



Sandy City Council Office

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MEMORANDUM

March 26, 2024

To: City Council Members

CC: Monica Zoltanski, Mayor
Shane Pace, CAO
Dustin Fratto, Council Executive Director
Lynn Pace, City Attorney
James Sorensen, Community Development Director

From: Zach Robinson, Council District 3

Subject: First Reading: Proposed amendments to the Sandy Short Term Rental (STR) Ordinance

BACKGROUND

I am writing to solicit your valuable feedback on a series of proposals that I have been developing aimed at enhancing the processes and regulatory framework associated with Short-Term Rentals (“STRs”). These ideas have been crafted in collaboration with our city council staff, with the objective of refining our approach to STR oversight. In Sandy City, the short-term rental market has precipitated a host of neighborhood challenges. Noise complaints have surged, with late-night parties, and disruptive guests in residential areas. Additional vehicles driven by short-term renters have caused parking issues throughout our community. There are also many STR’s that do not have a business license in Sandy. Adding to these problems is a challenging process for governing, monitoring, and regulating short-term rentals. Together, these issues present a complex challenge for Sandy City’s residents and government.

The objective here is to improve the regulatory framework that is transparent and facilitates greater compliance, thereby seeking to minimize instances of operations circumventing legal requirements. This proposal aims to reduce disturbances, ensure operations adhere to established laws, and enhance protections for community members so that they may more peacefully enjoy their neighborhoods. The proposal additionally seeks to enhance the safety of guests residing in STRs.

This evening my intention is to gather input and feedback on my proposal. I will then take that feedback and work with council and city staff to develop a final proposal that I will present to the council for its consideration during a second reading. As many of my suggested amendments are related to the land development code, there may be some additional steps and review required

in front of the Planning Commission. I will be sure to remember that when deciding what action(s) to request from the council during the second reading.

PROPOSED AMENDMENTS TO THE CURRENT CODE

Below you'll find an overview of my proposed amendments to two specific sections of our municipal code: Section 21-11-26, titled "*Residential Short-Term Rental (STR) Special Use Standards*," and Chapter 15-11, which focuses on "*Short-Term Rental Business License Standards*." These revisions seek to address and refine the regulatory framework governing short-term rentals, ensuring it aligns with current needs and practices.

1. Enhancements in Education and Informing Stakeholders: Under this proposal, prior to the submission of an application, the proprietor of a prospective STR property shall be required to complete a class or watch a short City-developed education video. This prerequisite aims to elevate the standard of STR operations by equipping owners with essential knowledge and policies of the City.
2. Improved Noticing and Posting Requirements: Amendments are proposed to refine the clarity and efficacy of notices, communications, and the dissemination of contact information pertaining to STR owners. This includes the incorporation of technical improvements that ensure all relevant information is posted accessibly and transparently within the STR unit. Additionally, the proposal will integrate explicit references to current ordinances prohibiting parking during designated snow events or throughout the winter season, thereby addressing a critical aspect of community concern.
3. Refinement of the Business License Process: The proposal advocates for a change in the business license procedure for STR. Instead of a static, one-time submission of information, it necessitates the periodic certification of critical details, such as proof of home ownership and residency, on an annual basis.
4. Expansion of Permit Allocation: The proposed amendment seeks to increase the cap on STR permits, with the objective of encouraging compliance. This initiative reflects a pragmatic approach to regularization.
5. Feasibility Study of Third-Party Software for STR Management: This consideration is spurred by Salt Lake City's recent acquisition of a third-party monitoring system, the outcomes of which are yet to be evaluated. By examining tools like GovOS Short-Term Rental Solution or Granicus, the study aims to determine their efficacy in verifying compliance with permits and licenses, conducting regulatory inspections, and managing STR activities efficiently.
6. Diversification of STR Business Licensing Framework: This proposal recommends a comprehensive review to evaluate the feasibility of varied types of business licenses for STRs. Key considerations include the potential for issuing temporary permits in scenarios where permanent licenses are pending or not available, and whether prior temporary

operation as an STR should be a prerequisite for license application review. Furthermore, I am interested in exploring a tiered licensing system, distinguishing between owner-occupied STRs and those operated remotely by non-resident owners (which are presently operating but not legally authorized). Specially, I am contemplating a difference between stand-alone STR rentals, wherein an entire non-owner-occupied dwelling is offered for rent; and partial STR rentals, wherein only certain portions of an owner-occupied dwelling are offered for rent.

7. Mandating Display of City Issued STR License Number on Listings: This proposal maintains but simplifies the existing requirement that the STR license number be listed in all online listing service advertisements. This measure aims to enhance transparency and facilitate regulatory compliance verification. By linking listings directly to their respective licenses, this initiative seeks to ensure that only legally sanctioned STRs are accessible to consumers, thereby promoting a more accountable and secure rental market environment for renters.
8. Strengthening Administrative Capacity to Address STR Violations: This proposal advocates for an administrative enforcement mechanism that could lead to the revocation of an STR license or necessitate the owner's participation in an administrative process. I hope to review and streamline our current administrative enforcement system, which remains underutilized. See below.
9. Implementation of Compliance Certification Requirement: This proposal requires the inclusion of a compliance certification within the application process for an STR license. This certification, to be signed by the STR owner, affirms the owner's commitment to adhere to the ordinance's terms and conditions and to ensure that renters do likewise.
10. Enhanced Noise and Nuisance Regulation: This proposal seeks to enforce noise and nuisance control for STRs by requiring owners to ensure that renters are informed and compliant with Chapter 13-2: Noise Control and Salt Lake County Health Department Health Regulation No. 21: Community Noise Pollution Control.
11. Code Revision and Clean-Up: Among the suggested changes is the reconsideration of the stipulation that an STR dwelling may not be rented out for more than one hundred eighty-two (182) nights per year. This particular requirement should be reviewed for its necessity and relevance.
12. Administrative Authority: This policy proposal seeks to empower the Administration with broad authority to develop and implement any policies and procedures it finds necessary for the effective enforcement of the STR ordinance.

ENFORCEMENT

The enforcement of regulations on STRs is inherently complex. Concerning enforcement, three primary strategies emerge, each presenting a distinct approach to addressing this challenge.

The first option (and the option primarily relied upon now) is to prosecute violations criminally. For many reasons this approach is problematic. The issue of whether to resort to criminal prosecution for this type of behavior, especially when alternative remedial options exist, presents a complex policy question.

The second option available to regulate and enforce short-term rentals is to file a civil complaint in District Court. Civil proceedings require a lower standard to obtain a favorable verdict. However, the civil proceedings option also has its drawbacks. Civil proceedings tend to take much more time than criminal cases. Additionally, civil proceedings often involve more expensive legal processes and more legal personnel than required in criminal proceedings.

Given that the criminal process requires a higher standard of evidence and places a strain on existing legal and law enforcement resources, and that civil actions may consume considerable time and financial resources, an administrative hearing process may be more favorable. The third option available to regulate and enforce short-term rentals is to submit short-term rental complaints and violations to an Administrative Law Judge (“ALJ”) for review and correction.¹

An administrative process would likely be more effective. However, an established administrative review process can become complex and requires the creation and maintenance of a dedicated administrative body. An administrative solution would require the City to hire an ALJ, establish a clear process for violations including providing appropriate notice to an applicant in violation, establishing which City personnel will be responsible for submitting violations to the ALJ, scheduling hearings, etc. In fact, in 2018, the Council² engaged in a comprehensive and meticulous debate over matters concerning the issue of enforcement. After an exhaustive deliberation and debate that scrutinized various facets and implications, the Council arrived at a consensus to implement a policy. This policy sought to standardize administrative procedures of enforcement and review, thereby obviating subjective interpretation and ensuring a more uniform application of the law.

In Section 1-4-8 of the Sandy City Code, the process for appointing an Administrative Hearing Officer has been clearly outlined and stipulates specific qualifications for the appointee. Section 1-4-8(a)-(b) states:

The Mayor, with the consent of the City Council, *shall* appoint an administrative hearing officer to preside over administrative hearings and issue administrative orders. A person appointed to serve as an administrative hearing officer shall either be law trained or have significant experience with the requirements and operation of administrative hearing processes. The person shall be free from any bias or conflict of interest that might affect impartiality of decisions.³

This codification ensures that the administrative hearing officer possesses either legal training or substantial experience in administrative hearing processes, thereby guaranteeing a level

¹ In the Sandy City Code an ALJ is referred to as an administrative hearing officer.

² It is noteworthy that this legal framework for appointment was reviewed and approved by the Council and Mayor on October 26, 2018, under Ordinance No. 18-32.

³ See Ord. No. 18-32, § 1(1-8), 10-26-2018, (Emphasis added).

of expertise and impartiality essential for the role. The adoption of this policy reflects the Council's commitment to upholding equitable governance, while assiduously considering the complexities and nuances of the issues at hand.

From a practical standpoint, the planning department has encountered difficulties in finding an individual who fulfills the qualifications specified in the Code. Philosophical considerations also come into play, as there exists an ongoing debate concerning the role and necessity of an administrative hearing officer within the municipal framework.

Additionally, fiscal constraints have contributed to the hesitation, raising questions about cost-effectiveness. In recent years, the revenue generated from sales taxes on short-term rentals (STRs) has shown an increase, with amounts totaling \$163,000 and \$207,000 in the last two years respectively. This tax revenue is collected through the State Tax Commission, with the largest contributions coming from prominent platforms such as Airbnb, Travelocity, VRBO, and Hotels.com, in addition to a range of smaller, miscellaneous sources. It is important to note that all short-term rentals are obligated to remit taxes to the State Tax Commission, regardless of whether they have been officially permitted by the city.

From my perspective, a designated portion of these funds should be allocated towards educational and enforcement initiatives. Such allocation may effectively address and mitigate the impact of STR usage on the community, ensuring that both residents and visitors benefit from a well-regulated and informed short-term rental environment.

CONCLUSION

I am eagerly anticipating the opportunity to present the proposed amendments to the city council for your review. My hope is that you will provide valuable feedback and suggestions for improvement, aimed at effectively addressing and mitigating the issues associated with short-term rentals in our community. With your feedback I will bring back a final draft of proposed amendments for council consideration during a second reading.