



Staff Report

File #: 17-260

Version: 1

Date: 5/22/2017

Item #: 4.a.

TO: Mayor and City Council
THROUGH: Steve Powers, City Manager
FROM: Lisa Anderson-Ogilvie, AICP,
Interim Community Development Director

SUBJECT:

Short-term rental development standards and licensing requirements

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

ISSUE:

Shall City Council direct staff to engross Ordinance Bill No. 5-17, amending the Salem Revised Code (SRC) to establish development standards and licensing requirements for short-term rentals and accessory short-term rentals and allowing those uses in the RA, RS, RD, RM-I, RM-II, RH, CN, CO, FMU, PM, and IG zones, and advance it to second reading for enactment?

RECOMMENDATION:

Direct staff to engross Ordinance Bill No. 5-17, amending the SRC to establish development standards and licensing requirements for short-term rentals and accessory short-term rentals and allowing those uses in the RA, RS, RD, RM-I, RM-II, RH, CN, CO, FMU, PM, and IG zones, and advance it to second reading for enactment.

SUMMARY AND BACKGROUND:

On May 8, 2017, the City Council held a public hearing to consider amendments to the City's development code and licensing requirements for home-sharing and short-term rentals.

The City Council continued the public hearing to May 22, 2017, to allow for the submission of additional testimony regarding the proposed amendments and for staff to address the comments and testimony provided. City Council also voted to hold a work session in advance of the City Council public hearing. The work session will be held at 5:30 p.m. on May 22, 2017.

Staff has identified areas where the proposed ordinance can be further revised and requirements can be changed to address some of the issues raised.

Recommended further revisions to the ordinance and suggested additional changes to the proposed requirements include:

1. Limit, or eliminate, the days an accessory short term rental can be rented without the owner being present. City Council may limit the days (for example, to no more than 30), where the current proposal allows 95, or may eliminate that option entirely and limit short term rentals to hosted rentals with a limit of 2 guestrooms, with 2 guests per room. If the non-hosted rentals are allowed as part of the accessory short term rental option, staff recommends a cap of 10 guests per house.
2. Provide notice of any license or renewal to the neighborhood association and property owners located within 250 feet of the subject property. Post a list of approved licenses on the City website including the local representative contact information and provide a link to the information on the City website in the mailed notice.

FACTS AND FINDINGS:

At the May 8, 2017, City Council public hearing, comments and testimony were provided regarding the operation of short-term rentals and accessory short-term rentals. Issues and questions raised generally concerned the following:

1. The number of rentals being rented with hosts and without hosts;
2. Establishing a maximum limit on number of guests allowed;
3. The number of days an operator of an accessory short-term rental may rent their home while they are away;
4. Off-street parking requirements;
5. Frequency of required inspections;
6. Notification to neighborhoods and neighbors;
7. Availability of the contact information for designated local representatives;
8. License and inspection fees;
9. Enforcement measures and fines; and
10. Collection and remittance of transient occupancy tax (TOT).

Staff's response to the above issues and questions, together with options and recommendations as to where the ordinance can be further refined, and requirements can be changed, are detailed below.

1. Current Statistics Regarding Number of Hosted versus Non-Hosted Rentals.

Because the City does not currently have statistics regarding hosted and non-hosted accessory short-term rentals in the City, staff asked Airbnb if they could provide data to answer

this question.

Airbnb indicated that they don't specifically track whether hosts are present at the time of rental or not, or whether they own the home they are listing. They do track other information, such as the number of listings where individual rooms in homes are being rented and listings where entire homes are being rented.

Information provided by Airbnb in this regard indicates that as of January 1, 2017, Salem had roughly 75 active listings; approximately 63 percent of those listings were rentals of private rooms in homes and approximately 34 percent of those listings were rentals of entire homes.

This is compared to information provided by Airbnb in October of 2016 that indicated at that time there were roughly 82 active listings in the City with approximately 68 percent of the listings being rentals of private rooms in homes and approximately 30 percent of the listings being rentals of entire homes.

