



CITY OF COMMERCE AGENDA REPORT

TO: Honorable City Council

FROM: City Administrator

SUBJECT: Introduction of Ordinance of the City of Commerce Amending Chapter 3.10 and Adding Chapter 5.63 to the City of Commerce Municipal Code Relating to Licensing and Operating Regulations for Home-Sharing.

MEETING DATE: February 19, 2019

RECOMMENDATION:

Staff recommends that the City Council introduce Ordinance of the City of Commerce Amending Chapter 3.10 and Adding Chapter 5.63 of the City of Commerce Municipal Code Relating to Licensing and Operation Regulations for Home-Sharing.

BACKGROUND:

The travel industry has dramatically changed since the City of Commerce Municipal Code ("CMC") adopted the definition of "hotels" as it relates to the Hotel Visitor Tax ("HVT"). As an example, the sharing of one's own residence, in part or in whole, as a short-term rental, is a practice that has grown rapidly. This practice is further facilitated by the internet, which is convenient and easily accessible for booking purposes. The purpose of short term lodging may be for a business trip or a vacation. Notwithstanding, for all intents and purposes, primary residences used in this manner are being used as "hotels", yet the City is not collecting the applicable HVT. Due to the promotion and proliferation of short term rentals on websites like Airbnb, the City needs to update the municipal code by making clarifications to the types of occupancies that fit under the definition of a "hotel", to ensure the HVT is collected for applicable guest stays within City limits.

Furthermore, currently the City does not have regulations in place for home-sharing operations. As a result, home-sharing hosts are circumventing the HVT requirement and they lack accountability for nuisances caused by home-sharing visitors. While home-sharing can be conducted in harmony with surrounding uses, the City must do what it can to make that happen, thus staff recommends regulating home-sharing to protect the City's affordable housing stock, to ensure home-sharing occurs in safe structures, and to limit threats and harms to public health and welfare.

ANALYSIS:

Historically, the HVT has been assessed to guests who reside in a hotel for 30 days or less at 12% of the value of overnight stay. The hotel collects the tax from the guest and forwards the tax monthly to the City.

CMC 3.10.020 currently defines a “hotel” as follows:

"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by guests, transients and/or visitors for dwelling, lodging or sleeping purposes and includes any hotel, inn, tourist home or house, bed and breakfast, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, boarding house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure or portion thereof.

Due to the advent of the internet and websites like Airbnb, many homeowners now rent their personal residences out to guests without collecting the HVT and transmitting it to the City. Because residences are essentially operating like traditional hotels, it is necessary to clarify the definition of “hotel” to reflect a new understanding of the scope of the word. Staff recommends amending CMC Section 3.10.020 to provide explicit clarification on the uses that are included in the definition of “hotel”, as follow:

"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by guests, transients, and/or visitors for dwelling, lodging, or sleeping purposes and includes any hotel, inn, tourist home or house, bed and breakfast, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, short-term home-sharing, boarding house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof. Short-term home-sharing consist of home-sharing, where a residential or dwelling unit is shared for thirty consecutive calendar days or less, in whole or in part, where the residential or dwelling unit is used for occupancy as defined in this Chapter.

Additionally, City staff recommends imposing regulations governing home-sharing operation citywide. Home-sharing hosts shall be required to comply with the following requirements:

1. Obtain and maintain a City business license.
2. Operate home-sharing in compliance with business license conditions.
3. Obtain and maintain a visitor occupancy registration certificate in accordance with Chapter 3.10 of the CMC.
4. Collect and remit the HVT in coordination with a hosting platform (i.e., Airbnb, etc.) if utilized, to the City and comply with HVT requirements.
5. Take responsibility and actively prevent nuisance activities resulting from home-sharing activities.
6. Comply with applicable laws.
7. Host and properties shall be listed on registry created by City.

Also, hosting platforms that collect or receive a fee for conducting a booking transaction (i.e., Airbnb, etc.) will be required to collect all applicable HVTs and remit the same to the City. Further, hosting platforms are required to disclose to the City on a regular basis each home-sharing listing located in the City. Home-sharing host and hosting platforms will be subject to administrative fines and penalties for non-compliance.

Finally, while City staff recommends authorizing home-sharing, vacation rentals shall be prohibited. Vacation rentals grant guests exclusive use of a dwelling unit, whereby none of the primary residents live on-site throughout any of a guest's stay. It's believed home-sharing does not create the same adverse impacts as unsupervised vacation rentals because, among other things, the resident hosts are present to introduce their guests to the City's neighborhoods and regulate their guests' behavior. Also, the conversion of long-term housing units to vacation rentals may reduce the housing stock and contribute to increased rents and decrease availability of affordable housing. Hence, prohibiting vacation rentals at this time is intended to protect the City's affordable housing stock by allowing only an authorized host to share his or her registered primary residence with guest users.

ALTERNATIVES:

1. Approve staff recommendation
2. Reject staff recommendation
3. Provide staff with further direction

FISCAL IMPACT:

The adoption of Ordinance will require the City to incur administration and enforcement costs. The City Council may adopt permit fees by resolution to offset the cost of the home-sharing program.

RELATIONSHIP TO STRATEGIC GOALS:

This item relates to the Strategic Action Plan's Goal of: Community Quality of Life - Guiding Principle 4 to "support and evaluate community services, programs and events that promote healthy and quality lifestyles for our residents. Enhance public safety and social services through innovative programs that meet the needs of the residential and business communities."

Respectfully submitted: Edgar P. Cisneros, City Administrator
Approved as to form by: Noel, Tapia, City Attorney

ATTACHMENT: Ordinance