

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.

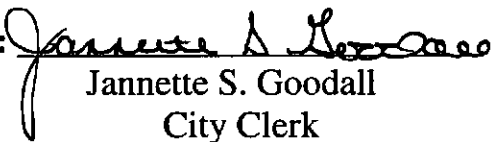
7. Add a non-compliance penalty for operating without a license and with an expired license
 - a. Type 1 the penalty should equal at least the cost of a license; and

- 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