



## MEMORANDUM

**To:** Mayor and City Council

**From:** Mindi Hurley, Director of Community Development

**Date:** April 10, 2018

**Reference:** Discussion on Short Term Rentals (STR's)

**2030:** Sense of Community, Special Place to Live

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### Executive Summary:

The city has been receiving complaints and inquiries as to the existence of, and regulations for, Short Term Rentals (STR's) within our residential neighborhoods. There appears to be 26 STR's listed in the City of Coppell, which include individual rooms as well as entire homes. Staff has received complaints from neighbors on a few of them over the past several months.

During the last Texas legislative session, SB 451 was proposed that would have prevented Texas Cities from banning STR's. That legislation was never enacted. However, last year the City of Austin's STR regulations were challenged in court, including legality of classifying STR's as commercial uses (see attached Article from TribTalk, 9/22/17). This ruling was appealed, and the case is still pending. Recently, regulations of Short Term Rentals have been addressed in a variety of ways in various cities in the State of Texas. The following is a summary of the existing regulations which range from out-right prohibition to the actual licensing of these uses. It must be noted that given the newness of these ordinances, the effectiveness of the implementation has yet to be determined.

### Introduction:

Seven years ago, if one needed a ride and if a friend or family member was not available, calling a taxi or similar company shuttle service were the only options. Now, given our sharing economy, we arrange rides in stranger's vehicle through apps such as Uber and Lyft. Similarly, in the not too distant past when traveling, housing options were generally staying with a friend, family or a hotel (not necessary in that order). Now, with advance of the internet and websites such as Airbnb.com and HomeAway.com it has suddenly become possible for people to advertise and rent out their homes and spare bedrooms to complete strangers from far-away with a few mouse-clicks or taps on a smartphone screen. As a result, the number of homes listed for short-term rent has grown to about 4 million, a 10-fold increase over the last 5 years<sup>1</sup>

### Analysis:

Staff initially surveyed the cities in close proximity to DFW Airport to determine how they were regulating Short Term Rentals (STR's). The following cities DO NOT have STR ordinances:

Grapevine  
Irving  
Carrollton  
Colleyville  
Lewisville  
Richardson

While not adopting a specific ordinance, The **City of Keller** classifies Short Term Rentals as *Bed and Breakfast (tourist homes)* which require SUP's (public hearing process). Keller's staff verified that no one has made an application for this use. Although it appears from Airbnb's website there are at least several properties currently listed in Keller.

February 6, 2018, The **City of Southlake** adopted Ordinance No. 1187 (attached) which *prohibits* Short Term Rentals, being defined as "the rental of any residence or residential structure or portion of a residence or residential structure for a period of less than 30 days".

Southlake City Council held two work sessions to receive public input on STR's and provided a "STR" Page on the City's website to keep the public informed and to allow written comments. The City received 22 written responses from the community and all, but two, were opposed to STR's in their neighborhood.

At Southlake's November Council work session Staff presented three options:

- Option 1 – Prohibition of STR's
- Option 2 – Amend the Codes to establish procedures for inspection, registration and permitting STR's (including CO's, life safety inspections, requiring operators to inform renters about all codes relating to noise, property maintenance, provide 24-hour contacts, etc.)
- Option 3 – Regulate STR's under existing zoning/noise ordinances, classifying as a Bed and Breakfast which are prohibited in single family areas and enforcing the definition of family (up to 5 unrelated living together on a non-profit basis).

Again, Southlake now has an ordinance prohibiting this use. It is too early to evaluate the implementation and enforcement issues.

**City of San Marcos** passed an Ordinance in August of 2017, (summary attached) which provides for the on-line *registration* of STR's, but no inspections, etc. Staff spoke with Matt Johnson, Planner with the City of San Marcos and he explained that this ordinance was written in response to one problem property in their Historic District, and shared the following:

- Since the ordinance was passed, they have been sending letters to known STR's with ordinance provisions enclosed, and requesting that they register. So far, they sent 50 letters, and received 8 responses.
- Staff researches the location of STR's through social media and once they determine location, they cross reference with CAD to make sure that it is their primary residence.
- STR's are limited to primary residences only.
- They must pay hotel/motel taxes.
- Yearly registration - \$50.00 fee this process is all on-line, no inspections, etc.
- Limits the occupancy to two adults per bedroom plus two adults.

