



Legislation Text

File #: Ordinance 29-2018, **Version:** 1

Agenda Date: 07/17/2018

Subject:

Emergency ordinance establishing a moratorium on the issuance of business and sales/use tax licenses under the lodging classification for short term rental properties

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| Presented By: Steve Kemp, City Attorney |
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REQUESTED COUNCIL ACTION:

Does city council support issuing an emergency moratorium on the issuance of business and sales/use tax licenses under the lodging classification for short-term rental properties?

BACKGROUND:

The city issues business and sales/use tax licenses for the collection of sales taxes 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 thirty (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 licenses 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

PRIOR ACTIONS OR DISCUSSIONS:

Study session on July 10, 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 include:

Orange Beach, Alabama

New Orleans, Louisiana

Aurora, Ohio

South Haven, Michigan

Under the Littleton City Charter, in order for a moratorium to be enacted as an emergency matter, it must be limited to 90 days. If the council were to find it necessary, it may be reenacted using the first and second reading provisions for legislative matters.

Moratoriums are prospective, not retroactive. Any business and sales/use tax licenses 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 handled on a complaint basis.

OPTIONS/ALTERNATIVES:

Option A. Enact moratorium on issuance of certain licenses in the lodging services classification for sales tax as an emergency item effective for 90 days while work is undertaken on a comprehensive plan to develop a regulatory structure. Pursuant to the city charter, if additional time is needed, council could extend the moratorium by a first and second reading ordinance, if it desired to do so. Based on council direction, staff will incorporate this work into its current work plan and expedite the matter as practicable.

Option B. Do not enact a moratorium and do not provide direction to change any city codes.

Option C. Do not enact a moratorium, but direct staff to incorporate the development of a plan to regulate short-term rentals into its current work plans and to expedite the matter as practicable.

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:

Staff is recommending council adopt an emergency ordinance to enact a 90-day moratorium to address short-term rentals.

PROPOSED MOTION:

I move to approve the emergency ordinance establishing a moratorium on the issuance of business and sales/use tax licenses under the lodging classification for short term rental properties.