The number of active listings and the number of private room and whole house rentals fluctuates based on the number of hosts in the system at any given time. Though this data does not specifically identify how many rentals are hosted vs. non-hosted, this limited sample indicates that most (63 and 68 percent) of the listings involve private rooms being rented within homes.

Information provided by Airbnb also indicates the following:

- Average Guest Group Size: 1.8 people *(98% of trips involve less than four people)*
- Average Length of Stay: three nights
- Nights Hosted Per Year for Typical Listing: 66

From this limited data, the rental activity in Salem at this time appears to be private rooms being rented within homes to small numbers of guests for a few nights at a time.

2. Establishing Further Limits on Number of Guests to Minimize Impacts on Neighborhoods.

Recommendation: Retain the limit of two guests per guestroom with a maximum of two guestrooms for accessory short term rentals when the host is present; cap the number of guests to 10 when the host is not present. Do not limit the number of guests for allowed short-term rentals. Have the maximum number of guest for short-term rentals within zones requiring a conditional- use permit be determined through the conditional-use process.

The proposed ordinance includes a limit on the number of guests allowed in an accessory short-term rental, but does not establish a maximum limit on the number of guests in short-term rentals.

Accessory Short-Term Rentals. The maximum limit on the number of guests for an accessory short-term rental is established under SRC 700.060(e). Pursuant to this subsection, the

maximum number of guests is limited to two guests per guestroom; children under 12 years of age do not count towards the maximum number of guests. When the host is present during the rental, a maximum of two guest rooms may be rented. The maximum number of guests in an accessory short-term rental is four.

When the host is not present during the rental, the entire house may be rented to a single group under a single booking. The maximum number of guests allowed is two guests per guestroom. A two-bedroom home would be limited to a maximum of four guests and a four bedroom home would be limited to a maximum of eight guests.

In response to concerns regarding multi-bedroom homes with a host not present, staff recommends an overall maximum limit of 10 guests be established in addition to the two guests per guestroom limit. A maximum overall limit of 10 guests is consistent with the maximum number of unrelated people that would be allowed in a dwelling constructed as a congregate living facility under the building code. The recommendation is consistent with a previous recommendation from the South Central Association of Neighbors (SCAN) Neighborhood Association that was included in their comments for the March 7, 2017, Planning Commission public hearing.

Short-Term Rentals. The proposed language for short-term rentals is intended to largely replace the current regulations for bed and breakfasts and not establish additional land use restrictions for bed & breakfasts/short-term rentals. There are no maximum limits on the number of guests for bed and breakfasts within multiple family residential zones and permitted non-residential zones. For Residential Agriculture, Single Family Residential, and Duplex Residential zones, a conditional use permit is required. The conditional-use permit process requires public notice and a public hearing before the City's Hearings Officer. Conditions, including limits on the number of guests, can be placed on the approval based on the specific circumstances of the application.

3. Limiting Use of Accessory Short-Term Rentals When Host is Not Present to Minimize Neighborhood Impacts.

Recommendation/Alternatives: To be responsive to concerns regarding absent hosts, City Council could reduce the number of days the host may be absent from the current proposal of 95 days. An alternative would be to require a host be present. If non-hosted rentals are allowed as part of the accessory short term rental option, we recommend a cap of 10 guests per house.

Under the proposed ordinance, an accessory short-term rental may be rented when the owner/resident is present as a host and for a limited period of time when the owner/resident is away (such as on vacation). The proposed ordinance doesn't limit the number of days an accessory short-term rental may be rented within a calendar year when the owner/resident is present as a host.

The ordinance does, however, establish a maximum limit of 95 days within a calendar year an accessory short-term rental may be rented when the owner/resident is away. The purpose of

allowing owners/residents to rent the entire house on a limited basis was to allow limited whole house renting without requiring a conditional use permit. It allows owners/residents the ability to choose to:

- Only rent out their homes when they are present as hosts;
- Only rent out their homes when they are away for a limited number of days out of the year; or
- Do a combination of renting out their homes when they are present as hosts and a limited number of days out of the year when they might be away.

