# Short-Term Rental – Update

September 20, 2016

# Background

- Council adopted Ordinance 8050 on September 29, 2015, with an effective date of January 4, 2016.
- After a six month education period with limited enforcement, active enforcement began in June 2016.
- Residents identified issues with the ordinance.
- The purpose of this update is to provide council with information about implementation to date and seek guidance on potential changes.

# Licensing Data as of September 1, 2016

| | |
|---|---|
| Total License Applications Received: | 370 |
| Licenses Issued: | 296 |
| Incomplete Applications Pending: | 7 |
| Applications Being Processed: | 11 |
| Applications Moved to Enforcement: | 34 |
| Denied/Withdrawn (*could not meet requirements*): | 22 |

# Enforcement Activity

| Standard Rental | | Short-Term Rental | |
|---|---|---|---|
| By Complaint | Pro-Active | By Complaint | Pro-Active |
| 112 | 474 | 32 | 84 |

In 2016 staff has investigated 702 rental enforcement cases.

# Efforts to Address Short-Term Rental of Affordable Housing Units

- Staff provided information to prospective owners on the department's marketing e-mail list with information about the restrictions.
- The city's webpage now includes a statement about the prohibition against short-term rentals. The annual newsletter that all current owners received in July 2016 included information about the short-term rental prohibition.
- All prospective applicants to the program are required to take an orientation class. The live class includes information about the short-term rental prohibition. The on-line class is scheduled for updating later in the year and will include the new information.
- All new affordable buyers attend a one-on-one closing meeting, during which the short-term rental prohibition is discussed.
- All new affordable buyers sign a document that reiterates the short-term rental restrictions.
- Licensing staff has a list of all affordable housing units in the city and will not issue a short-term rental license to any of these units.

# Potential Changes

- Allow for licenses to be issued to properties held in a living trust
- Define Principal Residence
- Limit the “Roomers” exception to long-term rentals
- Prohibit licensing of uninhabitable units
- Align the definitions in sections 10-1-1 and 3-13-2 so they both define short term rental as less than thirty days
- Consider addressing non-profits in commercial areas

# Potential Contract with AirBnB

# IRS Definition

**Principal residence.** In the case of a taxpayer using more than one property as a **residence**, whether property is used by the taxpayer as the taxpayer's **principal residence** depends upon all the facts and circumstances. If a taxpayer alternates between 2 properties, using each as a **residence** for successive periods of time, the property that the taxpayer uses a majority of the time during the year ordinarily will be considered the taxpayer's **principal residence**. In addition to the taxpayer's use of the property, relevant factors in determining a taxpayer's **principal residence**, include, but are not limited to—

**(i)** The taxpayer's place of employment;

**(ii)** The **principal** place of abode of the taxpayer's family members;

**(iii)** The address listed on the taxpayer's federal and state tax returns, driver's license, automobile registration, and voter registration card;

**(iv)** The taxpayer's mailing address for bills and correspondence;

**(v)** The location of the taxpayer's banks; and

**(vi)** The location of religious organizations and recreational clubs with which the taxpayer is affiliated.

# Roomers

10-3-2(b)(1) B.R.C 1981

Buildings, or building areas, described in one or more of the following paragraphs are exempted from the requirement to obtain a rental license from the city manager.

Any dwelling unit occupied by the owner or members of the owner's family who are at least 21 years of age and housing no more than two roomers who are unrelated to the owner or the owner's family. An owner includes an occupant who certifies that the occupant owns an interest in a corporation, firm, partnership, association, organization or any other group acting as a unit that owns the rental property. . . .

# 9-16-1 Definition of “Uninhabitable space”

*Uninhabitable space* means a room or portion thereof that is six feet or less in floor to ceiling height, or a room solely used to house mechanical or electrical equipment that serves the building, including, without limitation, heating, cooling, electrical, ventilation and filtration systems, or any parking facility located completely below grade on all sides of the structure regardless of the topography of the site (see definition of "floor area").

# Definitions in 10-1-1 and 3-15-2

10-1-1. – Definitions.

Short-term rental means any dwelling, dwelling unit, rooming unit, room or portion of any dwelling unit, rooming unit, room rented or leased for valuable consideration for periods of time ***less than thirty days***, but excludes commercial hotels, motels or bed and breakfasts. A short-term rental is a use that is accessory to such dwelling, dwelling unit, rooming unit, or room.

3-15-2. – Imposition and Rate of Tax.

There is and shall be paid and collected an excise tax of seven and one-half percent on the price paid for the leasing or rental of any dwelling unit for a ***period of thirty days or less***. This tax does not apply to any person subject to Chapter 3-3 "Public Accommodations Tax," B.R.C. 1981.