



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

OFFICE OF THE CITY ATTORNEY

300 Sixth Street

Carla R. Cushman, Assistant City Attorney
City web: www.rcgov.org

Phone: 605-394-4140
Fax: 605-394-6633
e-mail: carla.cushman@rcgov.org

MEMORANDUM

TO: Planning Commission

FROM: Carla Cushman, Assistant City Attorney *CC*

DATE: September 22, 2016

RE: Ordinance No. 6140, An Ordinance to Adopt Regulations Governing Short Term Rentals

After the Planning Commission's discussion regarding the short term rentals ordinance on August 18, staff reviewed the ordinance and made several changes. For your assistance in reviewing the amended ordinance, I summarize the changes that were made to the ordinance below:

- Changed the ordinance number for the short term rental permit to 17.50.380 (instead of 17.50.340, already adopted as Fences and Walls ordinance).
- Made minor changes to the definition of short term rental (page 2).
- Incorporated the phrase "sleeping rooms" into the ordinances to clarify that bed and breakfasts with more than two sleeping rooms and vacation homes with more than three sleeping rooms available for rent must obtain a conditional use permit. (p. 4-5, 7-8, 13, 21-23).
- Clarified that the property owner must sign the short term rental permit application (p. 22).
- Adopted language of short term rental *operator* (instead of owner or manager) (p. 22-23).
- Increased the time short term rentals must come into compliance once the ordinance is adopted to 90 days (instead of 60) (p. 23).

- Included language that the Director may immediately suspend or revoke a permit if he/she believes that unlawful activity is occurring or if necessary to ensure the public's health, safety, and welfare (p. 24). In other cases, notice is provided before suspension/revocation and the suspension/revocation becomes effective fourteen days later.
- Clarified that if a permit holder appeals a permit suspension/revocation to Council, that the Director shall timely notify the permit holder of the date of time of the Council hearing (p. 24).

After the Planning Commission's discussion, I spoke with one commissioner who had concerns about short term rentals within apartments, townhomes, and other settings where there are shared walls/buildings. I updated the ordinance to clarify that the property owner must sign the application (see p. 22), which will ensure that a property owner in a landlord/tenant situation consents to the short term rental. I did not change the ordinance to limit short term rentals to single family residences only. Condos and townhomes are some of the most common and popular short term rentals, and good reasons support allowing short term rentals on such properties. Please be aware that private agreements, such as leases or restrictive covenants, may prevent the occurrence of short term rentals in apartments, condos, townhomes, and even housing developments. In such cases, landlords and homeowners associations could privately police this use within their properties, and issuance of a short term rental permit would not undermine these private limitations.

Finally, there was some discussion at the Planning Commission meeting about the definitions for bed and breakfast facilities, vacation home rentals, and short term rentals. I agree that the definitions may be confusing. However, since the City is trying to build upon existing state regulations, we are somewhat constrained by the definitions for bed and breakfast facilities and vacation home rentals found in state law. To assist citizens and decision-makers, Planning staff have created charts to simplify and explain the regulations for easier understanding.

If you have any further questions on this matter, please feel free to give me a call at any time. My number is 394-4140, and my email is carla.cushman@rcgov.org.