

To the Mayor and Members of the City Council

December 7, 2021

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**SUBJECT: Short-Term Rentals**

This report provides information regarding current regulations and enforcement of short-term rental (STR) in Fort Worth and information on the regulation of STRs by other cities in Texas. Short-term rentals are dwelling units where compensation is received for overnight lodging for 1 to 30 days.

ZONING

Prior to 2018, short-term rentals were not defined, expressly allowed or listed in the Zoning Ordinance and were treated as analogous to a hotel or motel use. In February 2018, the City Council adopted Ordinance No. 23110-02-2018 which provided a definition for short-term rental and amended the land use tables to indicate in which zoning districts short term rentals are allowed by right. Currently, STRs are allowed in all mixed-use and most form-based districts, commercial (E-G), and industrial districts (I-K) with a Certificate of Occupancy. STRs are not allowed in residential districts (A-UR).

A property owner seeking to operate a short-term rental in a residential district is required to submit a rezoning application for a planned development district to add the use of short-term rental. The City has not received any rezoning applications for short-term rental.

ENFORCEMENT

The Code Compliance Department investigates citizen-initiated complaints regarding short-term rentals. While some complaints are received for previous short-term rental violators, most complaints are generated due to nuisance activity occurring during the renter's stay, such as parties, noise and trash. When complaints are received in residential districts, the property owners are issued educational information advising them of the ordinance and possible enforcement actions if short-term rental activity is observed. Since most activity occurs online (bookings and payments) and within a private residence, these violations are difficult to prove. Suspected properties are monitored for activity, including online bookings, vehicle traffic and conversations with renters. When violations are observed, citations are issued to the property owners. The City cannot issue citations based on STR advertisements or online bookings alone.

Previously tracked as a general zoning violation, a separate category was created in June 2019 to track short-term rental violations. Below are the number of cases worked since the creation of this category.

- FY2019 – 23 cases (59 inspections)
- FY2020 – 52 cases (258 inspections)
- FY2021 – 71 cases (278 inspections)

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OTHER CITIES

City	Zoning	License/Permit	Insurance	Inspection	Hotel and Occupancy Tax
Fort Worth	Not allowed in residential districts; allowed in mixed-use, commercial, and industrial	N/A	N/A	N/A	Collected if paid
Austin*	3 tiers of STRs allowed in residential districts with restrictions	Renewable annual license	Required	Required	Required to be paid
Arlington*	Allowed in designated zone and in certain single-family districts based on density	Renewable annual license	Required	Required prior to issuance of license	Required to be paid
Dallas	No zoning regulations	Exempted from rental home registration program	N/A	Exempted from rental home inspection program	Required to be paid
Grapevine*	Not allowed in any zoning district	N/A	N/A	N/A	Collected if paid
San Antonio	Allowed in residential and commercial districts; Tiers based on ownership and density allowances by special exception	3-year renewable; nontransferable	Required	Required upon complaint or violation	Required to be paid

* **Litigation** – Austin, Arlington and Grapevine cases more fully explained below.

COURT CASES:

The cities of Austin, Arlington and Grapevine have been involved in litigation involving their STR regulations. Austin and Arlington allow STR in limited areas and subject to certain operating requirements, while Grapevine has a complete prohibition on STRs.

Zaatar v. City of Austin: (ordinance partially invalidated)

In November 2020, the Third Court of Appeals in Austin invalidated the City of Austin’s ban on short-term rentals of non-owner-occupied properties after 2022 because it was unconstitutionally retroactive and found unconstitutional regulations prohibiting outdoor assemblies between certain hours and a limitation on the number of persons. Austin appealed the decision but was denied cert by the Supreme Court of Texas.

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In August 2021, the Second Court of Appeals in Fort Worth denied homeowners' request for a temporary injunction to prevent Arlington from enforcing two new ordinances. The first ordinance amended Arlington's Unified Development Code to allow STRs only in certain areas of the city and the other ordinance regulated the operation of STRs. Arlington has created an STR Zone, extending one mile from their entertainment area including the stadiums, where STRs were allowed by right. Arlington also allowed STRs in residential medium-density zoning districts, residential multifamily zoning districts, and nonresidential and mixed-use zoning districts. In September 2021 the Drapers filed a petition for review of the decision with the Supreme Court of Texas.

City of Grapevine v. Muns: (pending)

In July 2021, the Second Court of Appeals held that the property owners challenging Grapevine's ordinance prohibiting STRs in the City had a vested right to lease their properties and as such supported claims to challenge the constitutionality of the prohibition on STRs and to seek injunctive relief to prevent Grapevine from enforcing the prohibition on STRs. Grapevine has filed a motion to request for a rehearing before the full panel of the Court of Appeals.

The Supreme Court of Texas is yet to render an opinion on a municipality's STR regulations or more specifically on the issue of whether a municipality can completely prohibit the use of single-family dwellings as an STR. Until an opinion is rendered or guidance is provided by the Texas Legislature, the adoption of municipal regulations on STRs remains unclear with each municipality weighing the positives and negatives associated with STRs.

For zoning questions on STRs, please contact D.J. Harrell, Development Services Director, at 817-392-8032 or Melinda Ramos, Senior Assistant City Attorney, at 817-392-7631. For enforcement questions on STRs, please contact Brandon Bennett, Code Compliance Director, at 817-392-6322.

David Cooke
City Manager