

## Legislation Details (With Text)

**File #:** 19-025      **Name:**

**Type:** Special Meeting Item      **Status:** Individual Item Ready

**File created:** 12/5/2018      **In control:** City Council - Special

**On agenda:** 1/15/2019      **Final action:**

**Title:** Discussion and possible direction to staff regarding the current short-term rental ordinance.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Short term rentals, 2. Bed and Breakfast

Date	Ver.	Action By	Action	Result
1/15/2019	1	City Council - Special		

Presenter/Contact

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**SUBJECT:**

Discussion and possible direction to staff regarding the current short-term rental ordinance.

**BACKGROUND / RATIONALE:**

The City of New Braunfels adopted its short-term rental ordinance in 2006. It was the first city in Texas to do so, therefore it was developed “from scratch” with limited examples to draw from; however, staff did work with and receive real estate industry input.

Short-term rentals have become a popular product for overnight lodging as an alternative to traditional hotels. Differing slightly from a bed-and-breakfast, short-term rentals are generally the renting of one’s house, or portion of one’s house, for a time period less than 30 days; the owners are not on the premise at the time of the rental. The concept has grown from opportunities for someone to rent their house when they are temporarily away (on vacation for example), to residential structures that are exclusively used for overnight lodging and even multiple property ownership/management, such that the owner might manage multiple properties from another city, state or utilize a third party.

When New Braunfels’ ordinance was written, it was intended to limit negative impacts on residential neighborhoods, to ensure number of occupants did not exceed structure design capacity, and to maintain safety standards. Therefore, short-term rentals were defined 1) as different from Bed and Breakfasts, and 2) the rental of single-family and duplex structures for less than 30 days. They were prohibited from residential zoning districts; allowed by right in the pre-1987 C-4 (Resort Commercial) District, and in the post-1987 C-4A (Resort Commercial) and C-4B (Resort Facilities) Districts; and required a Special Use Permit (SUP) in all other zoning districts.

Hence, a single-family or duplex structure intended to be used as a short term rental is presently

required to have a non-residential base zoning district, plus an SUP overlay, unless located in the aforementioned Resort Districts. In addition to the proper zoning, an administrative permit and annual fire inspections are also required. Rules were written for parking, maximum number of adults allowed, and the posting of emergency, safety and local ordinance information on site. The administrative permit is the opportunity for the proprietor to demonstrate to the City and its citizens that they are meeting all of the rules adopted by City Council. It also provides emergency contact information in the event Code Enforcement needs the owner address compliance issues, or First Responders are addressing an emergency.

While these rules addressed the impact on residential neighborhoods, they simultaneously allowed the short term rental of non-single-family or duplex structures, (such as multi-family complexes, condominiums, and commercial structures) in non-residential zoning districts, without a permit. This adequately addressed the local concerning issues at the time (2006).

As the popularity of short term rentals increased nationally, additional cities began to adopt various rules. Online reservation and advertising sites were created and are now the predominant if not sole method for reserving short-term rentals. This lodging concept tends to be more popular with groups of people from hunting parties, to families, to groups of friends, depending on tourist destinations or other draws in the respective locale.

Issues:

- In the last three Texas Legislative Sessions, the Legislature has considered, but not yet adopted, a variety of bills that would curtail or eliminate Texas cities' ability to regulate short term rentals.
- Texas Courts have recently handed down decisions limiting Homeowner Association authority to prohibit or regulate short term rentals in their neighborhoods through deed restrictions.
- Overnight accommodations for fewer than 30 days are required to remit hotel occupancy tax to both the state and respective city. Since New Braunfels' ordinance only requires permitting of those in single-family or duplex structures as short term rentals, it is possible that some of the other fewer-than-30-day rentals may not be remitting taxes.
- Without a permit or inspection requirement for these other rentals, the same occupant, parking and other rules specifically for "short term rentals" do not apply to them.
- During Planning Commission discussion of recent SUP requests, concerns have arisen regarding occupant load limits, as well as corresponding number of bathrooms.
- Proliferation of short term rentals as a principle use on a lot removes housing stock from the community's inventory, impacting home affordability broadly across the community.

Staff has reviewed ordinances from a few other Texas communities and is prepared to discuss the above issues and options to possibly address them as deemed necessary by the City Council.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

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<p><b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan</p>	<p><b>Action 1.3:</b> Encourage balanced and fiscally responsible land use patterns. <b>Action 1.11:</b> Update policies and codes to achieve development patterns that implement the goals of Envision New Braunfels. <b>Action 1.14:</b> Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions. <b>Action 3.3:</b> Balance commercial centers with stable neighborhoods. <b>Action 3.6:</b> Proactively provide a regulatory environment that remains business and resident friendly. <b>Action 8.13:</b> Ensure full capture and utilization of hotel occupancy tax, with all hotel occupancy tax recipients (government or otherwise) required to report to City Council in a written report 60 days after the end of each quarter.</p>
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**FISCAL IMPACT:**

Strategic improvements to the zoning ordinance and permitting process could potentially ensure better inventory of overnight/short-term rentals which, in turn, might assist with more accurate remittance of hotel occupancy tax.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

N/A