

Legislation Details (With Text)

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On agenda:	10/16/2018	Final action:	10/16/2018
Title:	An ordinance on second reading extending the temporary moratorium on the issuance of business and sales/use tax licenses for short-term rental properties		
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Attachments:	1. Ordinance No. 37-2018, 2. Citizen Comments		

Date	Ver.	Action By	Action	Result
10/16/2018	2	City Council	approved	Pass
10/2/2018	1	City Council	approved on first reading	Pass

Agenda Date: 10/16/2018

Subject:

An ordinance on second reading extending the temporary moratorium on the issuance of business and sales/use tax licenses for short-term rental properties

Presented By: Steve Kemp, City Attorney

REQUESTED COUNCIL ACTION:

Does city council support extending the temporary moratorium on the issuance of business and sales/use tax licenses under the lodging classification for short-term rental properties for an additional 90 days?

BACKGROUND:

The city issues business and sales/use tax licenses for the collection of sales tax under the lodging classification for a number of businesses, including short-term rental properties. Unlike many cities, Littleton issues a one-time license that is valid indefinitely. This practice makes it considerably more difficult to impose new licensing requirements.

This same sales tax classification is used to issue business and sales/use tax licenses for many other uses such as hotels, motels, mobile home parks, communal rooming facilities such as a YMCA, and bed and breakfasts. The purpose of a proposed moratorium is not to address all uses in the lodging classification, but to enact regulations addressing short-term rentals in residential units. Short-term rentals are the rental of property to an individual for a period that does not exceed 30 days, granting the individual the rights of a tenant as compared to a person renting a hotel or motel room.

Short-term rentals may consist of an entire house, a single room in a house, or a combination of these. All of these would have the same type of sales tax license under the lodging classification. Other types of lodging

classifications advertise and use short-term online rental platforms. As a result, it is necessary to define certain types of uses in the lodging classification and exempt them from the moratorium in order to focus on the uses that need additional regulation. Some cities have attempted to use their zoning codes to address the issue; however, the Littleton Zoning Ordinance does not adequately address short-term rentals.

Moratoriums are recognized as a legitimate exercise of governmental authority provided that: (1) they are imposed for no longer than necessary to address the public health, safety, and welfare issue at hand; (2) they are limited in scope and include only those items that the governmental entity is attempting to address; (3) parties have reasonable notice of the moratorium; and, (4) the moratorium is prospective and does not interfere with existing property rights.

Citizens in Littleton and in other cities have brought forward a number of concerns, including but not limited to:

- Turning residential neighborhoods into tourist zones
- Safety issues with transient populations walking neighborhoods
- Safety issues with drivers looking for rentals while driving
- Safety issues with increased traffic
- Safety issues with cars parked on the street
- Noise and nuisance issues
- Effects on the character of existing residential neighborhoods
- Drug use and crime increase
- Safety issues for the renters
- Occupancy higher than in a typical single-family home
- Impact on property values
- Impacts on housing market (reduction of long-term rentals, rising prices)
- Limited rules and regulations for short-term rentals

Planning commission, at its regular meeting on September 24, 2018, expressed concern that the amendments to the city code as proposed did not adequately address citizen and commissioner concerns and chose to continue the public hearing to a date certain; specifically, its next regular meeting on October 8, 2018.

PRIOR ACTIONS OR DISCUSSIONS:

At the city council meeting on July 17, 2018, the council passed an emergency ordinance imposing a temporary moratorium. On August, 28, 2018, city council had a study session to discuss amendments to city code. On September 10, 2018 the planning commission had a study session and on September 24, 2018, it had a public hearing to discuss a resolution recommending approval to city council of an ordinance concerning short-term rentals. The planning commission voted to continue the item to October 8, 2018, and directed staff to amend the proposed ordinance as discussed. City Council approved this ordinance on first reading on October 2, 2018.

STAFF ANALYSIS:

Cities in Colorado and across the United States are addressing a number of issues from short-term rentals. Those in Colorado that have imposed moratoriums on short-term rentals to develop regulations include:

Salida - 6 months, subject to extension
Golden - 6 months
Empire - 6 months

Other cities across the country have enacted moratoriums on short-term rentals while they develop an appropriate regulatory structure including:

Orange Beach, Alabama
New Orleans, Louisiana
Aurora, Ohio
South Haven, Michigan

Moratoriums are prospective, not retroactive. Any business and sales/use tax license currently issued would remain in place and not be affected by the moratorium. However, the existing licensees would be required to comply with all other city codes. The city would use its normal code enforcement resources to enforce the moratorium. Additional resources may be requested as required to enforce the moratorium. As with other code enforcement matters, enforcement would be on a complaint basis.

OPTIONS/ALTERNATIVES:

Option A. Extend the moratorium by a first and second reading of the ordinance.

Option B. Do not extend the moratorium and do not provide additional direction to amend city codes.

Option C. Do not extend the moratorium, but direct staff to continue with the current work plan to bring forth amendments to the city code for the regulation of short-term rentals.

FISCAL IMPACTS:

During the moratorium, no business and sales/use tax licenses will be issued. This may result in a minimal loss of new sales tax revenue under the lodging classification.

STAFF RECOMMENDATION:

Due to the planning commission continuing the public hearing on short-term rentals, the ordinance amending the city code regarding this issue will not come before city council before the deadline of the previous moratorium. Therefore, in order to provide adequate time to address any concerns and to amend the city code, staff recommends extending the temporary moratorium for an additional ninety 90 days.

PROPOSED MOTION:

I move to approve the ordinance on second reading extending the temporary moratorium on the issuance of business and sales/use tax licenses for short-term rental properties.