



Sandy City Council Office

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Memorandum

August 21, 2018

To: Council Members

From: Dustin Fratto, City Council Management Analyst

Subject: Frequently asked questions about the proposed STR Ordinance

Council,

From the Council, the Planning Commission, and the public a few reoccurring questions are consistently coming up regarding the proposed STR ordinance.

Why is Sandy City legalizing short term rentals, why not keep them illegal?

In early 2017 Rep. John Knotwell approached the City Council with a report on proposed state level legislation that would remove the ability of local governments, like Cities and Counties to regulate STR's. In fact, had the legislation been taken up during the legislative session, and passed, Sandy would have had to legalize STR's in accordance with whatever requirements were handed down by the State. Local government representatives from around Utah negotiated with Rep. Knotwell and he agreed to withhold his legislation so long as local government agencies began legalizing STR's on their own terms. If they didn't, then the state legislation removing the ability of local government agencies to regulate STR's would be brought back to the legislature during a future legislative session. If Sandy City doesn't legalize and begin regulating STR's, there's a good chance that we will lose the ability to regulate them at all, putting our residents and neighborhoods in a potentially precarious position.

Presently somewhere between 230 – 300 STR's are illegally operating within Sandy City. Unfortunately, the City doesn't have the right tools to effectively locate illegally operating STR's and bring them into compliance with the Sandy City Code. This has led to an enforcement by complaint model out of necessity, that is, the only STR's that are being approached by code enforcement are those that have been turned in by a concerned citizen. Adopting the proposed ordinance will help provide the necessary funding (through business license fees and citations paid by STR operators) to obtain



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the appropriate tools that will allow our code enforcement officers to effectively locate, and monitor STR operators in Sandy City. It will also provide our officers with the right enforcement tools to bring operators into compliance with the City Code when necessary. This will be a huge benefit to Sandy residents, not only will “bad STR operators” be prevented from operating, but officers will be much more able to prevent them from disrupting both the character of the community and nearby neighbors, “good STR operators” will be able to continue business as usual. In short, while adopting the proposed ordinance will legalize some STR’s in Sandy City, it will also allow the City to much more effectively monitor them, thus protecting the residents from the potentially negative impacts of illegally operating STR’s.

The fines associated with STR’s are too low, can’t the City increase them?

Many Sandy residents have approached staff worried that the \$500–1000 proposed fines associated with STR’s are too low and won’t discourage bad STR operators. The State of Utah has placed a limit of \$1000 fine per occurrence in place for this type of offense. However, the proposed STR ordinance classifies each day that an offense continues as a separate occurrence and requires a \$500–1000 fine per day. If an operator doesn’t fix the problem after 2 days, then the fine doubles; after 3 days, it triples, etc. As you can imagine this has the potential to add up quickly getting the attention of the offender and encouraging compliance.

How was the cap calculated, is it an arbitrary number?

Until a proposed ordinance is passed and applications for STR permits begin coming in it’s difficult to accurately calculate the true demand for STR’s in Sandy City.

Furthermore, there isn’t a paper we can read or an example we can follow in terms of calculating the best cap for our City. However, the cap that is being proposed in this ordinance is far from arbitrary. It’s being recommended by staff based upon projected demand for STR’s. The projected demand is being estimated using independent reports from two private STR compliance contractors, Host Compliance and STR Helper. Each has provided staff with a report that includes the number of STR’s operating in Sandy City, both fall within the range of 200–300 depending upon the time of year.

With a projected demand calculation in place, staff developed a STR permit to dwelling unit ratio that will allow the majority of currently operating STR’s to get a permit without exceeding the number of STR’s currently operating. This ratio turned out to be 1 STR permit for every 100 dwelling units in each of the Cities 30 Communities plus an



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additional 2 STR permits per community, for a grand total of approximately 298 STR permits citywide. Staff believes that this number will meet the initial demand for STR permits without risking a significant increase in the number of STR's currently operating. The number of total permits will be recalculated biennially to compensate for new growth.

Why are the proof of primary residency requirements so stringent?

Primary residency is a key requirement of the proposed STR ordinance. In the opinion of City Council staff, it is the requirement that most ensures the purpose of the ordinance will be fulfilled. For this reason, the City's ability to ensure that any dwelling being utilized as a STR is both owned by and is the primary residence of the operator is of the utmost importance. The proposed ordinance requires that any applicant for an STR permit present to the City each of the following:

1. The applicants most recent state and federal tax returns both listing the property as the applicants' primary residence.

Copies of these DO NOT need to be left with the City. The City employee reviewing the application for an STR permit must visually confirm that the primary residence requirement has been met by looking at the applicants' tax returns. The tax returns are the actual verification of primary residency.

2. A government issued identification document listing the address of the property as the address of the applicant.

Identification confirms that the applicant is the same person listed on the tax returns from item 1. Without identification as a requirement, an applicant could potentially provide tax returns that are not their own to be issued a STR permit. It's important to note that government issued identification alone does not prove PRIMARY residency, but only residency in general.

3. An affidavit signed by the applicant stating that the proposed property is the primary residence of the owner.

This signed document is the evidence that the City will use, if necessary, to prove that an applicant understood and promised to adhere to the owner



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occupancy and primary residency requirement. Without this the City is harder pressed to enforce the owner occupancy requirement.

All three of these documents are necessary in proving and enforcing the owner occupancy and primary residency requirements. In Publication 523 the Internal Revenue Service states:

“An individual has only one main home at a time. If you own and live in just one home, then that property is your main home. If you own or live in more than one home, then you must apply a “facts and circumstances” test to determine which property is your main home. While the most important factor is where you spend the most time, other factors are relevant as well.”

There are various questions included in the facts and circumstances test, only one of which both will prove the 183-day residency requirement included in the proposed STR ordinance and speak to the “most important factor” listed above, where does the applicant spend the most time:

“What is the address listed on your federal and state tax returns.”

For the reasons mentioned, each of the three documents required to prove owner occupancy and primary residency are essential to the success of the proposed STR ordinance. Staff encourages the Council to maintain the recommended requirements as stated in the proposed ordinance.