



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** November 19, 2020

**From:** John Swiecki, Community Development Director

**Subject:** Short Term Rental Ordinance Implementation and Enforcement

### **Community Goal/Result**

Safe Community - Residents and visitors will experience a sense of safety

Community Building - Brisbane will honor the rich diversity of our city (residents, organizations, businesses) through community engagement and participation

Economic Development - Brisbane will work with the businesses and residents to provide for economic vitality/diversity

### **Purpose**

To update the City Council on implementation of Ordinance 655 regulating short term rentals of less than 30 days.

### **Recommendation**

That the City Council receive this report and provide direction it deems appropriate related to implementation and enforcement of the ordinance.

### **Background**

#### Ordinance Adoption

On June 18, 2020, the City Council introduced Ordinance 655 to establish short term rental (STR) regulations, including the requirement for STR hosts to obtain a permit, banning unhosted rentals, and establishing other requirements for STRs. Ordinance 655 was adopted on September 3, 2020 and is currently in effect.

#### Outreach

The draft ordinance was subject to an extensive public engagement process far beyond Planning Commission and City Council public hearings. Once it was introduced, staff followed up with a comprehensive public outreach effort to communicate the ordinance effective date and procedural and substantive requirements. Outreach efforts included a new webpage, email blasts, social media posts, STAR articles, letters to affected parties, and signboard postings as outlined in Attachment 1.

## **Discussion**

### Current Status

Despite these outreach efforts, staff has received only one STR permit application to date, which was deemed ineligible for processing as the unit in question was an accessory dwelling unit (ADU) which cannot be used as an STR under the City's ordinance.

City staff is aware that Brisbane STR listings continue to be found on Airbnb and VRBO, despite the lack of issued STR permits. On a given week, staff has observed between 10-21 individual listings amongst the two common hosting websites. Recently, the City received a code enforcement complaint for numerous Airbnb listings. One complaint was nuisance-based, related to a large and loud party. The remaining complaints allege operation of an STR without a permit, without nuisance-related issues (noise, parties, parking).

As a reminder, the City's normal code enforcement process is complaint-driven and administered by city staff. In the case of the recent STR complaints, staff will verify property addresses to the extent feasible. In going through this process, if staff identifies other potential Brisbane listings not identified in the complaint, we will initiate enforcement action on these properties as well. Enforcement action involves working with property owners to legalize their listings via an STR permit, or to take down their listings if the units are ineligible for an STR permit or if the hosts are unwilling to comply with the permitting requirements.

### Future Considerations

#### ***STR Enforcement***

While it is not standard city practice, the City Council may wish to consider a proactive code enforcement strategy in regard to STRs. The recently-filed blanket STR complaint now under investigation will result in a "sweep" of current STR listings. While the outcome of this particular investigation is not yet known, the nature of STRs make ongoing enforcement problematic. For example, a specific complaint may be resolved by the removal of a listing, but it is possible that such a listing could reappear at a later time. Other listings could also come and go over time, and complaint-driven enforcement will only address the situation at a given moment in time. A proactive code enforcement approach would involve either city staff or outside consultant actively monitoring hosting sites on an ongoing basis and initiating code enforcement actions as needed.

#### ***City Regulations***

Staff has not received specific feedback regarding why hosts have not applied for City STR permits to date. Lack of host awareness is unlikely given the extensive public outreach efforts undertaken. It is possible that the permit eligibility criteria (prohibiting unhosted rentals and STRs in ADUs) may preclude some operators from applying, or that operational standards (guest limits, parking, liability insurance etc. ) may be viewed as barriers by operators. Perhaps

the current pandemic is impacting the STR industry and travel in general. In any event staff will continue to monitor City STR permit activity and report back to the City Council.

### **Fiscal Impact**

Fiscal impacts may result should the City Council take a proactive code enforcement approach. There are consulting firms that specialize in monitoring STR listings and enforce compliance with City regulations. City staff contacted one such firm (Host Compliance) which estimated their annual monitoring cost at approximately \$10,000. Their services include regular crawling of STR hosting websites, address verification of listings, rental activity monitoring, and 24/7 phone and web hotline. To the extent that STR enforcement leads to new permits and payment of transient occupancy tax (TOT), consultant costs would be offset to some degree. However, if the enforcement activities primarily result in the elimination of STRs that cannot be permitted, little or no new revenue will result to offset consultant costs. As an alternate staff resources could be allocated to proactively enforce STR regulations. Depending on the number of potential violations and level of effort required to resolve them, required staff time could be substantial.

### **Measure of Success**

Implementation and enforcement of the STR ordinance to ensure STRs are properly permitted.

### **Attachments**

1. Public Outreach Activities

  
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John Swiecki, Community Development Director

  
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Clay Holstine, City Manager

## **Attachment 1**

- June 2020
  - The Council's actions on June 18 were immediately announced in the City's Friday BLAST email newsletter and on the City's website on June 19, 2020.
- July 2020:
  - Letter from the City to all addresses/parties subject to previous code enforcement cases involving STRs.
  - Email notification to interested persons (110 residents) on July 24, 2020 announcing the permit application, FAQ, Guidebook, and other documents were live on City website, providing links to the relevant regulations, and stating the application deadline of September 16, 2020 for current hosts to obtain a permit.
- August and September 2020:
  - Friday BLAST postings on 8/7, 8/14, 8/21, 9/11/2020
  - Social media account posts on 8/7 and 9/8/2020 (over 500 impressions)
  - Signboard ad week of 8/17/2020
  - September 2020 issue of STAR featured a two-page article on the regulations and permit requirements (mailed the last week of August to all households in Brisbane).
  - Letter from the City to all parties subject to previous code enforcement cases involving STRs with instructions to apply for an STR permit if they wish to host STRs.
  - Updated City website with current ordinance information.