They have not yet enforced/monitored compliance with this ordinance.

The on February 6<sup>th</sup> of this year of the **City of Fort Worth** approved an ordinance which essentially prohibits STR's from their single and two family residential districts.

The **City of Austin** has the most robust ordinance, where they define three types of STR's, Type 1- owner occupied homes, Type 2- not owner occupied and Type 3 - multifamily and commercial. The STRs are *licensed* by the city and require proof of insurance, Hotel/Motel taxes and a Certificate of Occupancy after a certified, 3<sup>rd</sup> party inspection. There is also a provision that the non-owner occupied STR's they comprise no more than 3% of all units in a census tract. Notification is given to all properties within 100 feet of a short-term rental. There are also requirements for items such as noise not exceeding 75 decibels, restrictions on outside assembly, not more than two adults per bedroom plus two adults, etc. (summary of regulations attached). Again, these regulations have been challenged in court.

Finally, attached is the "*A Practical Guide to Effectively Regulating Short-Term Rentals on the Local Government Level*" which contains key elements to be considered when preparing a Short-Term Rental Ordinance and recommend only adopt requirements that can be enforced and provide clarity in the rules and regulations both for the property owner and the enforcement personnel. This company also provides educational resources as well as third-party services for identification and monitoring of STR activities for municipalities.

## **Ordinance Creation and Enforcement**

Staff's research brings to light some of the practical requirements and challenges of creating and enforcing a Short Term Rental Registration Program. While the City does have the infrastructure in place to capture registrations and collect fees, enforcement remains a difficulty to cities seeking to implement short-term rental rules. Vacation rental websites generally do not list a physical address, just an approximate location and photos that may or may not serve to identify the house. Attempting to confirm an STR location with enough certainty for legal enforcement can be very time consuming, even impossible for some listings. Staff time (primarily Code Compliance) would be the largest cost to the City for implementing such a program. However, staff has communicated with an outside agency that can search out STRs for us and initiate notice regarding registration for a nominal fee.

The attached article "*A Practical Guide to Effectively Regulating Short-Term Rentals on the Local Government Level*" outlines some "best practices" for creating an STR registration program. What a STR program *can* do is establish annual registration requirements; clearly define all terms used in the ordinance; set fees and fines; determine who can rent out their property as an STR (i.e. permanent residency requirement); require the owner to provide a local, 24/7 contact number in case problems arise; establish tax requirements; limit the number of occupants; set parking regulations and limit vehicles; educate owners on noise, trash, and other nuisance ordinances, and require that they educate their renters; address the use or advertisement of a premises for purposes other than lodging (event/party or commercial uses); establish clear penalties that are sufficient to deter noncompliance, including loss of STR registration. A registration program can also be used to regulate the density of STR uses in neighborhoods verify that STR properties are safe and insure the hotel taxes are paid. What a STR registration program *cannot* do is regulate who stays at the premises.

## **Summary**

As the city cannot control *who* rents any short or long-term property, it is inherent upon the city to control/regulate activities which occur outside the dwelling which could impact neighboring properties, such as noise, trash, parking, property maintenance, etc. While many of these are addressed by our existing ordinances, in the event the City of Coppel intends to adopt regulations (permitting or licensing of the STR's) setting out the rules and providing them to the potential tenants is essential, as well as contact information for a local responsible party in the event violations occur. Other issues to be considered would be to require that these are requiring the STR's to be the owner's permanent residence, regulating number of occupants, limiting the number of vehicles, insuring the payment of Hotel Motel Tax, etc.

## **Legal Review:**

City Attorney review is not required at this time.

## **Fiscal Impact:**

None

## **Recommendation:**

The Planning Department is seeking guidance from the City Council on next steps.

## **Attachments:**

1. Article from TribTalk, 9/22/17
2. City of Southlake Ordinance 1187, effectively prohibiting STR's
3. STR Brochure from the City of San Marcos
4. City of Austin STR regulations
5. *<sup>1</sup>A Practical Guide to Effectively Regulating Short-term Rentals*