

Case Number:	BOA-23-10300140
Applicant:	Barbara Tavares
Owner:	Barbara Tavares
Council District:	7
Location:	2009 West Mulberry Lane
Legal Description:	Lot W 10 Feet of E 25 of S 77 Feet OF 2,W 25 OF 2 & E 25 FT OF 3, Block 21, NCB 1943
Zoning:	“R-6 H AHOD” Residential Single-Family Monticello Park Historic Airport Hazard Overlay District
Staff Representative:	Emily Garcia, Planner

Request

An appeal of the Administrator’s decision to revoke a short-term rental permit, located at 2009 West Mulberry Avenue.

Applicable Code References

Chapter 16, Article XXII

Sec. 16-1100

The purpose of this article is to establish regulations for the protection of the health and safety of occupant(s) of short term rental properties, and to protect the integrity of the neighborhoods in which short term rental properties operate.

Chapter 16, Article XXII

Sec. 16-1104 (a) (6)

A sworn, self certification that the owner of the short term rental has met and will continue to comply with the standards and other requirements of this article including, but not limited to: maintenance of insurance coverage of the unit or portions thereof in accordance with this article and obtaining annual independent inspections of required fire extinguishers in compliance with the city's current fire code.

Chapter 16, Article XXII

Sec. 16-1108 (d) (1)

Short term rentals and structures where they are located shall conform to all applicable city-adopted codes, regulations, and ordinances.

Chapter 16, Article XXII

Sec. 16-1110 (c)

Violation of any section of this article shall constitute an offense resulting in permit revocation in accordance with subsection 16-1111, revocation procedures.

Chapter 16, Article XXII

Sec. 16-1110 (g)

Violation of the terms and conditions of a short term rental permit under this article shall be punishable by a fine of not less than two hundred dollars (\$200.00) but not more than five hundred dollars (\$500.00) per occurrence. Penalties for other violations of the city code shall be as applicable. Each day a violation of this article continues shall be considered a separate offense. Each day that a unit is occupied in violation of this article shall be considered a separate offense, and, upon conviction, shall be subject to a minimum fine of two hundred dollars (\$200.00) to a maximum fine of five hundred dollars (\$500.00) per violation, per day.

Chapter 16, Article XXII

Sec. 16-1111

The director is authorized to suspend or revoke a short term rental permit issued under the provisions of this chapter wherever the permit is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building, structure, unit, or portion thereof is in violation of any ordinance or regulation or any of the provisions of this article. In addition, if any violations have been committed and not corrected within the time specified, the director shall begin the procedures to revoke the short term rental permit in accordance with the following:

- (a) The director shall give written notice to the owner/operator regarding the revocation.*
- (b) If a short term rental permit is revoked, the owner/operator may not reapply for the same property for a period of twelve (12) months.*

Chapter 35, Article III

Sec. 35-371.01

A short term rental is a property that rents out all or a portion of a residential dwelling unit, apartment, condominium, or accessory dwelling (as each of the preceding is defined by this chapter), for a period of less than thirty (30) consecutive days, and not less than twelve (12) hours, to a particular occupant. A short term rental shall not be considered as a hotel, extended stay hotel, motel, corporate apartment, or bed and breakfast, as defined in this chapter.

Chapter 35, Appendix A

Sec. 35-A101

Dwelling unit. One (1) or more rooms providing complete living facilities for one (1) family, including kitchen facilities or equipment for cooking or provisions for the same, and including room or rooms for living, sleeping, bathing and eating.

Executive Summary

The subject property initially applied for a Short-Term Rental (STR) permit on April 03, 2023. During the review staff questioned whether the application was for a separate unit or the unit the applicant had a previous permit for STR-22-13501928. The applicant, Barbara Tavares, confirmed that it was for the same unit. Staff informed the applicant to not have two different

listings of the property. After review of the application, the permit to operate a Short-Term Rental was approved by staff and issued on April 24, 2023.

On May 11, 2023 staff was informed that the property in question was advertising two different listings under one permit, in violation of Section 16-1103(a-b) states: "No short term rental shall operate within the City of San Antonio without a current valid short term rental permit. All individual units having cooking, sleeping, and bathing facilities, within common buildings, regardless of ownership, shall require a separate, individual permit for each unit intended to be used as a short term rental."

Code Enforcement History

No pending Code Enforcement cases.

Permit History

Short Term Rental Permit Number: STR-23-13500424

Application Submission Date: April 03, 2023

Permit Approval Date: April 24, 2023

Original Expiration Date: April 24, 2026

Date Property is Eligible for New Permit: May 11, 2023

Zoning History

The subject property is legally zoned for a Short-Term Rental. Per the ordinance Short-Term Rentals are prohibited only on properties zoned "C-3" General Commercial District, as well as all Industrial Districts.

Board of Adjustment

The Board of Adjustment is asked to determine whether staff made the correct decision in revoking the short-term rental permit. The Board of Adjustment has the authority to review and consider the appeal, investigate facts, weigh evidence, and draw conclusions. The Board may reverse or affirm, in whole or in part, the administrative decision brought forward by the appellant and discussed in this report.

If the Board reverses staff's decision, and approves the appeal, the owner/operators STR permit will be reinstated, and the expiration date set for April 24, 2026.

Staff Recommendation

Staff recommends Denial of the applicant's request for an appeal of the Administrator's decision to deny the Short-Term Rental permit renewal, based on the following findings of fact:

1. The ordinance requires that staff revoke the permit for the violation described in this report; and
2. The owner/operator of the Short-Term Rental permit violated the STR ordinance by advertising two units under one permit, despite been told, in writing, that doing so is not permitted.