

ORDINANCE NO. 20160223-A.1

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

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

PART 1. City Code Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), 25-2-791 (*License Requirements*), and 25-2-792 (*Notification Requirements*) are amended to read as follows:

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

- (A) This section applies to a short-term rental use that:
 - (1) is rented for periods of less than 30 consecutive days;
 - (2) is not part of a multifamily residential use; and
 - (3) is not owner-occupied and is not associated with an owner-occupied principal residential unit.

- (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*);
 - (3) operate without providing notification to renters as required by Section 25-2-792 (*Notification Requirements*); or
 - (4) include a secondary dwelling unit or secondary apartment except as provided by Sections 25-2-774(C)(6) (*Two Family Residential Use*) and 25-2-1463(C)(6) (*Secondary Apartment Regulations*).

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

- (D) A short-term rental (Type 2) use may not be located on a lot that is within 1000 feet of a lot on which another short-term rental (Type 2) use is located unless the license:

- (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 (G), 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*),

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

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

(5) for a short-term rental use regulated under Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), located in a commercial zoning district, no more than 25% of the total number of dwelling units at the property and no more than 25% 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*), issued no more than ten years before the date the application is submitted to the director; or

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

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

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

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

(9) the owner does not meet the standards described in Section 25-2-797 (*Repeat Offenses*); and

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

(D) A license issued under this section:

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

(2) may not be transferred by the property owner listed on the application 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 25-2-798 (*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) 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.
- (H) The limitation in subsection (G) does not apply to an annual renewal authorized in subsection (E).
- (I) A violation of any provision of the City Code or other applicable law is grounds to deny, suspend, or revoke a license.

§ 25-2-792 NOTIFICATION REQUIREMENTS.

- (A) The director shall provide a packet of information with each license summarizing the restrictions applicable to short-term rental use, including:
- (1) the name and contact information of the local [~~responsible~~] contact designated in the application;
 - (2) occupancy limits applicable under Section 25-2-795 (Occupancy Limits for Short-Term Rentals) [~~25-2-511 (Dwelling Unit Occupancy Limit)~~];
 - (3) restrictions on noise applicable under Section 25-2-794 (General Requirements for Short-Term Rentals) [~~Chapter 9-2 (Noise and Amplified Sound)~~], including limitations on the use of amplified sound;
 - (4) parking restrictions;
 - (5) trash collection schedule;
 - (6) information on relevant burn bans;
 - (7) information on relevant water restrictions;
 - (8) information on applicable requirements of the Americans with Disabilities Act; and
 - (9) other guidelines and requirements applicable to short-term rental uses.
- (B) The licensee [~~owner~~] or operator of a short-term rental use must:
- (1) provide renters a copy of the information packet under Subsection (A) of this section; and
 - (2) post the packet conspicuously in the common area of each short-term [~~dwelling rental~~] unit included in the registration.
- (C) The director shall mail notice of the contact information for the local [~~responsible~~] contact to all properties within 100 feet of the short-term rental use, at the licensee's [~~owner~~] or operator's expense.

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 or guest of a short-term rental may not use or allow the use of sound equipment that produces sound in excess of 75 decibels at the property line between 10:00 a.m. and 10:00 p.m.
- (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 dwelling, may not advertise or promote, or allow another to advertise or promote, the dwelling as a short-term rental if the dwelling is not licensed by the director as a short-term rental.
- (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.
- (I) Requirements in this section apply only when the dwelling unit is being used as a short-term rental, and apply only to that dwelling unit. For purposes of this subsection, dwelling unit means the area being used as a short-term rental, including a partial unit described in Section 25-2-788(B)(1) (*Short-Term Rental (Type 1) Regulations*).

§ 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) 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.
- (C) A short-term rental is presumed to have two bedrooms, except as otherwise determined through an inspection approved by the director.
- (D) 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.
- (E) 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.
- (F) 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.
- (G) 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.
- (H) Requirements in this section apply only when the dwelling unit is being used as a short-term rental, and apply only to that dwelling unit. For purposes of this subsection, dwelling unit means the area being used as a short-term rental, including the partial unit described in Section 25-2-788(B)(1) (*Short-Term Rental (Type 1) Regulations*).

§ 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 notified of an emergency by a guest of the short-term rental, by a City employee, or by an individual entitled to notice of the contact information under Section 25-2-792(C) (*Notification Requirements*), during any 24-hour period.
- (C) If there is a change related to a local contact, the licensee must provide updated or new information to the director in writing within three business days.