For those periods of time when an accessory short-term rental is rented without the owner/resident present, the proposed license requirements under SRC 30.1005(c) would require a local representative to be identified to respond to issues that may arise; thereby helping to promote accountability and reduce the potential for problems.

Concerns were raised about the number of days an accessory short-term rental may be operated without the owner/resident present. Ninety-five days was based on the City of Portland's regulations. City Council may consider changing this provision by:

- Reducing the total number of days within a calendar year an accessory short-term rental is allowed to be rented without the owner/resident present as a host; or
- Eliminating the option to allow an accessory short-term rental to be rented without the owner/resident present as a host entirely.

As an example, the City of Bend includes a type of short-term rental in their code which they refer to as an "Infrequent" Short-Term Rental that is limited to a maximum total of 30 days out of the calendar year and spread out over a maximum of four rental periods. A similar 30-day limit could be applied to accessory short-term rentals to help minimize potential impacts.

4. Off-Street Parking.

Recommendation: Continue to require one parking space per guestroom for short term rentals; do not require additional parking for accessory short term rentals.

Under the proposed ordinance a minimum of one off-street parking space per guestroom is required for short-term rentals and no minimum off-street parking requirement is proposed to be established for accessory short-term rentals.

The minimum one space per guest room for short-term rentals is the same as is currently required under the code for bed & breakfasts.

Accessory short-term rentals are limited in scale and must be operated as an accessory use to a Single Family or Two Family use. Requiring additional parking may detract from the residential look of a neighborhood by requiring additional paving of lots. Residents within the City's residential zones can take on boarders and lease rooms within their homes for up to two

additional persons on a long-term basis without any additional parking. This use is similar to an accessory short-term rental except for the duration of the rental period. Boarders and leasing of rooms has been an allowed use in the City's residential zones for many years.

To ensure there won't be a cumulative impact of multiple accessory uses being operated on a single property, the proposed ordinance specifically prohibits the operation of an accessory short-term rental if the property is already being used for the taking of boarders or leasing of rooms.

5. Frequency of Required Inspections.

Recommendation: Allow applicants to self-certify that safety requirements are met as part of the license approval with an inspection to be conducted as staff time and scheduling allows with a target of yearly inspections for short term rentals and once every five years for accessory short term rentals.

The proposed ordinance requires inspections for both accessory short-term rentals and short-term rentals.

Short-Term Rentals. Applicants must initially self-certify that the rental meets applicable safety requirements as part of the license approval and any subsequent renewal. An inspection will verify conformance with applicable requirements as staff time and scheduling allows.

Inspections for short-term rentals are proposed to be required every year as is currently required under the City's Housing Code (SRC Chapter 59) for hotels and motels.

Accessory Short-Term Rentals. Applicants for accessory short-term rental license approval or renewal are required to self-certify that the rental meets applicable safety requirements and a subsequent inspection is conducted.

Inspections for accessory short-term rentals are proposed to be required at least once every five calendar years. The ordinance originally required an inspection once every year but it was recommended to be changed by the Planning Commission to once every five years.

6. Whether to Provide Notification to Neighborhood Associations and Neighbors at Issuance of Initial License and License Renewal.

Recommendation: Provide notice of any license or renewal to the neighborhood association and property owners located within 250 feet of the subject property. Notice will include the local representative contact information and a link to the City website where the contact information will be posted.

There were requests that the City Council consider requiring notice of both the license and any renewal be provided to the neighborhood association. The discussion included soliciting comments prior to issuing the license, or providing notice of the approved license and contact information

The ordinance does not currently require notice to be provided in advance of the approval of a license, or license renewal, for a short-term rental or accessory short-term rental. However, short-term rentals, when required to obtain a conditional use permit (RS, RA and RD zones) includes mailed and posted notice and a public hearing on the land use decision.

Staff recommends that the ordinance be revised to require the following:

- Post a list of approved licenses on the city website including the local representative contact information;
- Provide notice of approval of the license and any renewal for both short-term rentals and accessory short-term rentals to the neighborhood association and to property owners located within 250 feet of the subject property;
- Provide a link to the City website where the contact information will be posted in the mailed notice.

Staff does not recommend providing a notice soliciting comments in advance of the approval of a license or a license renewal. The license requirements for short-term rentals and accessory short-term rentals proposed under SRC Chapter 30 are not land-use approval criteria, and license approvals are not land-use decisions requiring notice, comment, and potential for appeal.

Notice and comment will be required with the conditional-use permit for short-term rentals. Accessory short-term rentals are intended to be smaller in scale and less impactful than short-term rentals and do not need the same notice and comment.

7. Providing 24-Hour Access to Local Representative Contact Information

Recommendation: Provide contact information on the City's website and in a notice that is mailed to the neighborhood association and neighbors within 250 feet.

The submittal requirements for short-term and accessory short-term rental licenses will require the applicant to identify the name and contact information of a local representative that is available for timely response to complaints and issues that may arise with the rental. Since the information is a submittal requirement for the license, the Community Development Department would have that information on file for anyone's review during business hours.

Staff recognizes the need for neighbors to access the local representative contact information at any time. At the public hearing staff suggested this could be achieved by making the contact information available on the City's website.

Staff would also include the local representative contact information on the notice to the neighborhood association and surrounding property owners that is recommended to be provided at the time of approval of the initial license and any subsequent renewal.

8. Establishing License & Inspection Fees to Cover Costs.

Recommendation: Establish a license fee of \$184.50 to cover license review, notice, and inspection.

New license and inspection fees will be recommended if the ordinance is approved and advanced to second reading for enactment. An amended fee resolution will be presented to the City Council for adoption establishing fees sufficient to cover review and processing costs.

Staff is currently proposing a license fee of \$184.50 to cover license review, notice, and inspection. The fee would apply to new licenses and license renewals.

9. Enforcement & Fines.

Recommendation: Retain existing code provisions for enforcement and fines.

The City's licenses chapter (SRC Chapter 30) currently includes specific provisions for license revocation (SRC 30.060), license suspension (SRC 30.065), and issuance of civil penalties for violations (SRC 30.070).

The enforcement provisions under SRC Chapter 30 apply to all licenses issued under the Chapter and are sufficient to allow the City to suspend or revoke licenses if licensees are operating in a manner that violates the provisions of the chapter without the need to establish special provisions applicable to only short-term rentals and accessory short-term rentals.

SRC 30.070(a) allows for a civil penalty of up to \$2,000 per violation per each day the violation continues to be imposed.

Existing code provisions for enforcement and fines are sufficient to address licenses issued under SRC Chapter 30. Staff does not recommend any changes to these provisions.

10. Collection & Remittance of Transient Occupancy Tax.

Recommendation: Continue to require the operator to collect and pay the required transient occupancy tax on a monthly basis.

SRC Chapter 37 (Transient Occupancy Tax) establishes provisions for the collection and payment of transient occupancy tax. Under SRC Chapter 37 it is the operator's responsibility to register with the City and to collect and pay the required transient occupancy tax on a monthly basis.

Under the proposed ordinance, an applicant/operator must submit a completed transient occupancy tax registration form, as required under SRC Chapter 37.070, with their license application.

Some home-sharing websites, such as Airbnb, offer to collect and remit transient occupancy tax on behalf of the hosts utilizing its on-line platform. Airbnb has an agreement to collect and remit transient occupancy tax in several Oregon cities including Beaverton, Bend, Cottage

Grove, Eugene, Florence, Lincoln City, Newport, Portland, and Springfield. The City and Airbnb are discussing options for Airbnb to collect and remit the transient occupancy tax in Salem.

ALTERNATIVES:

The City Council may:

1. Advance Ordinance Bill No. 5-17 to second reading for enactment;
2. Direct staff to engross Ordinance Bill No. 5-17, as recommended in this report;
3. Refer the proposal back to the Planning Commission for additional deliberation; or
4. Decline to advance Ordinance Bill No. 5-17 to second reading for enactment.

Bryce Bishop
Planner II