

ORDINANCE NO. 20130926-144

AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-2 AND 25-12 RELATING TO THE REGULATION OF SHORT-TERM RENTAL RESIDENTIAL USES AND OTHER REGULATED LODGING ESTABLISHMENTS; AUTHORIZING THE LIMITED REFUND OR CREDIT FOR CERTAIN FEES PAID; AND WAIVING THE REVIEW REQUIREMENT OF SECTION 25-1-502.

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

PART 1. City Code Section 25-2-491 (*Permitted, Conditional, and Prohibited Uses*) is amended to amend the chart in Subsection (C) as follows:

Short-term rental use is a permitted use in the following base districts:

- Lake Austin residence (LA)
- rural residence (RR)
- single-family residence large lot (SF-1)
- single-family residence standard lot (SF-2)
- family residence (SF-3)
- single-family residence small lot (SF-4A)
- single-family residence condominium site (SF-4B)
- urban family residence (SF-5)
- townhouse and condominium residence (SF-6)
- multifamily residence limited density (MF-1)
- multifamily residence low density (MF-2)
- multifamily residence medium density (MF-3)
- multifamily residence moderate-high density (MF-4)
- multifamily residence high density (MF-5)
- multifamily residence highest density (MF-6)
- 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 2. City Code Chapter 25-2, Subchapter C, Article 4, Division 1 (*Residential Uses*) is amended to amend Subpart C (*Requirements for Short-Term Rental Uses*) to read as follows:

Subpart C. Requirements for Short-Term Rental Uses.

§ 25-2-788 SHORT-TERM RENTAL (TYPE 1) 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 use;]~~ and

(2) is owner-occupied or is 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, unless all of the following conditions are met:

(a) a partial unit must at a minimum include the exclusive use of a sleeping room and shared use of a full bathroom;

(b) the owner is generally present at the licensed short-term rental property for the duration of any short-term rental of a partial unit;

(c) not more than one partial unit at the property is simultaneously rented for any period less than 30 consecutive days; and

(d) rental of the partial unit is limited to a single party of individuals;

(2) operate without a license as required by Section 25-2-791[0] (*License Requirements*); or

(3) operate without providing notification to renters as required by Section 25-2-792[4] (*Notification Requirements*).

~~[(C) For a short-term rental use under this section, a secondary residential unit on the same property may be rented for periods of less than 30 consecutive days for an annual total of more than 90 days.]~~

§ 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 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[0] (*License Requirements*); or
 - (3) operate without providing notification to renters as required by Section 25-2-792[4] (*Notification Requirements*).

§ 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 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[0] LICENSE REQUIREMENTS.

- (A) This section applies to a license required under Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*), ~~and~~ 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 provided for that purpose by the director. The application must include the following:
- (1) a fee established by separate ordinance;
 - (2) the name, street address, mailing address, [~~facsimile number,~~] and telephone number of the owner of the property;
 - (3) the name, street address, mailing address, [~~facsimile number,~~] and telephone number of a local responsible contact 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) 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*), [~~or~~] 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 (Type 2) uses as determined by the Director under Section 25-2-793[2] (*Determination of Short-Term Rental Density*); and
 - (a) [~~(4)~~] the structure has[:] [~~(a)~~] a valid certificate of occupancy or compliance, as required by Chapter 25-1, Article 9 (*Certificates of Compliance and Occupancy*); 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*); 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*); 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.

(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) A license may be renewed annually if the owner:

- (1) pays a renewal fee established by separate ordinance;
- (2) provides documentation showing that hotel occupancy taxes have been paid for the licensed unit [property] as required by Section 11-2-4 (*Quarterly Reports; Payments*) for the previous year; and

- (3) provides updates of any changes to the information required under Subsection (B) of this section.
- (F) 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) 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.

§ 25-2-792[1] NOTIFICATION REQUIREMENTS.

- (A) The director shall provide a packet of information with each license summarizing the restrictions applicable to the 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 25-2-511 (*Dwelling Unit Occupancy Limit*);
 - (3) restrictions on noise applicable under 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 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 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 owner or operator's expense.

§ 25-2-793[2] DETERMINATION OF SHORT-TERM RENTAL DENSITY.

