendments to the International Property Maintenance Code*) is amended to add a new definition “short-term rental” to read as follows:

202.1 Supplemental and Replacement Definitions.

SHORT-TERM RENTAL. The use of a residential dwelling unit or accessory building, other than a unit or building associated with a group residential use, on a temporary or transient basis in accordance with Chapter 25-2, Subchapter C, Article 4,

1 Division 1, Subpart C (Requirements for Short-Term Rental Uses). The use does not
2 include an extension for less than 30 consecutive days of a previously existing rental
3 agreement of 30 consecutive days or more. The use does not include a rental between
4 parties to the sale of that residential dwelling unit.

5 **PART 7.** Section 1301 (*Inspections*), and Section 1307 (*License Suspension*) of City
6 Code Section 25-12-213 (*Local Amendments to the International Property Maintenance*
7 *Code*) are amended to read as follows

8 1301 Inspections.

9 The code official shall make inspections to determine the condition of short-term
10 rentals, boarding houses, hotels, rooming houses and bed and breakfast establishments
11 located within the City, to ensure compliance with this chapter and other applicable laws.
12 For the purpose of making inspections, the code official or the code official's
13 representative may enter, examine, and survey, at all reasonable times, all buildings,
14 dwelling units, guest rooms, and premises on presentation of the proper credentials. The
15 owner or operator of a short-term rental, boarding house, hotel, rooming house, or bed
16 and breakfast establishment, or the person in charge, shall give the code official free
17 access to the building, dwelling unit, partial unit, guest room and its premises, at all
18 reasonable times, for the purpose of inspection, examination, and survey.

19 1307 License Suspension.

20 (A) Except as provided in subsections (D) and (E), w[~~W~~] whenever the code
21 official finds on inspection of the physical premises or review of applicable
22 records of any boarding house, hotel, rooming house, short-term rental, or
23 bed and breakfast establishment that conditions or practices exist that violate
24 any provision of the International Property Maintenance Code, City Code, or
25 any rule or regulation adopted under this Code, or that the establishment has
26 failed to comply with any provision, prohibition, or requirement related to
27 the registration, reporting, collection, segregation, accounting, disclosure, or
28 payment of local hotel occupancy taxes, the code official shall give written
29 notice to the owner of the property and the operator of the boarding house,
30 hotel, rooming house, short-term rental, or bed and breakfast establishment
31 that unless the violations are corrected by an identified deadline, the license
32 shall be suspended.

33 (B) At the end of the time provided for correction of the violation(s), the code
34 official shall re-inspect the location or records of the boarding house, hotel,
35 rooming house, short-term rental, or bed and breakfast establishment and, if
36 the conditions or practices have not been corrected, shall suspend the license
37 and give written notice to the licensee that the license has been suspended.

(C) On receipt of notice of suspension, the licensee shall immediately stop operation of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment, and no person may occupy for sleeping or living purposes any rooming unit therein, except that the code official may allow continued occupancy by the property owner of a short-term rental use subject to Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*). The notice required by this subsection shall be served in accordance with the notice provisions of applicable law.

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

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

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

PART 8. Council directs the City Manager to set a public hearing to be held on the same date as the public hearing required in Ordinance No. 20151112-078 so that the Council may consider amending the effective date for Parts 4 and 5 this ordinance along with any revisions.

PART 9. Parts 4 and 5 of this ordinance take effect on April 1, 2017, and the remaining parts of this ordinance take effect on _____, 2015

PASSED AND APPROVED

_____, 2015

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§
§_____
Steve Adler
Mayor**APPROVED:** _____Anne L. Morgan
City Attorney**ATTEST:** _____Jannette S. Goodall
City Clerk

DRAFT

Recommendation by Planning Commission's Codes and Ordinances Subcommittee

Occupancy limits

Part 1: Substitute occupancy limits initiated by City Council with the following

§ 25-2-795 OCCUPANCY LIMITS FOR SHORT-TERM RENTALS.

(A) In this section:

- (1) ADULT means a person 18 years of age or older.
- (2) DOMESTIC PARTNERSHIP means adults living in the same household and sharing common resources of life in a close, personal, and intimate relationship.
- (3) UNRELATED means not connected by consanguinity, marriage, domestic partnership or adoption.

(B) Except as provided in subsection (C) and unless a stricter limit applies,

- (1) ten adults at one time may be present at a site used for a short-term rental; or
- (2) six unrelated adults may be present at a site used for a short-term rental.

(C) A licensee can request an increase in the number of adults that may be present at a short-term rental site by submitting an application on a form approved by the director and by paying a fee established by separate ordinance.

(D) In addition to any additional information required by the director, an application for an increase in the number of adults that may be present at a short-term rental site must the following information:

- (1) dimensions of the site;
- (2) number of parking spaces at the property;
- (3) number of bedrooms at the property; and
- (4) distance between short-term rental dwelling and the neighboring property line.

(E) No later than 21 days after receiving a request for an occupancy limit increase, the director shall issue a determination to the licensee and provide notice of the determination to all properties within 100 feet of the short-term rental use, at the licensee's expense.

Part 2: Substitute this to conform to changes in § 25-2-795

§ 25-2-799 PRIMA FACIE EVIDENCE OF A VIOLATION.

- (A) An advertisement promoting the availability of short-term rental property in violation of any City Code or state law requirement is prima facie evidence of a violation and is cause to issue an administrative citation for a violation of Sections 25-2-794(E),(F), or (G) (*General Requirements for Short-Term Rentals*).
- (B) A visual inspection of more than ten adults by a city employee at a short-term rental is prima facie evidence of and is cause to issue an administrative citation for a violation of Section 25-2-795(B) (*Occupancy Limits for Short-Term Rentals*).
- (C) A visual inspection of more than six adults by a city employee at a short-term rental is prima facie evidence of and is cause to issue an administrative citation for a violation of Sections 25-2-795(C) (*Occupancy Limits for Short-Term Rentals*).

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

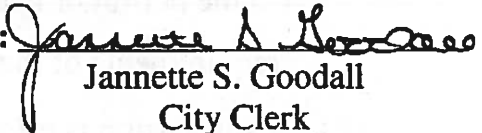
- b. Type 2 and Type 3 the penalty should equal to at least twice the cost of a license;
- 8. Require an occupancy limit statement in advertisements or promotions;
- 9. Delete Section 25-2-791(G) (commonly referred to as "testing the waters");
- 10. Require the local contact to reside within the Austin 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