§ 25-2-797 REPEAT OFFENSES.

- (A) If the director finds that the licensee or operator failed to comply with Section 25-2-794 (*General Requirements for Short-Term Rentals*) or Section 25-2-795 (*Occupancy Limits for Short-Term Rentals*) at least twice in a 12-month period, the director may deny an application to renew a short-term rental license for a period of 12 months.
- (B) If the director finds that an owner or person in control of a property violated Section 25-2-794 (*General Requirements for Short-Term Rentals*) at least twice in a 12-month period, the director may deny an application for a short-term rental license for a period of 12 months.
- (C) If a property is the subject of repeated substantiated violations of City Code or state law during a 24-month period prior to applying for a license or renewing a license to operate a short-term rental, the director may deny the short-term rental license based on:
 - (1) the frequency of any repeated violations;
 - (2) whether a violation was committed intentionally or knowingly; and
 - (3) any other information that demonstrates the degree to which the owner or occupant has endangered public health, safety, or welfare.
- (D) A licensee may appeal the director's decision to deny an application in compliance with the process in Section 1308 (*Appeal From License Suspension or Denial*) of Section 25-12-213 (*Local Amendments to the International Property Maintenance Code*).

§ 25-2-798 NON-COMPLIANCE FEES.

- (A) A person that submits an application for a short-term rental license shall pay an additional fee if the application is submitted after the director sends a notice of violation or cites the person for operating a short-term rental without a license.
- (B) A person that submits a request to renew a short-term rental license shall pay an additional fee if the request is submitted after the director sends a notice of violation or cites the person for operating with an expired short-term rental license.
- (C) The fee described in this section shall be set by separate ordinance and 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) Except for a short-term rental use described in Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*), 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(B), (E), and (G)(2) (*Occupancy Limit for Short-Term Rentals*).
- (C) Except for a short-term rental use described in Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*), 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(G)(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, Division 1, Subpart C (*Requirements for Short-Term Rental Uses*). The use does not include an extension for less than 30 consecutive days of a previously existing rental agreement of 30 consecutive days or more. The use does not include a rental between parties to the sale of that residential dwelling unit.

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

1301 Inspections.

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

1307 License Suspension.

- (A) Except as provided in subsections (D) and (E), w[~~W~~] whenever the code official finds on inspection of the physical premises or review of applicable records of any boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment that conditions or practices exist that violate any provision of the International Property Maintenance Code, City Code, or any rule or regulation adopted under this Code, or that the establishment has failed to comply with any provision, prohibition, or requirement related to the registration, reporting, collection, segregation, accounting, disclosure, or payment of local hotel occupancy taxes, the code official shall give written notice to the owner of the property and the operator of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment

that unless the violations are corrected by an identified deadline, the license shall be suspended.

- (B) At the end of the time provided for correction of the violation(s), the code official shall re-inspect the location or records of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment and, if the conditions or practices have not been corrected, shall suspend the license 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 two or more 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 a license as described in subsection (E), the code official shall consider the frequency of the substantiated 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.

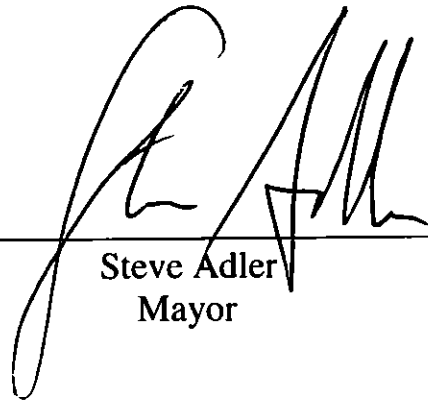
PART 8. Because of the amendments set forth in Parts 4 and 5 of this Ordinance, Council finds it is not necessary to set or hold the public hearing described in Ordinance No. 20151112-078 and waives the requirement.

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 March 5, 2016.

PASSED AND APPROVED

February 23, 2016

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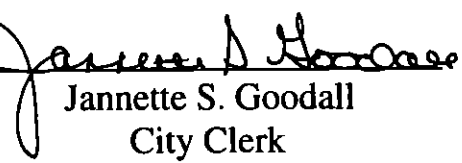
Steve Adler
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk