

November 3, 2018

To:

Mr. Keith Selman
Interim City Manager
City of Corpus Christi, Texas

From:

Corpus Christi Short-Term Rental Taskforce

Regarding: STR Taskforce report, findings, and recommendations for City staff and City Council regarding the current and future operation of residential short-term rental properties within the City of Corpus Christi.

Mr. Selman,

At the request of Mayor McComb and your office, the Corpus Christi Convention and Visitors Bureau (CVB) organized a taskforce to research, report, and provide recommendations for City staff and City Council regarding current and future operation of residential short-term rental (STR) properties within the City of Corpus Christi.

This report and the attached draft STR ordinance represents the result of the STR Taskforce's work to-date. The Taskforce looks forward to visiting with you, Mayor McComb, and City Council about its work.

Respectfully,

Justin Bragiel
STR Taskforce Member
General Counsel, Texas Hotel & Lodging Association

Corpus Christi STR Taskforce Report

October 31, 2018

This document is the Corpus Christi STR Taskforce report, findings, and recommendations for City staff, the Mayor, and City Council regarding current and future operation of residential short-term rental (STR) properties within the City of Corpus Christi.

STR Definition:

For purposes of its work, the STR Taskforce abided by the most commonly used and accepted definition of a short-term rental: A residential dwelling rented by the public for consideration, and used for dwelling, lodging, or sleeping purposes for any period less than thirty consecutive days. The term generally does not include traditional lodging establishments such as hotels, motels, or bed and breakfasts, all of which are permitted and zoned under existing law.

STR Taskforce's objective, scope of work, and composition:

Recognizing a need to address STR activity in Corpus Christi, the Mayor McComb and the City Manager asked the Convention and Visitors Bureau to convene a group of citizens to research the issues related to STR operations within the City and provide recommendations for City staff and City Council regarding the current and future operation of residential STR properties within the City.

The CVB solicited participation from members of the community representing various affected stakeholders. Participating on the STR Taskforce were Corpus Christi area neighborhood association members, STR operators, various hotel ownership representatives, city staff from planning and zoning, an assistant city attorney, the CVB director, and an expert advisor from the Texas Hotel & Lodging Association. The Taskforce also sought the participation of the local association of Realtors, but the real estate agents declined to participate.

The following individuals and their affiliations participated in the STR Taskforce:

Short Term Rental Task Force

Members

Alyssa Barrera

Deven Bhakta

Melody Nixon-Bice

Ed Cantu

Lisa Collard

Mike Collard

Toby Futrell

James Gay

Amy Grandberry

Carry Robertson Meyer

Downtown Management District

Hotel Owner

Hotel Manager/Corpus Christi Convention & Visitors Bureau Board Member

Corpus Christi Convention & Visitors Bureau Board Member

Citizen At-Large

Citizen At-Large

Citizen At-Large

Citizen At-Large

Citizen At-Large

Citizen At-Large

Advisory Short Term Rental Task Force Members

Elvia Aguilar	Corpus Christi Convention & Visitors Bureau
Justin Bragiel	Texas Hotel Lodging Association
Buck Brice	City of Corpus Christi Legal Department
Keren Costanzo	City of Corpus Christi Planning Department
Andrew Dimas	City of Corpus Christi Planning Department
Paulette Kluge	Corpus Christi Convention & Visitors Bureau
Dan McGinn	City of Corpus Christi Planning Department
Arlene Medrano	City of Corpus Christi Business Liaison
Annika Yankee	City of Corpus Christi Planning Department

Ultimately, the STR Taskforce determined the scope of its work would include the following items:

1. Identify issues with the current state of STR operations in the City.
2. Evaluate how other cities in Texas are addressing STR activity.
3. Determine likely resident concerns regarding the operation of STRs in their neighborhoods.
4. Assess whether the City should amend its Unified Development Code (UDC) to allow for permitted STRs within residentially zoned areas of the City.
5. Determine whether to recommend the City adopt a STR permitting process.
6. Determine the specific recommendations for the permitting process.
7. Create a draft STR registration and regulation ordinance for the Mayor, City Council, and City staff to consider and make recommendations for further discussion and action on the STR issue.

The STR issue in Corpus Christi:

Residential short-term rental activity is experiencing massive growth throughout the U.S. While residential short-term rentals are not themselves new to cities, the increasing popularity and rise of STR listing platforms such as Airbnb and Homeaway caused more residential property owners to consider listing their properties as a short-term transient rental.

Cities across the U.S., including in Texas, are passing or considering ordinances establishing regulations and standards for the operation of STR properties. Because each community has its own characteristics and citizen concerns, the scope of these ordinances range from basic operating rules and registration process for STRs all the way to outright prohibition of STR activity. Most ordinances establish operating rules and regulations for STR properties, a registration and permitting process, life-safety standards, neighborhood conduct requirements, a process for handling complaints against STR properties, and enforcement mechanisms.

In Corpus Christi, the STR issue is complicated by the City's current Unified Development Code (UDC). Under the UDC, generally, a residence located within a residentially zoned area may not rent the property for a period of time of less than 30 days without receiving special approval

from the Zoning Board of Adjustment. At this time, there are no such STR properties that have received this special approval. There are some limited exceptions in which residential STR properties may operate within the City of Corpus Christi, such as within certain PUDs.

Because of the UDC's current limitations, many STR owners and operators are essentially prohibited from lawfully operating within a residential area of the City. At any given time, Airbnb lists hundreds of STR properties across Corpus Christi, many of which are operating in violation of the UDC. City enforcement staff are unable to enforce all such violations, leading to a lawless, underground market of STR activity in the City.

The Taskforce notes that Corpus Christi's approach to addressing the STR issue in the City must take a bifurcated path. The Taskforce's conclusions and the attached draft ordinance only deal with regulation of STR operators. A revision of the UDC must be undertaken to legalize the operation of STR properties across the City. That UDC revision is beyond the scope of the Taskforce's mission or ability, and the Taskforce respectfully recommends that the Mayor and City Council direct City staff to begin the process of revising the UDC to reflect the wishes of Council and residents.

Hotel occupancy taxes:

Under longstanding Texas law, short-term rentals (i.e. rentals of overnight accommodation of less than 30 consecutive days) are subject to state and local hotel occupancy taxes. Specifically, section 156.001(b) of the Texas Tax Code states,

“(b) For purposes of the imposition of a hotel occupancy tax under this chapter, Chapter 351 or 352, or other law, "hotel" includes a short-term rental. In this subsection, "short-term rental" means the rental of all or part of a residential property to a person who is not a permanent resident under Section 156.101.”¹

However, there is a clear tension between an STR property that is unauthorized to operate under the UDC, and city and state law requiring the collection and remittance of hotel occupancy taxes.²

STR ordinances in other Texas cities:

The Corpus Christi STR Taskforce surveyed cities across Texas with STR ordinances in effect or under current consideration by city councils. The Taskforce's goal was to consider the most workable and effective provisions in other communities and determine whether to recommend

¹ See Tex. Tax Code § 156.001.

² For background informational purposes, the Taskforce notes that Airbnb, but not HomeAway, entered into a voluntary collection agreement (VCA) with the Texas Comptroller in 2017. Under this VCA, Airbnb automatically remits state hotel occupancy tax revenues for every Airbnb STR rental transaction in the State of Texas. This VCA does not cover the collection of local hotel occupancy taxes, and the VCA does not affect the City of Corpus Christi's collection of its hotel occupancy tax.

the City of Corpus Christi insert that provision into its own ordinance. In total, the Taskforce considered STR ordinances from seven Texas communities.³

While the ordinances from other communities varied in detail, there were elements common to all of them. Each ordinance requires STR properties to obtain a permit from the city. Permit applications require the applicant to describe the property, provide the city with contact information of the responsible party, state the maximum occupancy and vehicle parking areas, provide proof of application to the city finance department for payment of hotel occupancy taxes, and make sworn statements as to the truthfulness of the application. Additionally, each ordinance provides varying descriptions of basic life-safety standards for STR units, as well as providing a means of handling neighborhood complaints about excessive noise, trash, etc.

Of the ordinances the STR Taskforce evaluated, Austin's ordinance and the San Antonio ordinance differentiated themselves from the rest in how those ordinances handled what are known as "Type 2" or non-owner-occupied STR properties. Notoriously, Austin's ordinance creates a moratorium on permitting new Type 2 STR properties, with a total ban on all existing Type 2 properties taking effect in 2022. San Antonio's STR ordinance, finally enacted just last week, creates a density limitation on Type 2 STR units to no more than 12.5% of each residential block-face.

The STR Taskforce did not include a recommendation to differentiate between owner-occupied and non-owner occupied STR units in the attached draft ordinance. While the Taskforce expects this issue will become a part of the City Council discussion and will be the subject of future citizen input into the STR ordinance process, the Taskforce felt the owner-occupied issue needed consideration by a wider consortium of viewpoints.

Ultimately, the Taskforce believes its draft ordinance represents the best and most workable ideas from other communities in Texas, while modeled to fit within Corpus Christi's unique characteristics.

³ The Corpus Christi STR Taskforce surveyed ordinances from San Antonio, Austin, Port Aransas, South Padre Island, Galveston, and Fredericksburg.

The STR Taskforce's findings and recommendations:

Below is the summary of all the STR Taskforce's recommendations to the Mayor McComb, the City Manager, and City Council. Where applicable, the Taskforce notes items that warrant further investigation, discussion, and community input. The Taskforce is also including an executive summary of its draft STR Ordinance.

Addressing the STR issue generally in Corpus Christi:

The STR Taskforce recommends the City of Corpus Christi,

- 1) Adopt an ordinance establishing a permitting process for STRs, creating standards for STR operation, ensuring compliance with hotel occupancy tax law, and creating penalties for noncompliance with the STR ordinance. The City should seek the input of more neighborhood community members to determine whether to provide additional guidelines or restrictions on STRs, such as density of owner-occupied status of the property. And,
- 2) Amend the UDC to lawfully allow permitted STR activity in residentially zoned areas of the City.

The Taskforce notes that Corpus Christi's approach to addressing the STR issue in the City must take a bifurcated path. The Taskforce's conclusions and the draft ordinance attached only deal with regulation of STR operators. A revision of the UDC must be undertaken to legalize the operation of STR properties across the City. That UDC revision is beyond the scope of the Taskforce's mission or ability, and the Taskforce respectfully recommends that the Mayor and City Council direct City staff to begin the process of revising the UDC to reflect the wishes of Council and residents.

Seek additional citizen and neighborhood group input in the ordinance discussion:

As the Mayor, City Council, and City staff continue to debate an ordinance, the STR Taskforce recommends including additional neighborhood groups and neighborhoods in the discussion. While large and diverse, the Taskforce members represent only a small segment of areas of the City that would be affected by amending the UDC and implementing an STR ordinance. The Taskforce recommends seeking input from additional affected neighbors.

Additional discussion should include items such as density or owner-occupied status limitations, additional parking or noise restrictions, and other neighborhood-specific concerns.

Deed restrictions, homeowners' association restrictive covenants, etc.:

The Taskforce did not consider restrictions placed on STR activity via deed restrictions, homeowners' associations restrictive covenants, or other similar private land use limitations. Recognizing the City's limited ability or desire to affect such covenants, the Taskforce felt it was not germane to consider whether a property could be prohibited from or limited in engaging in

STR activity by private action.⁴ The Taskforce's draft STR ordinance contains a provision stating the ordinance does not create any right to operate a short-term rental in violation of any lease, license, deed restriction, covenant, easement, or other legal encumbrance.

STR Taskforce's draft STR ordinance, executive summary:

The Taskforce is attaching its full draft ordinance. The following is a summary of selected provisions of the draft ordinance.

1. **Defines a "short-term rental."** "Short-term rental" means a residential dwelling, including but not limited to, a single-family dwelling, multiple family attached dwelling, apartment house, condominium, duplex, mobile home, or any portion of such dwellings, rented by the public for consideration, and used for dwelling, lodging, or sleeping purposes for any period less than thirty consecutive days. A property classified as a hotel, bed and breakfast, extended-stay facility, or motel under the City of Corpus Christi Unified Development Code shall not be considered a short-term rental under this Article.
2. **Permit required to operate an STR.** All STR units operating in the City must apply for and obtain a valid City permit to operate an STR.
3. **Sets permit application process and requirements.** Applications require a fee (amount not set); list of all owners; description of available parking; sketch of floor plan; contact information for a 24-hour responsible party; written confirmation from the City Finance Department showing compliance and registration of hotel occupancy taxes; and a sworn, self-certification from the owner.
4. **Allows the City to inspect an STR on a complaint or violation basis.**
5. **Requires basic life-safety standards.** These life-safety standards include compliance with applicable fire and building codes; fire extinguishers, carbon monoxide and smoke detectors, evacuation plans, etc.
6. **Requires the STR operator to post information in a conspicuous location certain information such as maximum occupancy, quiet hours, etc.**
7. **Creates an enforcement penalty for non-compliance.** Violations may be criminal or civil, and may result in revocation of the STR permit.
8. **Creates a revocation and appeals process.**

Conclusion:

The STR Taskforce thanks the City of Corpus Christi for the opportunity to serve and advise the City on this important issue. We stand ready to offer further advice and consulting services as needed.

⁴ The Taskforce notes that in light of the Texas Supreme Court's May 2018 decision in *Tarr v. Timberwood Park*, some area homeowners' deed restrictions limiting STR activity may be invalid. This may create more interest in such communities desiring to participate in the STR ordinance discussion.