- (A) The director shall determine on an annual basis the total number of single-family, detached residential structures within each census tract and use that number to calculate the maximum number of licenses for Type 2 short-term rentals that may be issued under Section 25-2-790 (*Registration Requirements*).
- (B) The determination required under Subsection (A) of this section shall be based on the most current utility [~~county tax~~] records for each census tract within the zoning jurisdiction and may not be revised until the next annual determination is made.
- (C) For a short-term rental use regulated under Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), the Director shall determine based on active license records following receipt of an application that complies with the requirements of Section 25-2-791(B) (*License Requirements*) whether issuance of the license would result in the short-term rental use of more than 3% of the total number of dwelling units at the property or more than 3% of the total number of dwelling units within any building or detached structure at the property.
- (D) For a short-term rental use regulated under Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), one short-term rental (Type 2) license per census tract may be permitted if no other property within the census tract is currently licensed as a short-term rental (Type 2) use and the use complies with all other license requirements, even if approval of a single Type 2 license in the census tract would otherwise exceed the density cap under Subsection (A) or (B) of this section or fail to meet the standard of Section 25-2-791(C)(3).
- (E) For a short-term rental use regulated under Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), one short-term rental (Type 3) license per property may be permitted if no other dwelling unit or structure in the building or at the property is currently licensed as a short-term rental (Type 3) use and the use complies with all other license requirements, even if approval of a single Type 3 for the building or property would otherwise exceed the density

cap under Subsection (C) of this section or fail to meet the standard of Section 25-2-791(C)(4).

PART 3. City Code Section 25-12-213 (*Local Amendments to International Property Maintenance Code*), as adopted by Ordinance No. 20130926-145, is amended to add a new Chapter 13 as a local amendment to the Property Maintenance Code, to read as follows:

CHAPTER 13

REGULATED LODGING ESTABLISHMENTS

1301 INSPECTIONS

The code official shall make inspections to determine the condition of 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 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.

1302 LICENSES AND PERMITS REQUIRED

No person may operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment unless a license for the operation, in the name of the owner or operator and for the specific dwelling unit, partial unit, accessory unit, building, structure, or property used, has been issued by the code official and is currently valid and in good standing. Unless specifically exempted by the provisions of Chapter 10-3 (*Food and Food Handlers*) of the City Code, each regulated lodging establishment that provides meals or food service is required to have a permit as a food service establishment issued by the Health Authority.

1303 LEASING, RENTING, OR ADVERTISING UNITS OR ROOMS IN AN UNLICENSED HOTEL, BOARDING HOUSE, ROOMING HOUSE, SHORT-TERM RENTAL, OR BED AND BREAKFAST ESTABLISHMENT IS AN OFFENSE

(A) An owner, manager, operator, or person in control of a hotel, boarding house, rooming house, short-term rental, or bed and breakfast establishment commits an offense if the owner or other person leases, rents, advertises, promotes, or otherwise solicits or induces occupancy of a room, structure, dwelling unit, or partial unit in a hotel, boarding house, rooming house, short-term rental, or bed and breakfast establishment which does

not have a valid license issued and displayed as required by this chapter or as required by Title 25 of City Code (*Land Development*).

(B) A person may not advertise or promote a licensed establishment without including the license number assigned to the establishment by the city in the advertisement or promotion.

(C) Each day that an owner, manager, operator, or other person in control of the property leases, rents, advertises, promotes, or otherwise solicits or induces occupancy of a room in a hotel, boarding house, rooming house, short-term rental, or bed and breakfast establishment which does not have a valid license issued, disclosed, and displayed as required by this chapter is a separate occurrence. An offense under this section is a class C misdemeanor, punishable by a fine not to exceed \$500 per offense, per occurrence, unless proof of a culpable mental state is proven. If proof of a culpable mental state is demonstrated, an offense under this section is punishable by a fine not to exceed \$2,000 per occurrence.

(D) It is an affirmative defense to a violation of Section 1304 charging a person with advertisement or promotion of an unlicensed establishment that the advertisement or promotion of the unlicensed establishment identified the establishment address and conspicuously disclosed that reservation, occupancy, or rental of the facility is contingent on a pending city licensure application.

1304 APPLICATION

An application for a license required by this chapter at minimum must be in writing and submitted to the code official. To be considered complete, the application must include all information and documentation required by the Land Development Code regulations specific to the use type or indicated as required by the code official and this code.

1305 FEE

Each application for a rooming house, hotel, motel, boarding house, short-term rental, or bed and breakfast establishment license must be accompanied by the payment of a fee in an amount established by separate ordinance. Except for payment of the fee due for a short-term rental, a regulated lodging establishment fee shall be pro-rated on a quarterly basis.

1306 ISSUANCE

A boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment license shall be issued by the code official after the code official determines that the owner or operator has complied with all applicable ordinances and rules. A license shall not be issued or renewed by the code official for any applicant or

location in the absence of proof of the applicant or location's substantial compliance with all applicable local hotel occupancy tax rules and regulations.

1307 LICENSE SUSPENSION

(A) 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.

1308 APPEAL FROM LICENSE SUSPENSION OR DENIAL

The following actions of the code official may be appealed to the Building and Standards Commission as provided in this Code:

1. the denial of an application for a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment;
2. the suspension of a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment; and
3. the issuance of a notice that a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment will be suspended unless existing conditions or practices are corrected.

An appeal filed under this section must be filed with the code official no later than the 20th day following the date on which the license was denied or suspended, or notice of violation was received. The appeal must identify each alleged point of error, facts and evidence supporting the appeal, reasons why the action of the code official should be set aside, modified, or reversed, and must be sworn. The appeal must be set for hearing before the Commission on the next available agenda date following receipt of the appeal and must be heard following setting on the scheduled agenda if a quorum is present at the hearing, unless the appellant requests a later date and waives the scheduled hearing.

1309 EXPIRATION

(A) Each rooming house, boarding house, hotel, motel, or bed and breakfast establishment license expires at the end of the calendar year for which the license is issued, unless prior to the end of the calendar year, the license is voided, suspended, or revoked as provided in this chapter, as provided in another section of City Code, or by court order, or other operation of law.

(B) Each short-term rental establishment license expires one year from the date the license is issued, unless prior to the end of one year from the date the license is issued, the license is voided, suspended, or revoked as provided in this chapter, as provided in another section of City Code, or by court order, or other operation of law.

1310 TRANSFER AND NOTICE ON SALE OF PREMISES

A license issued under this chapter is not transferable. Every person holding a license shall give written notice to the code official no later than 10 days before the conveyance, transfer, or any other disposition of the ownership of, interest in, or control of any boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment. The notice must include the name and address of the person succeeding to the ownership or control of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment.

1311 DISPLAY

The license required by this chapter must be displayed at all times in a conspicuous place designated by the code official within each boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment.

PART 4. For 90 days following the effective date of this ordinance, a short-term rental (Type 3) application submitted under Section 25-2-791 (*License Requirements*) is exempt from short-term rental density caps if the director determines that use of the dwelling unit or partial unit as a short term rental existed before September 26, 2013.

PART 5. Council approves and directs the City Manager to process a one-time refund, or to provide a one-time credit against a license renewal fee, in the total amount of

\$191.00 per license as applicable to any short-term rental (Type 1) or short-term rental (Type 2) license holder who demonstrates that the person paid the City the short-term rental application notification fee in full on a date when the fee charged by the City for such notification was \$241.00 per license and prior to the date when the notification fee was reduced by the City to \$50.00 per license, and who attests that the person is not currently in arrears for payment to the City of hotel occupancy taxes on the licensed property, or otherwise in noncompliance with respect to any other City requirement relating to, hotel occupancy tax collection, reporting, bill or receipt disclosure, account segregation, or timely payment for taxes on the licensed use.

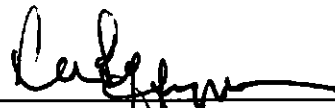
PART 6. The council waives the requirement for technical board review under City Code Section 25-1-502 (*Amendment; Review*).

PART 7. This ordinance takes effect on January 1, 2014.

PASSED AND APPROVED

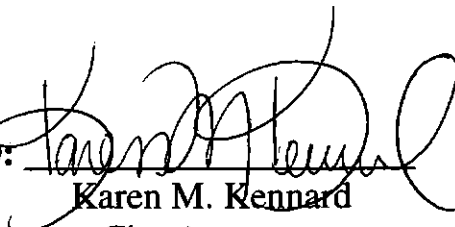
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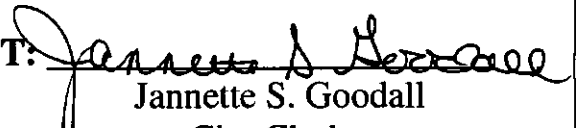
Le Leffingwell
Mayor

APPROVED:



Karen M. Kennard
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk