



CITY COUNCIL AGENDA REPORT

Meeting Date: June 18, 2020

From: John Swiecki, Community Development Director

Subject: Short Term Rental Regulations- Draft Ordinance 655 and Urgency Ordinance 656

Community Goal/Result

Safe Community - Residents and visitors will experience a sense of safety

Community Building - Brisbane will honor the rich diversity of our city (residents, organizations, businesses) through community engagement and participation

Purpose

To amend the Brisbane Municipal Code (BMC) to allow for and regulate short term rentals of residential properties in Brisbane.

Recommendation

1. That the City Council introduce Ordinance No. 655 (Attachment 1), and adopt urgency Ordinance No. 656 (Attachment 2).
2. Direct the City Manager to develop a program and/or regulations to administer and enforce the adopted ordinance, including the establishment of appropriate application fees to cover administrative costs.

Background

On February 7, 2019, the City Council formally initiated zoning text amendments to allow limited short term rentals (STRs) of residential dwellings, subject to a permit requirement and operating limitations. The Council's action to initiate the amendments was the result of numerous Planning Commission and City Council meetings, community surveys, and community dialogue on the topic since 2015.

Following the Council's action, the Planning Commission held a public workshop in June 2019 and a smaller stakeholder meeting in August 2019 to discuss policy issues of particular interest, including whether to allow unhosted rentals, parking requirements, and whether STRs should be allowed in accessory dwelling units (ADUs). The feedback from these workshops informed the draft ordinance considered by the Planning Commission at public hearings on January 9 and February 27, 2020. The attached draft Ordinance 655 (Attachment 1) was unanimously recommend for Council adoption at the February 27, 2020 Commission meeting. The Commission's resolution of approval, agenda reports and minutes from the January 9 and February 27 meetings are attached for Council's reference (Attachment 3).

Discussion

Ordinance Provisions

The attached Ordinances would allow permanent residents of single-family dwellings to offer unlimited hosted rentals following Zoning Administrator approval of an STR permit and subject to operating standards, renewal requirements, and suspension/revocation standards outlined in the draft ordinance. The draft ordinance provisions are described in detail in the attached January 9 and February 27, 2020 Planning Commission agenda reports (Attachment 3). Modifications to the draft ordinance made by the Planning Commission at their February 27, 2020 meeting are shown in track changes in the attached Ordinance No. 655 (Attachment 1). The below ordinance provisions are highlighted for the Council's consideration this evening:

- Allow long-term renters to host STRs with property owner authorization

The question of whether to allow long-term renters of single-family dwellings to host STRs with property owner permission has been debated throughout the City's discussions regarding STR regulation. At least one of the City's active STRs is hosted by a long-term tenant of a single-family dwelling. While most long-term tenants have a vested interest in maintaining the quality of life of their neighborhood, the Police Department continues to have concerns with this provision of the ordinance due to potential conflicts with neighborhood quality of life and accountability for resolution of issues should they arise. The alternative would be to limit STRs to owner-occupied residences.

- Ban unhosted STRs with exceptions for City-approved "emergency" host absences

The Planning Commission recommended this provision be explicitly stated in the ordinance to allow hosts who may have legitimate unforeseen reasons to leave the property during a scheduled hosted rental to do so, with authorization from City staff (see Section 17.35.020.C). However, the Council may want to consider implementing this provision as an administrative practice in implementation, rather than establish a formal process in the ordinance itself, especially given that the circumstances surrounding such a request could vary widely. Police and Community Development staff would work with hosts to manage emergency situations on a case by case basis.

Implementation, Monitoring, and Enforcement

Ongoing monitoring and enforcement of STR activity could be taken on by current staff in the Police and Community Development Departments; however, it would be time intensive and would direct staff time and resources away from other projects and programs. There are several consulting firms who are familiar with the nuances and challenges of STR regulation and provide compliance and monitoring services specifically for STR ordinances. Based on preliminary conversations staff has had with one such firm, Host Compliance, the cost of services would be scaled to the number of active rentals in the City and could be passed through to permit applicants through payment of application fees and permit renewal fees.

Urgency Ordinance

Typically an ordinance if introduced by the City Council must have one additional reading before it is adopted. Then the ordinance becomes effective 30 days after final adoption. In certain circumstances,

however, the City Council may adopt an ordinance as an urgency ordinance to take effect immediately upon its adoption when for reasons of public health, safety or welfare if there is an immediate need to do so. Staff believes such reasons exist in this case, which are enumerated in the attached draft urgency Ordinance No. 656 and include the significant parking and noise impacts short term rentals generate in the community.

Adopting an urgency ordinance and, at the same time, introducing a non-urgency ordinance is not typical but not unusual. If, for example, the urgency ordinance were challenged on grounds that sufficient reasons did not exist to warrant the urgency ordinance, in all likelihood by the time such challenge were adjudicated, the non-urgency ordinance would be in effect. When the non-urgency ordinance is effective, the City Council may rescind the urgency ordinance.

Moreover, the urgency Ordinance No. 656 contains the same language and provisions as Ordinance No. 655, with the exception of a 90-day amnesty period provided for in the urgency Ordinance No. 656. The amnesty period is intended to allow for any operating STRs to file, obtain approval, and satisfy the conditions of approval of the required permits from the City. Any STRs operating without required City permits after the amnesty period will be subject to Code enforcement action. Again, should the urgency ordinance be challenged, the amnesty period will have expired and persons who wish to engage in short term rentals will need to comply immediately with the provisions of the non-urgency ordinance.

Fiscal Impact

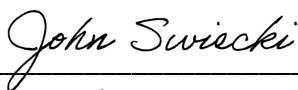
Adoption of the ordinance would likely realize a neutral to slightly positive fiscal impact to the City. Permit application and renewal fees would fund staff time and potential consultant firm fees. The City may realize slight increases in transient occupancy tax (TOT) returns as the draft ordinance requires that hosts pay TOT.

Measure of Success

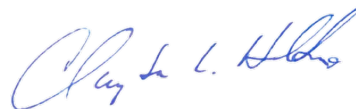
Short term rental regulations that protect the quality of life in Brisbane's residential neighborhoods, allow residents to make economic use of their property, and benefit the City's tourism economy.

Attachments

1. Draft Ordinance No. 655
2. Urgency Ordinance No. 656
3. Planning Commission agenda reports and minutes for January 9 and February 27, 2020 meetings



John Swiecki, Community Development Director



Clay Holstine, City Manager

RESOLUTION NO. RZ-2-19

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE
RECOMMENDING APPROVAL OF ZONING TEXT AMENDMENT RZ-2-19
AMENDING THE BRISBANE MUNICIPAL CODE
TO REGULATE SHORT TERM RESIDENTIAL RENTALS
TO THE CITY COUNCIL

WHEREAS, rentals of residential dwellings for periods of 30 days or less, known as short term rentals, are currently prohibited by the Brisbane Municipal Code; and

WHEREAS, the prevalence of unpermitted short term rentals in Brisbane has increased significantly with the rise of web-based hosting platforms and other factors, which has led to increase enforcement activity and nuisance conditions in residential neighborhoods; and

WHEREAS, considering the foregoing, in January 2015, the City Council directed the Planning Commission to study the regulation of short term rentals, conduct public outreach, and make a recommendation to the City Council on short term rental regulations in Brisbane; and

WHEREAS, the Planning Commission conducted two public workshops and released a community survey, which collectively engaged over two hundred residents, and on April 23, 2015 recommended to the Council to retain the prohibition on short term rentals and recommended the question of whether to allow short term rentals in Brisbane be put to the voters; and

WHEREAS, on July 16, 2015, the City Council tasked the Planning Commission liaisons to conduct additional research with staff regarding impacts of short term rentals to quality of life and additional information on how other jurisdictions have regulated short term rentals; and

WHEREAS, from July 16, 2015 to November 28, 2018 staff conducted additional research and presented the information to the Planning Commission liaisons; and

WHEREAS, on February 7, 2019, the City Council considered the information and data collected to date and voted to initiate zoning text amendments to regulate short term rentals in residential dwellings; and

WHEREAS, on June 27, 2019, the Planning Commission held a public workshop to discuss regulatory options and issues related to short term rentals; and

WHEREAS, a nonscientific community survey was published from July 16 to August 31, 2019, which received 188 unique responses, and the Planning Commission hosted a stakeholder conversation attended by eight residents representing short term rental operators and residents; and

WHEREAS, on January 9, 2020 and February 27, 2020, the Planning Commission conducted a hearing of a draft ordinance regulating short term rentals, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the minutes of the Planning Commission meetings of January 9, 2020 and February 27, 2020 are attached and incorporated by reference as part of this resolution; and

WHEREAS, the project is categorically exempt from CEQA per State CEQA Guidelines Section 15301, and the exceptions to this categorical exemption referenced in Section 15300.2 of the CEQA Guidelines do not apply.

Reso. RZ-2-19

NOW, THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

AYES: Gooding, Mackin, Patel, Sayasane

NOES: None.

ABSENT: Gomez

Pamala Sayasane
PAMALA SAYASANE
Chairperson

ATTEST:

John Swiecki

JOHN SWIECKI, Community Development Director

ORDINANCE NO. 655

**AN ORDINANCE OF THE CITY OF BRISBANE
AMENDING TITLE 17 OF THE BRISBANE MUNICIPAL CODE
TO REGULATE SHORT TERM RESIDENTIAL RENTALS**

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: Section 17.02.235 – Dwelling of Chapter 17.02 of the Zoning Ordinance is amended to read as follows:

17.02.235 - Dwelling.

"Dwelling" means a place that is used as the personal residence of the occupants thereof, including transitional housing as defined in California Health and Safety Code Section 50675.2(h) and supportive housing as defined in California Health and Safety Code Sections 50675.14(b)(2) and (3). The term includes factory-built or manufactured housing, such as mobilehomes, but excludes trailers, campers, tents, recreational vehicles, hotels, motels, boarding houses and temporary structures.

- A. "Dwelling group" means a group of two (2) or more detached buildings located upon the same site, each of which contains one or more dwelling units.
- B. "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for permanent residency by one household. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.
- C. "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.
- D. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling or a multiple-family dwelling and for which an accessory dwelling unit permit or building permit has been granted pursuant to Chapter 17.43 of this title. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.
- E. "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established accessory dwelling unit that may be located within the same structure on upon the same site). The term includes employee housing for six (6) or fewer persons, residential care facilities, licensed by the state to provide twenty-four (24) hour nonmedical care, serving six (6) or fewer persons (not including the operator, the operator's family or persons employed as staff) in need of supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Also see "Group care home" for seven (7) or more persons.

SECTION 2: A new Chapter 17.35- Short term residential rentals is added to the Zoning Ordinance to read as follows:

17.35.010 - Purpose

The purpose of this Chapter is to regulate the short term rental of dwelling units to allow property owners to make economically viable use of their property, to provide diverse tourist lodging options in Brisbane, and to preserve the quality of life in Brisbane's residential neighborhoods.

17.35.020 - Definitions

For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms, and phrases set forth in this section have the meanings given to them in this section:

- A. "Dwelling unit" shall have the same meaning as in Section 17.02.235 of Chapter 17.02 of this Title.
- B. "Host" shall mean the permanent resident of a dwelling unit who offers the dwelling unit for short term rental of less than thirty (30) days. A host must be a natural person who is either the owner of record of the dwelling unit offered for short term rental, an authorized trustee should the property be held in trust, a named lessee of the dwelling unit pursuant to a written agreement for the lease of such real property, or otherwise a natural person who can provide evidence that the dwelling unit is the person's permanent residence.
- C. "Hosted stay" shall mean a short term rental of a permanent residence by the host while the host is present from 8 p.m. to 8 a.m. during the entire term of the rental. Hosted stays include situations where the host has obtained City approval to leave the premises during a scheduled hosted stay to address an unforeseen emergency.
- D. "Hosting platform" shall mean any person or business entity, including but not limited to websites or mobile applications, that provides services to hosts for advertising, administering, collecting payment, and/or facilitating the collection of payment for short term rentals, whether the short term renter pays rent directly to the host or to the hosting platform.
- E. "Notice of violation" shall mean any code enforcement citation, order, ticket or similar notice of violation of this Chapter and all other provisions of the Brisbane Municipal Code relating to the condition of or activities at the subject property, issued by the Brisbane Community Development Department, Brisbane Police Department, or North County Fire Authority pursuant to Chapter 17.58 of this Title and Chapter 1.14, Chapter 1.16, and Chapter 1.18 of this Code.
- F. "Permanent resident" shall mean the resident of a dwelling unit who resides in the dwelling unit for at least 275 days out of a given, consecutive twelve (12) month period.
- G. "Permanent residence" shall mean the dwelling unit in which the permanent resident resides for at least two hundred seventy five (275) days out of a given, consecutive twelve (12) month period, the documentation of which may be confirmed by, but not be limited to, a driver's license, a vehicle registration certificate, State or Federal income tax statements, a statement from a banking institution or any other institution which has issued a credit card, or an executed residential lease for the dwelling unit.
- H. "Short term rental" shall mean the permanent residence of the host offered to a short term renter for financial compensation for the purpose of the short term renter's residing, sleeping or lodging purposes at the permanent residence for periods of less than thirty (30) consecutive calendar days. Portions of days shall be counted as full calendar days. Rooms or suites within hotels, transitional or supportive housing, or single-room-occupancy units, as such terms are defined in Chapter 17.02 of this Title, shall not be considered short term rentals.

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- I. “Short term renter” shall mean a person who rents a dwelling unit from the host for a period of less than thirty (30) consecutive calendar days. Portions of calendar days shall be counted as full calendar days.
- J. “Unhosted stay” shall mean any short term rental that is not a hosted stay as defined in 17.35.020.C.

17.35.030 – Short Term Rental Permit Procedures

- A. Permit Required. After ninety (90) calendar days from the effective date of this ordinance that adopts Chapter 17.35, no host shall conduct short term rental activity in the City of Brisbane without an approved short term rental permit issued by the City, pursuant to this Chapter.
- B. Permit Application. A host shall apply for a short term rental permit using forms provided by the City. At a minimum, the application shall provide the following information:
 - 1. The address of the permanent residence being used for short term rental;
 - 2. The name and contact information of the host;
 - 3. A statement indicating whether the host is the property owner or permanent resident;
 - 4. Evidence of the host’s permanent residence at the subject property;
 - 5. Notarized property owner authorization to conduct short term rental activity if the host is not the property owner;
 - 6. The number of habitable rooms to be provided for short term rental ;
 - 7. The number and location of existing parking spaces on the property;
 - 8. Evidence the host has acquired liability insurance in the amount of at least five hundred thousand dollars (\$500,000) specifically for short term rental activity within a permanent residence.
 - 9. An acknowledgement of compliance with the requirements of the City’s Zoning Ordinance, Municipal Codes, applicable health and safety standards;
 - 10. Authorization from the property owner for City staff to enter the dwelling unit proposed to be offered for short term rental to confirm compliance with life safety standards prior to permit issuance;
 - 11. Acknowledgment and authorization for the City to provide the address of the short term rental and the host’s contact information on a public registry; and
 - 12. Any other information as may be determined necessary by the Zoning Administrator.

The application shall be accompanied by a filing fee in an amount as established by resolution of the City Council.

- C. Permit Application Review by Zoning Administrator. The Zoning Administrator shall review the application for a short term rental. Once a complete application is received, the Zoning Administrator shall provide written notice of the application to occupants and owners of property to either side of, to the rear, and in front of the subject property. Additionally, notification of the application shall be sent to occupants and owners of property on both sides of the block in which the property is located. The notice shall state the details of the application and shall provide a twenty-one (21) day period commencing from the notice mailing date for written comments on the application to be submitted.
- D. Action on Permit Application by Zoning Administrator. Following closure of the twenty-one (21) day noticing period, the Zoning Administrator may issue the short term rental permit and shall notify all

parties who are named in subsection C of this Section 17.35.030 of permit issuance if the Zoning Administrator finds and determines that:

1. The application meets all operating standards and requirements of this Chapter;
 2. The dwelling unit to be offered for short term rental complies with life safety standards as certified by the applicant and confirmed by an on-site inspection by Building Department and/or North County Fire Authority staff; and
 3. The dwelling unit to be offered for short term rental is not the subject of an active code enforcement action or administrative citation from the City in the past twelve (12) months.
- E. Permit Validity. An issued short term rental permit shall be valid for an initial one-year period commencing from the date of final action on the permit application. An issued permit shall be valid only for the host or hosts named in the application and shall automatically expire upon sale or transfer of the subject property, or at such a time as the dwelling unit is no longer the permanent residence of the host. An issued short term rental permit may not be assigned, transferred, or loaned to any other person.
- F. Permit Suspension and Revocation. An issued short term rental permit may be suspended or revoked by the Zoning Administrator if the host or the conduct of the short term rental activity violates this Chapter or any other city, state, or federal regulation, ordinance or statute.
1. Suspension. The Zoning Administrator shall suspend a short term rental permit for a minimum of thirty (30) days, or as long as at least one notice of violation is open and unresolved, whichever is longer, upon issuance of two (2) notices of violation within a twelve (12) month period. Additionally, a permit may be suspended should the host fail to submit an annual certificate of insurance to the Community Development Department. The suspension shall become effective 15 days after the Zoning Administrator mails a notice of intent to suspend the permit to the host and to all such parties who are named in subsection C of this section 17.35.030. The violation(s) shall be processed in the manner described in Chapter 1.14 of this Code. Appeals of permit suspensions shall be processed in the manner described in Chapter 17.52 of this Title. Short term rental activity may commence after thirty (30) days or until the notice(s) of violation is/are resolved, whichever is longer.
 2. Revocation. The Zoning Administrator shall revoke a short term rental permit should three or more violations be sustained (after exhaustion of any related remedies) within any twelve (12) month period. The revocation shall become effective fifteen (15) calendar days after the mailing of a notice of intent to revoke to the permit to the host and to all such parties who are named in subsection C of this section 17.35.030. Appeals of permit revocations shall be processed in the manner described in Chapter 17.56 of this Title. Short term rentals may not be conducted at a dwelling unit following revocation of an issued permit for one (1) year from the date of final action on the revocation and the City's approval of a new short term rental permit.
- G. Permit Renewal.
1. The first short term rental permit issued shall expire one year after the date of final action on the initial permit application unless a permit renewal application is approved by the Zoning Administrator prior to the expiration date. A renewed permit shall be renewed for a subsequent two year period, except that the Zoning Administrator may renew the permit for a shorter period of time for factors including but not limited to the history of notices of violation and/or sustained suspensions during the life of the permit.
 2. The permit renewal application shall be accompanied by a filing fee in an amount as established by resolution of the City Council.

3. The host shall submit such information concerning the short term rental activity as may be required to enable the tax administrator to verify that the amount of tax paid complies with Chapter 3.24.
4. A safety inspection shall be conducted by the Building Department and/or North County Fire Authority prior to approval of each short term rental permit renewal to ensure the dwelling unit complies with the safety requirements of this Chapter and with general life safety standards under State law.
5. The Zoning Administrator shall approve a permit renewal application if it is found that the host has complied with all provisions of this Chapter, including requirements for tax payment, and the dwelling has passed a safety inspection. Notice of permit renewal shall be given to occupants and owners of property to either side of, to the rear, and in front of the subject property. Additionally, notification shall be sent to occupants and owners of property on both sides of the block in which the property is located.

17.35.040 Short term rental operational standards.

The following standards shall apply to the operation of short term rentals:

- A. **Unhosted Stays Prohibited.** This ordinance authorizes only hosted stays and prohibits unhosted stays, as such terms are defined in Section 17.35.020 of this Chapter.
- B. **Single-Family or Accessory Dwelling Units.** Short term rentals may only occur within legal single-family or accessory dwelling units, subject to the restrictions established in subsection C of this section 17.35.040. Notwithstanding the foregoing, short term rentals shall be prohibited on properties occupied by single-family dwellings with legal accessory dwelling units established on or after April 1, 2017.
- C. **Accessory Dwelling Units.** Short term rentals may not operate in accessory dwelling units established on or after April 1, 2017; provided, however, permanent residents of accessory dwelling units legally established prior to April 1, 2017 may apply to host a short term rental subject to all operational standards and limitations established by this Chapter.
- D. **Hosted Stays Unlimited.** There shall be no limit on the number of days habitable rooms within a permanent residence may be occupied as a short term rental during a hosted stay. The host shall be responsible for any nuisance complaints arising during short term rental activities during hosted stays. No more than two habitable rooms may be rented at any given time during a hosted stay, subject to the limitation on bookings as provided in subsection G of this section 17.35.040.
- E. **Short Term Rental Permit Number on Listings and Guest Materials.** Any listing advertising a short term rental and all materials provided to short term renters regarding applicable rules and regulations pertaining to their stay shall prominently display the permit number of the issued permit.
- F. **Insurance.** The host shall maintain adequate liability insurance in the amount of at least five hundred thousand dollars (\$500,000) specifically for short term rental activity within a permanent residence while the short term rental is occupied. The host shall annually submit insurance certificates to the Community Development Department.
- G. **Limitation on Bookings.** Individual rooms within a short term rental shall not be booked to separate, unrelated rental parties. If multiple listings are provided for the same residence, only one such listing may be booked on any given day, with the exception that check-out and check-in periods for separate bookings may occur on the same day.
- H. **Check-out and Check-in Times.** Short term renter check-out and check-in times shall typically occur after 7 AM and before 10 PM. Exceptions to the check-out and check-in times may be allowed only

in extenuating circumstances, including unforeseen changes or delays in a short term renter's travel schedule or illness of the host or the short term renter. At all times, the host shall ensure that short term renter check-in and check-out is conducted in such a manner as to not result in unreasonable noise or disturbance to neighboring properties.

- I. **Parking.** At least one parking space shall be made available per on-site per habitable room available to rent as a short term rental. Existing on-site parking spaces shall be made available to short term renters. No additional on-site parking shall be required for short-term rentals.
- J. **Occupancy Limits.** No more than two (2) overnight short term renters (not including children) between the hours of 10 PM and 7 AM are allowed per habitable room provided in the short term rental. No more than four (4) daytime persons (not including children) between the hours of 7 AM and 10 PM are allowed per habitable room provided in the short term rental.
- K. **Noise Prohibited.** There shall be no use of sound amplifying equipment. There shall be no evening outdoor congregations of more than eight (8) people (excluding children), regardless of the number of habitable rooms provided, after 10:00 pm. Short term rental stays are subject to the noise regulations in the Chapter 8.28 of the Municipal Code.
- L. **Safety.** Every host shall provide and maintain working fire extinguishers, smoke detectors, and carbon monoxide detectors, in compliance with fire, life and safety codes, and information related to emergency exit routes on the property.
- M. **Guide for Short Term Renters.** Every host shall provide a rental guide to short term renters that includes the operational standards listed in this Chapter, the contact information for the host , and other information to address behavioral, safety, security, and other standards.
- N. **Special Events Prohibited.** Weddings, corporate events, commercial functions, and any other similar events which have the potential to cause traffic, parking, noise or other problems in the neighborhood are prohibited from occurring at the short term rental property, as a component of short term rental activities.
- O. **Transient Occupancy Tax (TOT).** Short term rentals shall be subject to transient occupancy taxes pursuant to Chapter 3.24 of this Code. The host shall be responsible for collecting transient occupancy taxes and remitting them to the City, unless the host exclusively lists on hosting platforms that have signed a voluntary collection agreement (or equivalent) with the City.
- P. **Records of Compliance.** The host shall retain records documenting compliance with the requirements of this Chapter for each short term rental for a period of three (3) years, including but not limited to records showing payment of transient occupancy taxes by a hosting platform on behalf of a host. Upon reasonable notice, the host shall provide any such documentation to the Community Development Director or the Tax Administrator upon request for the purpose of inspection or audit.
- Q. **Public Registry.** The City shall maintain a registry accessible to the public of issued short term rental permits, including their address, the host name, and host contact information.

17.35.050 – Penalties

Failure to comply with any provisions of this Chapter will constitute a violation of this Chapter, punishable by the fines, penalties and enforcement provisions set forth in Chapters 1.14, 1.16 and 1.18 of this Code, and will subject the holder of a short term rental permit to the suspension and revocation proceedings described in Section 17.35.030 of this Chapter.

SECTION 3: Where a use permit, design permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, or where such planning permit approval is not

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required and a complete building permit application has been submitted prior to the effective date of this Ordinance, the holder of such use permit, design permit or variance approval or complete building permit application may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

SECTION 4: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 5: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the 18th day of June, 2020, by the following vote:


- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk



City Attorney

ORDINANCE NO. 656**AN URGENCY ORDINANCE OF THE CITY OF BRISBANE TO TAKE EFFECT
IMMEDIATELY UPON ITS ADOPTION
AMENDING TITLE 17 OF THE BRISBANE MUNICIPAL CODE
TO REGULATE SHORT TERM RESIDENTIAL RENTALS**

WHEREAS, the rental of residential dwellings for 30 or fewer days, known as short term rentals, is currently prohibited in Brisbane; and

WHEREAS, notwithstanding the current prohibition of short term rentals, the number of unpermitted, short term rentals in Brisbane has increased significantly due to web-based platforms and other factors, which has led to complaints from neighbors about noise, the parking of numerous vehicles on narrow streets in residential areas that has the potential to restrict access by emergency vehicles, and other public health, safety and welfare issues in Brisbane neighborhoods; and

WHEREAS, due to these complaints and parking impacts, the City has had to engage in increased enforcement activity and respond to nuisance conditions in residential neighborhoods; and

WHEREAS, the Planning Commission conducted a public workshop and two public hearings to discuss regulatory options concerning short term rentals and has made recommendations to the City Council; and

Whereas, the City Council conducted its own public hearing on proposed short term regulations on June 18, 2020, at which time it considered such testimony, the minutes and recommendations of the Planning Commission, and the City staff agenda report; and

WHEREAS, Government Code, Section 36937 allows a city to adopt an urgency ordinance to take effect immediately upon its adoption for the preservation of the public health, safety or welfare based on a finding of facts constituting the urgency thereof; and

WHEREAS, such an urgency ordinance requires a four-fifths vote (4 votes) of the City Council for adoption; and

WHEREAS, the City Council finds that without adopting this Ordinance residents in Brisbane neighborhoods will continue to be negatively impacted by the noise and parking caused by short term rentals, notwithstanding that short term rentals are not permitted; and

WHEREAS, unregulated short term rentals create immediate and unacceptable disruptions to the health, safety or welfare of Brisbane residents, especially those in residential neighborhoods; and

WHEREAS, based on the foregoing findings and other evidence presented to the City Council at its meeting, the City Council finds and determines that this Ordinance is urgently needed for the immediate preservation of the public health, safety or welfare and to avoid a current, immediate direct threat to the community; and

WHEREAS, adoption of this Ordinance is categorically exempt from the California Environmental Quality Act and CEQA Guidelines, Section 15301 and the exceptions to this categorical exemption referenced in Section 15330.2 do not apply.

NOW, THEREFORE, the City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: Section 17.02.235 – Dwelling of Chapter 17.02 of the Zoning Ordinance is amended to read as follows:

17.02.235 - Dwelling.

"Dwelling" means a place that is used as the personal residence of the occupants thereof, including transitional housing as defined in California Health and Safety Code Section 50675.2(h) and supportive housing as defined in California Health and Safety Code Sections 50675.14(b)(2) and (3). The term includes factory-built or manufactured housing, such as mobilehomes, but excludes trailers, campers, tents, recreational vehicles, hotels, motels, boarding houses and temporary structures.

- A. "Dwelling group" means a group of two (2) or more detached buildings located upon the same site, each of which contains one or more dwelling units.
- B. "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for permanent residency by one household. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.
- C. "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.
- D. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling or a multiple-family dwelling and for which an accessory dwelling unit permit or building permit has been granted pursuant to Chapter 17.43 of this title. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.
- E. "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established accessory dwelling unit that may be located within the same structure on upon the same site). The term includes employee housing for six (6) or fewer persons, residential care facilities, licensed by the state to provide twenty-four (24) hour nonmedical care, serving six (6) or fewer persons (not including the operator, the operator's family or persons employed as staff) in need of supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Also see "Group care home" for seven (7) or more persons.

SECTION 2: A new Chapter 17.35- Short term residential rentals is added to the Zoning Ordinance to read as follows:

17.35.010 - Purpose

The purpose of this Chapter is to regulate the short term rental of dwelling units to allow property owners to make economically viable use of their property, to provide diverse tourist lodging options in Brisbane, and to preserve the quality of life in Brisbane's residential neighborhoods.

17.35.020 - Definitions

For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms, and phrases set forth in this section have the meanings given to them in this section:

- A. “Dwelling unit” shall have the same meaning as in Section 17.02.235 of Chapter 17.02 of this Title.
- B. “Host” shall mean the permanent resident of a dwelling unit who offers the dwelling unit for short term rental of less than thirty (30) days. A host must be a natural person who is either the owner of record of the dwelling unit offered for short term rental, an authorized trustee should the property be held in trust, a named lessee of the dwelling unit pursuant to a written agreement for the lease of such real property, or otherwise a natural person who can provide evidence that the dwelling unit is the person’s permanent residence.
- C. “Hosted stay” shall mean a short term rental of a permanent residence by the host while the host is present from 8 p.m. to 8 a.m. during the entire term of the rental. Hosted stays include situations where the host has obtained City approval to leave the premises during a scheduled hosted stay to address an unforeseen emergency.
- D. “Hosting platform” shall mean any person or business entity, including but not limited to websites or mobile applications, that provides services to hosts for advertising, administering, collecting payment, and/or facilitating the collection of payment for short term rentals, whether the short term renter pays rent directly to the host or to the hosting platform.
- E. “Notice of violation” shall mean any code enforcement citation, order, ticket or similar notice of violation of this Chapter and all other provisions of the Brisbane Municipal Code relating to the condition of or activities at the subject property, issued by the Brisbane Community Development Department, Brisbane Police Department, or North County Fire Authority pursuant to Chapter 17.58 of this Title and Chapter 1.14, Chapter 1.16, and Chapter 1.18 of this Code.
- F. “Permanent resident” shall mean the resident of a dwelling unit who resides in the dwelling unit for at least 275 days out of a given, consecutive twelve (12) month period.
- G. “Permanent residence” shall mean the dwelling unit in which the permanent resident resides for at least two hundred seventy five (275) days out of a given, consecutive twelve (12) month period, the documentation of which may be confirmed by, but not be limited to, a driver’s license, a vehicle registration certificate, State or Federal income tax statements, a statement from a banking institution or any other institution which has issued a credit card, or an executed residential lease for the dwelling unit.
- H. “Short term rental” shall mean the permanent residence of the host offered to a short term renter for financial compensation for the purpose of the short term renter’s residing, sleeping or lodging purposes at the permanent residence for periods of less than thirty (30) consecutive calendar days. Portions of days shall be counted as full calendar days. Rooms or suites within hotels, transitional or supportive housing, or single-room-occupancy units, as such terms are defined in Chapter 17.02 of this Title, shall not be considered short term rentals.
- I. “Short term renter” shall mean a person who rents a dwelling unit from the host for a period of less than thirty (30) consecutive calendar days. Portions of calendar days shall be counted as full calendar days.
- J. “Unhosted stay” shall mean any short term rental that is not a hosted stay as defined in 17.35.020.C.

17.35.030 – Short Term Rental Permit Procedures

- A. Permit Required. After ninety (90) calendar days from the effective date of this ordinance that adopts Chapter 17.35, no host shall conduct short term rental activity in the City of Brisbane without an approved short term rental permit issued by the City, pursuant to this Chapter.
- B. Permit Application. A host shall apply for a short term rental permit using forms provided by the City. At a minimum, the application shall provide the following information:
1. The address of the permanent residence being used for short term rental;
 2. The name and contact information of the host;
 3. A statement indicating whether the host is the property owner or permanent resident;
 4. Evidence of the host's permanent residence at the subject property;
 5. Notarized property owner authorization to conduct short term rental activity if the host is not the property owner;
 6. The number of habitable rooms to be provided for short term rental ;
 7. The number and location of existing parking spaces on the property;
 8. Evidence the host has acquired liability insurance in the amount of at least five hundred thousand dollars (\$500,000) specifically for short term rental activity within a permanent residence.
 9. An acknowledgement of compliance with the requirements of the City's Zoning Ordinance, Municipal Codes, applicable health and safety standards;
 10. Authorization from the property owner for City staff to enter the dwelling unit proposed to be offered for short term rental to confirm compliance with life safety standards prior to permit issuance;
 11. Acknowledgment and authorization for the City to provide the address of the short term rental and the host's contact information on a public registry; and
 12. Any other information as may be determined necessary by the Zoning Administrator.
- The application shall be accompanied by a filing fee in an amount as established by resolution of the City Council.
- C. Permit Application Review by Zoning Administrator. The Zoning Administrator shall review the application for a short term rental. Once a complete application is received, the Zoning Administrator shall provide written notice of the application to occupants and owners of property to either side of, to the rear, and in front of the subject property. Additionally, notification of the application shall be sent to occupants and owners of property on both sides of the block in which the property is located. The notice shall state the details of the application and shall provide a twenty-one (21) day period commencing from the notice mailing date for written comments on the application to be submitted.
- D. Action on Permit Application by Zoning Administrator. Following closure of the twenty-one (21) day noticing period, the Zoning Administrator may issue the short term rental permit and shall notify all parties who are named in subsection C of this Section 17.35.030 of permit issuance if the Zoning Administrator finds and determines that:
1. The application meets all operating standards and requirements of this Chapter;
 2. The dwelling unit to be offered for short term rental complies with life safety standards as certified by the applicant and confirmed by an on-site inspection by Building Department and/or North County Fire Authority staff; and
 3. The dwelling unit to be offered for short term rental is not the subject of an active code enforcement action or administrative citation from the City in the past twelve (12) months.

- E. **Permit Validity.** An issued short term rental permit shall be valid for an initial one-year period commencing from the date of final action on the permit application. An issued permit shall be valid only for the host or hosts named in the application and shall automatically expire upon sale or transfer of the subject property, or at such a time as the dwelling unit is no longer the permanent residence of the host. An issued short term rental permit may not be assigned, transferred, or loaned to any other person.
- F. **Permit Suspension and Revocation.** An issued short term rental permit may be suspended or revoked by the Zoning Administrator if the host or the conduct of the short term rental activity violates this Chapter or any other city, state, or federal regulation, ordinance or statute.
1. **Suspension.** The Zoning Administrator shall suspend a short term rental permit for a minimum of thirty (30) days, or as long as at least one notice of violation is open and unresolved, whichever is longer, upon issuance of two (2) notices of violation within a twelve (12) month period. Additionally, a permit may be suspended should the host fail to submit an annual certificate of insurance to the Community Development Department. The suspension shall become effective 15 days after the Zoning Administrator mails a notice of intent to suspend the permit to the host and to all such parties who are named in subsection C of this section 17.35.030. The violation(s) shall be processed in the manner described in Chapter 1.14 of this Code. Appeals of permit suspensions shall be processed in the manner described in Chapter 17.52 of this Title. Short term rental activity may commence after thirty (30) days or until the notice(s) of violation is/are resolved, whichever is longer.
 2. **Revocation.** The Zoning Administrator shall revoke a short term rental permit should three or more violations be sustained (after exhaustion of any related remedies) within any twelve (12) month period. The revocation shall become effective fifteen (15) calendar days after the mailing of a notice of intent to revoke to the permit to the host and to all such parties who are named in subsection C of this section 17.35.030. Appeals of permit revocations shall be processed in the manner described in Chapter 17.56 of this Title. Short term rentals may not be conducted at a dwelling unit following revocation of an issued permit for one (1) year from the date of final action on the revocation and the City's approval of a new short term rental permit.
- G. **Permit Renewal.**
1. The first short term rental permit issued shall expire one year after the date of final action on the initial permit application unless a permit renewal application is approved by the Zoning Administrator prior to the expiration date. A renewed permit shall be renewed for a subsequent two year period, except that the Zoning Administrator may renew the permit for a shorter period of time for factors including but not limited to the history of notices of violation and/or sustained suspensions during the life of the permit.
 2. The permit renewal application shall be accompanied by a filing fee in an amount as established by resolution of the City Council.
 3. The host shall submit such information concerning the short term rental activity as may be required to enable the tax administrator to verify that the amount of tax paid complies with Chapter 3.24.
 4. A safety inspection shall be conducted by the Building Department and/or North County Fire Authority prior to approval of each short term rental permit renewal to ensure the dwelling unit complies with the safety requirements of this Chapter and with general life safety standards under State law.
 5. The Zoning Administrator shall approve a permit renewal application if it is found that the host has complied with all provisions of this Chapter, including requirements for tax payment, and the

dwelling has passed a safety inspection. Notice of permit renewal shall be given to occupants and owners of property to either side of, to the rear, and in front of the subject property. Additionally, notification shall be sent to occupants and owners of property on both sides of the block in which the property is located.

17.35.040 Short term rental operational standards.

The following standards shall apply to the operation of short term rentals:

- A. **Unhosted Stays Prohibited.** This ordinance authorizes only hosted stays and prohibits unhosted stays, as such terms are defined in Section 17.35.020 of this Chapter.
- B. **Single-Family or Accessory Dwelling Units.** Short term rentals may only occur within legal single-family or accessory dwelling units, subject to the restrictions established in subsection C of this section 17.35.040. Notwithstanding the foregoing, short term rentals shall be prohibited on properties occupied by single-family dwellings with legal accessory dwelling units established on or after April 1, 2017.
- C. **Accessory Dwelling Units.** Short term rentals may not operate in accessory dwelling units established on or after April 1, 2017; provided, however, permanent residents of accessory dwelling units legally established prior to April 1, 2017 may apply to host a short term rental subject to all operational standards and limitations established by this Chapter.
- D. **Hosted Stays Unlimited.** There shall be no limit on the number of days habitable rooms within a permanent residence may be occupied as a short term rental during a hosted stay. The host shall be responsible for any nuisance complaints arising during short term rental activities during hosted stays. No more than two habitable rooms may be rented at any given time during a hosted stay, subject to the limitation on bookings as provided in subsection G of this section 17.35.040.
- E. **Short Term Rental Permit Number on Listings and Guest Materials.** Any listing advertising a short term rental and all materials provided to short term renters regarding applicable rules and regulations pertaining to their stay shall prominently display the permit number of the issued permit.
- F. **Insurance.** The host shall maintain adequate liability insurance in the amount of at least five hundred thousand dollars (\$500,000) specifically for short term rental activity within a permanent residence while the short term rental is occupied. The host shall annually submit insurance certificates to the Community Development Department.
- G. **Limitation on Bookings.** Individual rooms within a short term rental shall not be booked to separate, unrelated rental parties. If multiple listings are provided for the same residence, only one such listing may be booked on any given day, with the exception that check-out and check-in periods for separate bookings may occur on the same day.
- H. **Check-out and Check-in Times.** Short term renter check-out and check-in times shall typically occur after 7 AM and before 10 PM. Exceptions to the check-out and check-in times may be allowed only in extenuating circumstances, including unforeseen changes or delays in a short term renter's travel schedule or illness of the host or the short term renter. At all times, the host shall ensure that short term renter check-in and check-out is conducted in such a manner as to not result in unreasonable noise or disturbance to neighboring properties.
- I. **Parking.** At least one parking space shall be made available per on-site per habitable room available to rent as a short term rental. Existing on-site parking spaces shall be made available to short term renters. No additional on-site parking shall be required for short-term rentals.
- J. **Occupancy Limits.** No more than two (2) overnight short term renters (not including children) between the hours of 10 PM and 7 AM are allowed per habitable room provided in the short term

rental. No more than four (4) daytime persons (not including children) between the hours of 7 AM and 10 PM are allowed per habitable room provided in the short term rental.

- K. Noise Prohibited. There shall be no use of sound amplifying equipment. There shall be no evening outdoor congregations of more than eight (8) people (excluding children), regardless of the number of habitable rooms provided, after 10:00 pm. Short term rental stays are subject to the noise regulations in the Chapter 8.28 of the Municipal Code.
- L. Safety. Every host shall provide and maintain working fire extinguishers, smoke detectors, and carbon monoxide detectors, in compliance with fire, life and safety codes, and information related to emergency exit routes on the property.
- M. Guide for Short Term Renters. Every host shall provide a rental guide to short term renters that includes the operational standards listed in this Chapter, the contact information for the host , and other information to address behavioral, safety, security, and other standards.
- N. Special Events Prohibited. Weddings, corporate events, commercial functions, and any other similar events which have the potential to cause traffic, parking, noise or other problems in the neighborhood are prohibited from occurring at the short term rental property, as a component of short term rental activities.
- O. Transient Occupancy Tax (TOT). Short term rentals shall be subject to transient occupancy taxes pursuant to Chapter 3.24 of this Code. The host shall be responsible for collecting transient occupancy taxes and remitting them to the City, unless the host exclusively lists on hosting platforms that have signed a voluntary collection agreement (or equivalent) with the City.
- P. Records of Compliance. The host shall retain records documenting compliance with the requirements of this Chapter for each short term rental for a period of three (3) years, including but not limited to records showing payment of transient occupancy taxes by a hosting platform on behalf of a host. Upon reasonable notice, the host shall provide any such documentation to the Community Development Director or the Tax Administrator upon request for the purpose of inspection or audit.
- Q. Public Registry. The City shall maintain a registry accessible to the public of issued short term rental permits, including their address, the host name, and host contact information.
- R. Amnesty Period for Short-Term Rentals. Notwithstanding any other provision of law, any host conducting short term rental activity on or before the enactment of this ordinance shall be considered an unpermitted use. An amnesty period of ninety (90) days after the effective date of this ordinance is being offered to allow any unpermitted uses to be permitted by conforming to the requirements of this Chapter including obtaining a permit, complying with operating standards, and meeting recordkeeping obligations. Transient Occupancy Tax payments continue to be required at all times for short term rentals and must be collected and paid during the amnesty period. Applications to bring an existing, unpermitted short term rental use into compliance shall be made within ninety (90) days of the effective date of this ordinance.

17.35.050 – Penalties

Failure to comply with any provisions of this Chapter will constitute a violation of this Chapter, punishable by the fines, penalties and enforcement provisions set forth in Chapters 1.14, 1.16 and 1.18 of this Code, and will subject the holder of a short term rental permit to the suspension and revocation proceedings described in Section 17.35.030 of this Chapter.

SECTION 3: Where a use permit, design permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, or where such planning permit approval is not

Urgency Ord. No. 656

required and a complete building permit application has been submitted prior to the effective date of this Ordinance, the holder of such use permit, design permit or variance approval or complete building permit application may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

SECTION 4: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 5: URGENCY ORDINANCE: EFFECTIVE IMMEDIATELY. This Ordinance is an urgency ordinance shall be in full force and effect immediately upon adoption.

* * *

The above and foregoing Ordinance was regularly passed and adopted on an urgency basis by a super majority of the Council of the City of Brisbane at a regular meeting of the City Council of the City of Brisbane held June 18, 2020, by the following vote:


AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk



City Attorney

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 2/27/2020

SUBJECT: **Zoning Text Amendment RZ-2-19;** Zoning Text Amendments to adopt regulations for short term residential rentals by adding a new Chapter 17.35 to the Brisbane Municipal Code; Citywide; City of Brisbane, applicant.

SUPPLEMENTAL REPORT

BACKGROUND: This application was continued from the meeting of January 9, 2020 to allow staff to follow up on questions on the draft regulations posed by the Planning Commission as well as members of the public. The January 9 staff report is attached for reference.

During the public hearing, the public and Commission both raised questions regarding: current code enforcement status; implementation and enforcement of the draft ordinance; how new State laws regarding rental control and just cause eviction could impact the long term rental market; and hosting platforms' policies regarding transferring fiscal penalties from the City to guests. These issues are further discussed below.

Code Enforcement Issues

- Current Code Enforcement Status

In December 2014, a citizen complaint was filed against all properties in Brisbane with an active Airbnb listing (seven at the time the complaint was filed). These properties were issued a Notice to Correct as short term rentals are not permitted in residential districts, with the correction being to remove their listing on Airbnb. On January 15, 2015, the City Council directed the Planning Commission to study the issue and make recommendations to the Council. The Council also directed staff to put current enforcement efforts in abeyance until such a time as the Council made a final decision on whether or not to regulate short term rentals. The cited parties were contacted in writing to inform them of the abeyance in enforcement activity.

As the study of the issue has continued to this day, enforcement of the prohibition of short term rentals remains in abeyance until the Council provides direction otherwise. However, quality of life issues associated with short term rentals, such as noise/party complaints, illegal parking, trash and debris overflow, **are actively enforced**. In regard to inquiries regarding the establishment of short term rentals, staff responds that such uses are not permitted under the Municipal Code.

- Implementation and Enforcement of Proposed Ordinance

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Quality of Life and Neighborhood Compatibility

Concerns were raised regarding how the ordinance would protect the neighborhood from nuisances, including loud and disruptive noise or illegal or excessive parking. Section 17.35.040.H of the draft ordinance requires the host (permanent resident; either property owner or long-term tenant with permission of property owner to operate short term rentals) to provide current contact information for the host, or a local contact person (in the case of unhosted rentals) who can respond within 30 minutes to resolve any complaints from neighbors. This contact information would be included on the notice sent to occupants and owners of property to either side of, to the rear, and in front of the subject property, and occupants and owners of property on both sides of the block in which the property is located. The contact information would also be provided to the Police Department and code enforcement staff. Neighbors would be able to call the host or local contact person directly, or call the Police Department to report any immediate or on-going issues.

According to the Police Chief, the Police Department has responded to calls in the past five years related to short term rental activity; primarily noise, parking, and trash/debris, falling under the “quality of life” category. There have been **no documented cases or calls related to criminal activity**, including sex trafficking or other illicit activity. Quality of life complaints are kept confidential and the complainant may remain anonymous or may provide their name and contact information if they want a call back from the responding officers.

The Police Department will remain available to respond 24 hours a day, seven days per week to these types of complaints, regardless of who is responsible for the disturbance (short term renters, long term renters, property owners, or guests). Additionally, while the Community Development Department does not have direct access to the Police Department’s call logs or case logs, the Police Department routinely shares its call and enforcement activity with the Community Development Department for follow-up as necessary. Call and enforcement activity would be integrated into the permit record for a short term rental permit using existing City systems and procedures. As discussed further below, the City could potentially contract with an outside company (vendor) to administer its approved short term rental program. Such a contract could involve the vendor providing a “hotline” for complainants to call if they do not want to call the Police Department directly. Under this approach, the vendor acts as the point of contact for neighbors and contacts the host or local contact person directly.

Limitations on Listings and Rooms

The draft ordinance includes a 60-night limitation on unhosted rentals, limitation of the number of rooms rented during a hosted stay, tax collection requirements, and other performance standards that will be fairly resource intensive, but feasible, for staff to administer manually, with the costs partially offset by permit fees and taxes. As noted above, a vendor administering the program on behalf of the City could provide a suite of robust enforcement services, including a “hotline” for complainants as noted above, as well as automated data collection for listing and booking activity to confirm whatever limitations are set forth in the ordinance are being adhered to. The vendor could also monitor and administer tax collection. The fees for such

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services would be recouped by charging annual registration or renewal fees for short term rental permits. If a short term rental ordinance is adopted the City Council would ultimately determine how such a program is administered.

Suspending or Revoking a Permit, Plus Financial Penalties

- Permit Suspension or Revocation

Section 17.35.030.F of the draft ordinance outlines recommendations for suspending an issued short term rental permit (two sustained violations within a given six month period) and revocation (three sustained violations within a given 12 month period). The Commission could modify those provisions to be less lenient. Should the permit be revoked, the host must wait at least one year before re-applying for a permit. Additionally, per Section 17.35.030.G of the draft ordinance specifies that when considering an application for renewal of a short term rental permit, staff may renew permits for a shorter time if warranted by past sustained complaints or permit suspension activity.

- Penalties and Fees for Code Violations

Financial penalties for violations of the Municipal Code are established in BMC Chapter 1.14. Violations of the zoning ordinance are considered infractions per BMC Chapter 17.58. Infractions are fined at \$100 for a first offense, \$200 for a second offense of the ordinance within 12 consecutive months, and \$500 for each additional offense within 12 consecutive months. Chapter 1.14 allows infractions to be charged as misdemeanors if the defendant has three or more violations within 12 consecutive months, or four or more violations within 24 consecutive months. (BMC Section 1.14.020) Misdemeanors are fined at up to \$1,000. The draft ordinance could specify a different or higher amount of fines for violations of the short term rental regulations per BMC Section 1.14.030.

- Relationship between Fines and Hosting Platforms

A question was raised whether penalties imposed on a host could be passed on by the host to the guest, assuming the issue was related to guest behavior. Staff was unable to locate clear written guidelines addressing this specific issue. However, it can be clearly stated that Airbnb, or any other hosting platform, would not be involved in the assessment and collection of fines or penalties by the City. The City would fine the host, and the host would be responsible for fine payment. Airbnb policies discourage hosts and guests to conduct any financial activity outside of Airbnb, and there does not appear to be a clear mechanism to extract an additional fee from a guest after the stay is completed. It appears the host could submit a claim to the guest through Airbnb, which would be mediated by Airbnb.

Tenant Protection Act and Short Term Rental Market

A question was raised on January 9 whether the new Tenant Protection Act of 2019 (AB 1482) provisions for rent control and just cause eviction in rental properties could inspire more

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landlords to pivot from long-term rentals into short term rentals. Staff cannot speculate on the widespread impacts of AB 1482 for landlords and the long-term rental market in general, but can provide some clarifying information on the law's provisions.

AB 1482 **does not apply** to rentals in owner-occupied properties, including single-family dwellings or duplexes. It also **does not apply** to single-family homes or condominiums that are owned by a natural person - not a corporation - that are solely tenant occupied. The law requires property owners to notify their tenants in writing of the exemption from AB 1482. Because the draft ordinance would restrict short term rentals to be hosted only by permanent residents of the property (either the property owner or long-term renter with permission of the owner), the draft ordinance would not allow property owners to rent out their properties exclusively for short term rental use.

Written Correspondence

Written correspondence received prior to publication of this agenda report is attached for the Commission's reference.

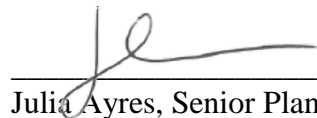
RECOMMENDATION: Recommend City Council approval of the draft ordinance via adoption of Resolution RZ-2-19.

Other alternatives available to the Planning Commission include:

- Recommend City Council approval of the draft ordinance as modified by the Commission per the Commission's deliberation this evening.
- Recommend City Council denial of the draft ordinance in its entirety and maintain the current prohibition on short term residential rentals.

ATTACHMENTS:

- A. ~~Draft Resolution RZ-2-19 and draft ordinance (including ordinance revisions in redline to correct typographical errors from the January 9, 2020 staff report)~~
- B. January 9, 2020 Planning Commission staff report ~~and draft meeting minutes~~
- C. Written communications



 Julia Ayres, Senior Planner



 John Swiecki, Community Development Director



MEMORANDUM

DATE: 1/09/2020
 TO: Planning Commission
 FROM: John Swiecki, Community Development Director, via Julia Ayres, Senior Planner
 SUBJECT: **RZ-2-19 Errata Sheet**

JA

Staff is recommending the following changes to the draft resolution attached to the agenda report for Zoning Text Amendment RZ-2-19:

- Draft Ordinance Title (page G.1.11)
 - o Correct title of draft ordinance to read as follows:

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING TITLE 17 OF THE
 BRISBANE MUNICIPAL CODE TO REGULATE SHORT TERM RESIDENTIAL
 RENTALS

- Subsection 17.35.040.B of the draft ordinance (page G.1.15)
 - o Amend subsection to read as follows:

B. Accessory Dwelling Units. Short term rentals may not operate in accessory dwelling units established on or after April 1, 2017; provided, however, permanent residents of accessory dwelling units legally established prior to ~~January 1, 2020~~ April 1, 2017 may apply to host a short term rental subject to all operational standards and limitations established by this Chapter.

These amendments should be referenced in any motion to adopt the draft resolution, with or without any additional amendments per the Commission's discussion this evening.

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 1/9/2020

SUBJECT: Zoning Text Amendment RZ-2-19; Zoning Text Amendments to adopt regulations for short term residential rentals by adding a new Chapter 17.35 to the Brisbane Municipal Code; City of Brisbane, applicant; Citywide.

REQUEST: Recommend City Council adoption of proposed zoning text amendments to adopt short term rental regulations.

RECOMMENDATION: Approve Zoning Text Amendment RZ-2-19 via adoption of Resolution RZ-2-19 containing the findings and conditions of approval.

ENVIRONMENTAL DETERMINATION: The project is categorically exempt from the provisions of the California Environmental Quality Act per Section 15301 of the CEQA Guidelines. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.

APPLICABLE CODE SECTIONS: “Dwelling” is defined in Chapter 17.02, Definitions, of the Brisbane Municipal Code (BMC). Zoning districts that allow residential dwellings are the R-1 Residential District (BMC Chapter 17.06), R-2 Residential District (BMC Chapter 17.08), R-3 Residential District (BMC Chapter 17.10), R-BA Residential District (BMC Chapter 17.12), Neighborhood Commercial District (BMC Chapter 17.14), and Southwest Bayshore District (BMC Chapter 17.16).

ANALYSIS AND FINDINGS:

Background

Under current Brisbane Municipal Code regulations, rentals of rooms or entire dwellings for less than 30 days (short term rentals, or STRs) are not permitted in residential zoning districts. Initially arising as a code enforcement complaint in 2014, with the advent of web-based short term rental listing sites such as Airbnb.com and VRBO.com and subsequent increase in operations of such rentals in Brisbane, the Brisbane City Council and Planning Commission have studied the issue through workshops, community surveys, stakeholder conversations, and public meetings.

On February 7, 2019, the City Council formally initiated zoning text amendments to allow limited short term rentals in residential dwellings subject to a permit requirement and operating limitations (refer to Attachment B). The draft ordinance before the Commission tonight incorporates direction from the City Council, as well as feedback from the Commission’s June 27, 2019 workshop, the summer 2019 community survey, and August 2019 community stakeholder conversation.

Draft Ordinance

➤ **Who May Host?**

Discussion: There has been robust debate whether long-term renters should be able to host STRs and whether STRs should be allowed in multiple-family dwellings. Concerns include lack of property owner oversight and amplified impacts of transient guests in dwellings with shared walls, floors, and ceilings. Several STR hosts in Brisbane are long-term renters who would be impacted should the ordinance ban short term rentals by long-term renters. No known STR hosts are residents of multiple-family dwellings.

Draft Ordinance: The draft ordinance would allow STRs only in single-family dwellings by permanent occupants of the dwelling, who reside there for at least six months out of the year. To allow responsible tenants to operate or continue to operate STRs, the draft ordinance would require hosts to provide notarized authorization by the property owner to apply for a short term rental permit. The ordinance requires the host to provide evidence that the dwelling is their permanent residence, such as a utility bill, driver's license, credit card statement, or other such documentation.

➤ **How Does a Host Obtain a Permit?**

Discussion: At the Commission's June 27, 2019 workshop, the Commission recommended that short term rental permit applications be subject to Zoning Administrator review.

Draft Ordinance: The Zoning Administrator would review and approve or deny a short term rental permit application. The host would submit a permit application (along with a fee as adopted by the City Council) containing detailed information about the proposed STR activity and demonstrating their permanent residency in the dwelling. The Zoning Administrator would mail a notice of the application to occupants and owners of property on either side, behind, and in front of the subject property, as well as the block the property is on. Neighbors would have 21 days to provide written comments to the Zoning Administrator before the Zoning Administrator would take action on the permit. The Zoning Administrator would approve a permit if:

- The application meets all the requirements of the ordinance;
- The dwelling complies with life safety standards, confirmed by an on-site inspection before approving the permit; and
- The dwelling has not been the subject of an active code enforcement action or administrative citation from the City at least one year prior to the application submittal.

➤ **How Long is a Permit Valid? Can it be Suspended or Revoked?**

Discussion: The Commission and community want STR hosts be held accountable for quality of life standards and the safety of both renters and community members.

Draft Ordinance: An STR permit would be valid for two years. The Zoning Administrator could renew the permit if the host had complied with the ordinance in the initial two year period and if the dwelling passed a safety reinspection. The Zoning Administrator may renew the permit for another two years, or a lesser period of time at their discretion, depending on the conduct of the

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 January 9, 2020 Meeting
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host during the initial two year period. Notice of the renewal would be mailed to all neighbors originally notified of the permit.

The Zoning Administrator may suspend a permit if two code enforcement citations, orders, tickets or other notice of violation of any chapters of the BMC were issued to the host within six months. The permit would be suspended for 30 days or until the violation is cured, whichever is longer. If three or more notices of violation are issued to the host within a twelve month period, the Zoning Administrator would initiate proceedings to revoke the permit. The proposed permit renewal, suspension, and revocation procedures provide accountability and allow the City to take a proactive approach in remedying repeated violations of the City's noise, health and safety, and zoning regulations.

➤ **Would Short Term Rentals be Allowed in Accessory Dwelling Units?**

Discussion: In initiating the zoning text amendments, the City Council directed that ADUs should not be rented primarily as STRs, due to the conflict between STRs providing transient occupancy and the City's intent for ADUs to provide long-term housing. The Commission and many community members have echoed that concern, while other community members have voiced concern with limiting the rights of property owners. It should be noted that the State of California has preemptively prohibited short term rentals in most ADUs established after January 1, 2020, depending on the size and type of ADU.

Draft Ordinance: STRs would be allowed only in ADUs that were legally established before April 1, 2017, the date the first amendments to the City's ADU laws became effective pursuant to new State laws intended to encourage ADUs to provide long-term housing. In order to operate an STR in an ADU established legally before that date, the host would have to be the permanent resident of the ADU. This means the ordinance would not allow a property owner residing in the main dwelling to offer an ADU exclusively for STRs.

➤ **How Many Days May STRs Operate?**

Discussion: Hosted stays refer to STRs where the host is present on the property throughout the rental period. Unhosted stays refer to STRs where the host is not present on the property. Concerns with unhosted stays include lack of accountability for noise and other public nuisance and quality of life complaints, as well as the possibility of large events or parties. In initiating the zoning text amendments, the City Council preliminarily directed consideration be given to allow for unlimited hosted stays with unhosted stays capped at no more than 90 days per calendar year.

Draft Ordinance: The draft ordinance would cap unhosted stays at no more than 60 days a year. A host applying for an STR permit for unhosted stays would be required to provide at least one local contact person who would be responsible for receiving and responding to complaints, to be at the property within 30 minutes of receiving a complaint, and to resolve all complaints in the host's absence. Lack of response by a local contact person pursuant to these requirements would constitute a violation of the ordinance.

➤ **What Rules would Apply to Hosts and Guests?**

Discussion: In order to maintain the quality of life for residents in the vicinity, most STR ordinances include "good neighbor" policy requirements for hosts and guests.

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Draft Ordinance: The ordinance would address quality of life concerns in the following manner:

- No more than two habitable rooms may be rented at any given time during a hosted stay. No limit would apply to unhosted stays. On-site parking requirements would apply to both hosted or unhosted stays, as noted below.
- At least one on-site parking space per habitable room available for rent. Existing on-site parking spaces shall be made available to short term renters.
- At least one local contact person must be designated, who can respond to and resolve all nuisance calls and complaints within thirty minutes during unhosted stays.
- No more than two listings for the same permanent residence on the same days, and only one such listing may be booked on any given day.
- Guest check-out and check-in times between 7 AM and 10 PM, with limited exceptions in extenuating circumstances. The host is responsible to ensure that check-in and check-outs do not disturb neighbors.
- A maximum of two overnight guests (not including children) and a maximum of four daytime guests (not including children) per habitable room provided in the short term rental.
- Quiet hours beginning at 10 PM.
- Provide fire extinguishers, smoke detectors, and carbon monoxide detectors, and information related to emergency exit routes.
- Renter guide with good neighbor policies, host and local contact person contact information.
- Prohibit special events (weddings, corporate events, commercial functions, etc.)
- Payment of transient occupancy tax (currently 14%) would be required.

➤ **What Penalties would Apply to Violations of the Ordinance?**

Discussion: Penalties incentivize compliance with the provisions of an STR ordinance.

Draft Ordinance: The draft ordinance establishes that violation of the ordinance is an infraction under Title 1 of the BMC, subject to the fines and provisions for enhancement to misdemeanors contained in Chapter 1.14. These existing fines are sufficient to discourage violations of the ordinance.

➤ **How would the Ordinance be Enforced?**

Discussion: Enforcement of STR ordinances can be challenging due to the relative lack of cooperation between the large web-based hosting platforms and cities. Hosting platforms have demonstrated a commitment to protecting the privacy of their users by withholding data on the number of days a rental is rented and the identity of the host, along with other information most cities need to have in order to enforce compliance with their regulations. Some larger cities have negotiated data sharing agreements with web hosting platforms. Staff can pursue such an agreement with the major web hosting platforms, but notes that the small market share of Brisbane may likely impede such negotiations. Currently only large metropolitan cities such as New York have data sharing agreements in place.

Draft Ordinance: Unless otherwise directed by the City Council, staff would continue to approach STR enforcement similarly to other complaint-based code enforcement activities. Due to the City's small size, it may be reasonable for staff to confirm the location and operation of unpermitted STRs using information publicly available on web hosting platforms without unduly burdening staff time and resources. As drafted, the requirement to obtain a permit would be effective 90 days

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after the ordinance was adopted, to allow existing and potential STR hosts adequate time to comply with the permit application requirements.

ATTACHMENTS:

- A. ~~Draft Resolution RZ-2-19 (including draft ordinance)~~
- B. June 27, 2019 Planning Commission study session staff memo (with attachments)
- C. Summer 2019 nonscientific community survey summary results



Julia Ayres, Senior Planner



John Swiecki, Community Development Director

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MEMORANDUM

DATE: 06/27/2019
 TO: Planning Commission
 FROM: Julia Ayres, Associate Planner, and Emilio Flamenco, Planning Intern, via John Swiecki, Community Development Director
 SUBJECT: **Workshop: Short Term Rental Ordinance**

BACKGROUND

In late 2014, code enforcement complaints were filed against all short term rental (STRs) listings in Brisbane listed on Airbnb.com. STRs are regulated in the Brisbane Municipal Code (BMC) as commercial hotel land uses (BMC Section 17.02.420), permitted to operate only within commercial zoning districts (SP-CRO, SCRO-1, and C-1 districts), and subject to the Transient Occupancy Tax under the Revenue and Finance Code. STRs are currently not permitted in residential zoning districts.

Subsequent to receiving the complaints, in January 2015, City Council directed staff and the Planning Commission to study the issue of STR regulation in other jurisdictions and ultimately make a recommendation to Council regarding whether STRs should be permitted. Following two well-attended public workshops by the Planning Commission and a community survey that yielded 188 unique responses, community feedback indicated a 50/50 split in community opinions regarding whether the City should adopt regulations to allow STRs or continue to prohibit them. As a result, the Planning Commission in April 2015 made no land use recommendation, instead suggesting that the matter be decided by the voters.

In July 2015, the City Council directed staff to do more research on STR regulations in other jurisdictions. Following additional staff research and direction from the City Council's Planning Issues Subcommittee, in February 2019 the City Council directed the Commission to initiate a zoning text amendment to create a STR ordinance (STRO) permitting STRs to operate in the City's residential districts, subject to certain regulations, as discussed below.

DISCUSSION

The purpose of tonight's workshop is to review the City Council's direction as to the desired components of a STR ordinance (STRO), and to discuss other policy components the Council did not provide specific direction on. Tonight's discussion will inform staff's preparation of a draft ordinance for future review by the Commission and the public at a public hearing.

City Council direction on specific policy components

- Occupancy Requirement – The STRO must contain a residency requirement

clause, per Council's direction. This means that operators of STRs must reside on the property as their primary place of residence. This requirement is intended to ensure more orderly operation of STRs and minimize common neighborhood nuisance concerns that may arise from STRs.

- Hosted vs non-hosted- *Hosted rentals* occur when rooms are rented by the owner while the owner is physically occupying the property. The City Council has directed that the STR ordinance allow hosted rentals with no time limits. Hosted rentals are usually associated with fewer noise complaints or other issues, due to the presence of the owner on-site.

Unhosted rentals, conversely, are rentals of entire homes or dwelling units with no owner physically occupying the site. Council has directed that whole home, unhosted rentals shall be limited to anywhere between 30-90 days per calendar year. This provision is intended to allow reasonable rentals of entire homes or dwelling units in the owner's absence (e.g., while on vacation) while preventing business entities or investors from buying dwelling units and converting them exclusively to STR use and thereby removing a housing unit from the City's permanent housing supply.

- Revenue-Capture Mechanisms- Council has directed that STRs be subject to revenue-capture mechanisms, including business licenses and Transient Occupancy Tax (TOT).
- Notice to Neighbors/"Good Neighbor" Policies- The STRO must require neighbor notification at some point during the STR approval process. The particular time and manner in which the notification should be provided is subject to the Commission's discussion. Many cities require a notice radius on adjacent buildings of 300 feet from the STR unit, which may be required either before or after the issuance of a permit. This can take the form of displaying the permit in a conspicuous location on-site, or mailing neighbors directly. Additionally, Council directed that the ordinance require ongoing compliance with "Good Neighbor" policies/practices (noise, parking, garbage, etc.) with failure to comply with these measures as grounds for permit revocation.
- Homeowner Insurance Requirement- Council directed any adopted STRO to contain requirements for homeowners to prove they are adequately insured, such as property liability insurance documents.

Other Policy Considerations for STRs

While City Council provided very specific directives on what they would like Brisbane's STRO to contain, it is appropriate for the Planning Commission to discuss and provide feedback on other issues commonly addressed in STROs. Staff has summarized several policy components the Commission may want to consider, based on a comprehensive review of STR ordinances in other jurisdictions (see Attachment B), as

summarized below:

- Allow or Prohibit Operation in ADUs- At the February 7, 2019 Council meeting, public comment was given in support of allowing STRs to operate in accessory dwelling units (ADUs). These comments referenced the perceived benefit of having property owners on-site to reduce common nuisance issues, as well as to recognize the fact that many existing or hopeful STR operators in town would be precluded from operating STRs should they be banned in ADUs. The Planning Issues subcommittee had previously recommended prohibiting STRs to operate in ADUs to preserve ADUs for use by long-term renters as a permanent part of Brisbane's rental housing stock.
- Permit Process- STR applications could be processed either ministerially (staff level/administrative review), or on a discretionary basis. The former would consist of a permit issued by City staff, subject to compliance with defined standards, while the latter could be a conditional use permit or other special discretionary permit from the Planning Commission. Most cities surveyed issue ministerial permits that are renewed every one or two years.
- Parking- Adequate parking is a challenge in most of Central Brisbane's residential neighborhoods. While many other jurisdictions did not require any additional parking spaces beyond those already available on-site, the Commission may want to consider whether requiring additional parking may be warranted.
- Occupancy Limits- The City Council directed the Commission to study occupancy limits, whereby a permitted STR is restricted as to how many occupants can sleep or occupy the property during the time it is rented. Most jurisdictions establish occupancy limits at no more than two people per bedroom, plus two additional people, if more than one room is being rented. Some cities allow for twice this number during daytime (8am- 10pm) hours.
- Allow in Multi-Family Dwellings- Some jurisdictions limit the types of housing units that STRs may be operated from (e.g., allowed in single-family dwellings but not in multi-family dwellings). While the Council has provided clear direction on prohibiting STRs to be operated from ADUs, additional discussion is warranted regarding other types of housing that STRs could be operated from. In 2015, the majority of workshop participants advocated for limiting the types of housing where STRs may operate STRs to single-family homes only.
- Permit Expiration/Revocation/Penalties- Where STROs have been adopted, penalties, fines, and revocations are explicitly outlined in cities' municipal codes. Based on staff's review of other jurisdictions' ordinances, permits are typically valid for one to two years before requiring renewal, unless complaints are filed and substantiated during that time to warrant revocation.


- Management- Almost every jurisdiction studied requires a manager, owner, or other responsible party to respond on-site within a given time limit, such as within fifteen minutes or up to one hour. This designee may additionally be required to be available 24 hours a day, seven days a week, to respond to neighbor or City calls.
- Noise- As with permit revocation and penalties, all matters pertaining to noise complaints and violations are explicitly outlined in the BMC, Title 8. STRs are expected to be compliant with the adopted noise regulations of whichever zoning district they are located in.
- Inspections for Compliance with Current Health and Safety Codes- Many jurisdictions require inspections of proposed STR facilities to confirm compliance with current health and safety codes prior to permit issuance. St. Helena requires an annual inspection by the fire department; Millbrae requires one by the Building Department; and Encinitas only performs inspections if there have been complaints. Bend, Oregon suggests voluntary self-inspections, while Pacifica requires a self-inspection checklist as part of permit approval.

NEXT STEPS

The Commission's discussion tonight will inform staff's drafting of a short term rental ordinance. Staff anticipates the draft ordinance will be scheduled for public hearing at the Commission in August.

ATTACHMENTS

- A. February 7, 2019 City Council agenda report and minutes
- ~~B. Comparison matrix of STR regulations~~
- ~~C. 4/12/2015 Planning Commission Workshop presentation~~



Julia Ayres, Associate Planner



John Swiecki, Community Development
Director

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: Short Term Residential Rental Regulations

DATE: February 7, 2019

City Council Goals:

To promote economic development that stabilizes and diversifies the tax base. (#4)

To provide public service that assures the safety of property and citizens residing, working or visiting in Brisbane. (#9)

To preserve and enhance livability and diversity of neighborhoods. (#14)

To encourage community involvement and participation. (#15)

To preserve the unique current character of Brisbane. (#16)

Purpose:

For the City Council to consider the input from the City Council Planning Issues Subcommittee (CMs Cunningham and O'Connell) and provide further policy direction regarding the regulation of short term residential rentals.

Recommendation:

That City Council provide policy direction and refer the matter back to the Planning Commission for consideration of zoning ordinance changes as needed.

Background:

“Short term residential rentals” (STR’s), or rental of a room or an entire home for a period of less than 30 days, is currently prohibited in Brisbane’s residential zoning districts. In 2015, following Planning Commission and City Council study of the issue, the City Council directed its Planning Issues subcommittee to study the issue further. At subsequent subcommittee meetings in 2016, directed staff to consider potential STR regulations. Staff reports from 2015 and 2016 are attached to this report for reference purposes.

In November 2018, the Planning Issues subcommittee (Councilmembers Cunningham and O'Connell) reconvened to consider the previous subcommittee direction and provide updated direction to staff.

Discussion:

At the November 2018 Planning Issues subcommittee meeting, the subcommittee supported the concept of allowing STRs subject to regulatory program addressing the following components, at a minimum:

- Allow for hosted rentals (homeowner stays in the unit) with no time limits
- Allow for non-hosted rentals; (homeowner not in the unit) with time limits (duration TBD, subcommittee discussed maximum limits of 60-90 days)
- Require “Good Neighbor” policies/practices (noise, parking, garbage, etc.) with failure to comply with these measures as grounds for permit revocation
- Owner to demonstrate insurance/liability coverage
- Reasonable tax structure- transient occupancy tax, business license tax, and planning permit fee shouldn’t be overly burdensome to homeowners
- Prohibit STRs in accessory dwelling units

If the City Council wishes to consider permitting STRs subject to these standards and/or others that that might be discussed at tonight’s hearing, it would be appropriate for the City Council to refer the matter back to staff to prepare a draft ordinance which would be subject to public review before the Planning Commission.

Fiscal Impact:

Limited. If an ordinance is ultimately adopted which requires STRs to obtain planning permits, the permit fees shall cover city staff time to process such permits. On an ongoing basis, transit occupancy tax or other revenues accruing to the city from allowing STRs are not expected to be substantial.

Measure of Success:


City Council policy direction on STRs which enables the City’s applicable ordinances to be updated accordingly.

Attachments:

1. November 28, 2018 staff memorandum to subcommittee
2. March 15, 2016 staff memorandum to subcommittee



 Community Development Director



 City Manager



MEMORANDUM

DATE: November 28, 2018
 TO: City Council Liaisons to the Planning Commission
 FROM: John Swiecki, Community Development Director via Clay Holstine, City Manager
 SUBJECT: Short-term Residential Rental Regulation Update

Background

In early 2015 at the City Council's direction, the Planning Commission studied the issue of "short term residential rentals" (STR's), or rentals of a room or an entire home for a period of less than 30 days, which is presently prohibited in Brisbane's residential zoning districts. After conducting several workshops on the issue, the Planning Commission ultimately recommended that it be placed on the ballot.

In July 2015, the City Council considered the Commission's recommendation and ultimately opted not to move forward with a ballot measure, instead directing staff to research the legal ramifications of such an ordinance, other cities' ordinances, and to conduct additional public outreach.

In February 2016, staff presented their findings to the City Council liaisons to the Planning Commission, at which time the subcommittee directed staff to consider potential STR regulations (detailed in the March 15, 2016 subcommittee report, attached).

At a subsequent subcommittee meeting on March 15, 2016, the subcommittee directed staff to bring back information on other jurisdictions' ordinances that had not been summarized in staff's research to date.

Simultaneously, the regional housing policy working group 21 Elements- of which the City is a member- began a comprehensive Countywide study on the issue, including conversations with Airbnb and other hosting platforms, to formulate broader policy recommendations. Staff opted to wait to bring the item back to the Council subcommittee pending completion of the 21 Elements study. The results of the 21 Elements study did not suggest that a Countywide approach (from either a regulatory or financial standpoint) to regulating STRs would be appropriate.

Discussion

As summarized above, the subcommittee in 2016 indicated support for adopting regulations to allow short term vacation rentals in Brisbane, subject to compliance with certain performance standards. Staff requests that the subcommittee review the subcommittee's prior direction and confirm if that remains the subcommittee's preference. Staff will bring back a summary of the

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 City Council Liaisons to the Planning Commission
 Page 2

subcommittee's recommendation, whether in support of or against adoption of short term rental regulations, to the full Council for action.

Should the Council ultimately wish to adopt an ordinance to regulate short-term rentals, the matter would go back to the Planning Commission for initial public hearings and a recommendation to Council. No further action would be required if the Council opts not to regulate short term rentals, as they are currently prohibited under the Municipal Code.

An issue previously raised by the subcommittee was the potential opportunity for the city to generate revenue from short term rentals via transient occupancy tax (TOT) or other means. The Finance Director will be attending the subcommittee meeting to further discuss this matter.

Attachments

1. March 15, 2016 staff memorandum with attachments



ATTACHMENT 1

ATTACHMENT 1

MEMORANDUM

DATE: March 15, 2016
 TO: City Council Liaisons to the Planning Commission
 FROM: John Swiecki, Community Development Director via Clay Holstine, City Manager
 SUBJECT: Short-term Residential Rental Regulation Update

Summary of February 24, 2016 Meeting

At its February 24, 2016 meeting, the Planning Commission liaisons gave preliminary direction to staff on the next steps for considering potential short-term residential rental (STR) regulations.

Specifically, a number of items were identified for consideration in any future proposed STR ordinance. These include:

- Including a mechanism to capture revenue (e.g., transient occupancy tax, business license, etc.);
- Limiting STRs to owner-occupied single family residences which is a homeowner's primary residence (as demonstrated through proof of homeowners property tax exemption or other similar);
- Homeowners must be "natural person", i.e. not a corporate entity;
- Prohibit use of secondary dwelling units for STR;
- Incorporate "Good Neighbor" requirements and educational materials;
- Include some form of neighbor notification;
- Limit maximum number of guests based on Building Code-defined bedrooms in the home and ensure that information is readily available for verification and/or enforcement purposes;
- Require proof of homeowners insurance specifically for STR use.

Items for Consideration

Staff has also identified several other items that were not previously discussed, or that the liaisons discussed without reaching final policy direction. The Liaisons can provide further direction at this time, or wait for these issues to be addressed in a forthcoming draft ordinance.

On-site Parking

Any future STR ordinance will need to address parking requirements. Specifically should additional on-site parking be provided above and beyond what is required for a single family

residence? If so, how much additional parking? What about cases where the existing parking is non-conforming? Jurisdictions with STR regulations vary in their treatment of parking, typically based on the general availability of parking in neighborhoods (refer to the staff memorandum and attachments of February 24, 2016).

Limit Number of STR's

Another issue that was discussed was whether a cap or numeric limit on the number of STR's potentially allowed to operate would be desirable. A few of the jurisdictions researched by staff use this tool in their permitting process. If there is going to be a finite number, how will these permits be allocated?

Permit Process

Another important consideration is the permitting process itself. The jurisdictions researched by staff illustrate a variety of both ministerial and discretionary processes that the city could consider.

Public Outreach

As discussed previously, when the full City Council last considered this issue there was a desire expressed that staff undertake further community outreach on the issue of short-term rentals. For the reasons outlined in the February 24 report, staff does not believe that further outreach absent more definitive policy direction or a draft ordinance for the public to review and comment on will generate substantial new public input, or identify new issues that were not previously considered. Any input the Liaisons have in regard to desired further community outreach (form and timing) would be important.

Next Steps

Subject to the concurrence of the liaisons, staff will schedule a follow-up meeting with the Planning Commission liaisons in April in order to finalize a recommendation back to the full City Council on how to proceed with potential regulations of short-term rentals.

Attachments

1. February 24, 2016 staff memorandum



MEMORANDUM

DATE: February 24, 2016
 TO: City Council Liaisons to the Planning Commission
 FROM: John Swiecki, Community Development Director via Clay Holstine, City Manager
 SUBJECT: Short-term Residential Rentals Regulations Update

Background

On January 15, 2015, the City Council directed the Planning Commission to study the issue of "short-term residential rentals" (STR's), which are defined as rentals of a room or an entire home for a period of less than 30 days. Under the City's current Municipal Code regulations, this use is considered a hotel use, and is not permitted in residential zoning districts. In response, the Planning Commission held two public workshops during which over a dozen individuals highlighted the far-reaching impacts that regulating short-term residential rentals could have on the community, for better or for worse. Additionally, the Commission considered the results of a non-scientific survey to raise public awareness of the issue and solicit community feedback which received 188 responses.

On April 23, 2015 the Planning Commission voted to recommend to the City Council that the issue be placed on the ballot to determine whether a majority of Brisbane residents favored adoption of an ordinance to allow for and regulate short-term residential rentals, or whether they preferred to leave the current prohibition in place.

On July 16, 2015, the City Council considered the Commission's recommendation and ultimately opted not to move forward with a ballot measure at that time. Council directed staff to conduct research on the following topics to bring back for consideration at a future Council meeting:

1. Consult with the City Attorney to determine how an ordinance regulating STR's could be enforced by the City, and to discuss other legal ramifications of adopting such an ordinance.
2. Research successful STR ordinances, such as that in Bend, OR.
3. Conduct additional public outreach to determine if the use is appropriate in the community, with an emphasis on online engagement through the City's virtual "Town Hall."

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 Page 2

It should be noted that as of November 2015 the 21 Elements Group- comprised of all cities and the county of San Mateo- is moving forward with its own research regarding STR regulation. Their anticipated work products include a background report, comparison of existing legislation, data on number, location, and other characteristics of STRs in the county, and eventually a model ordinance to regulate STRs. Planning staff provided their research to 21 Elements to aid in their preparation of these deliverables. 21 Elements' consultants Baird + Driskell anticipate finalizing the model ordinance in spring 2016.

Legal Review

Staff has contacted other cities with STR ordinances to gain insight on how burdensome enforcement of those ordinances has been on their staff (see attachments and discussion below). Staff has not moved forward in requesting additional research from the City Attorney's Office. The research completed to date reveals there are numerous approaches to regulating short term rentals, and each approach offers unique legal issues related to implementation and enforcement. Instead of researching the issue in a generic fashion, staff believes it would be appropriate for the City Council to provide basic policy direction so the City Attorney's research can be focused on how to best implement the Council-desired approach.

Other STR Ordinances

The City of Bend, Oregon (pop. 76,639) was specifically named by Council as an example of an STR ordinance perceived as being successful. Planning staff contacted the Community Development Department of Bend, OR with targeted questions to determine how the ordinance was developed in regards to public outreach, as well as the success of its implementation. We learned that Bend employed a robust public engagement program, including appointment of a 23-member advisory committee with diverse representation of various stakeholders. The advisory committee meetings were open to the public, and structured Planning Commission "listening sessions" and online engagement forums were also used to collect detailed feedback from a variety of stakeholders. Bend staff describes the resulting ordinance as a true compromise between competing interests. They are in the process of collecting statistical performance data on the program and their City Council has indicated that it intends to revisit the regulations regularly if any issues arise. Enforcement is funded partially through hotel taxes and from General Fund revenues.

Planning staff also conducted additional research of short-term rental ordinances in California cities Encinitas (pop. 59,518), Newport Beach (pop. 85,186), and San Luis Obispo (pop. 45,119). That research is included in the attached memo. The purpose of staff's analysis in these research efforts was to identify different potential regulatory paths for short-term rentals and common elements of those ordinances.

Of the eight cities researched by planning staff, only one was of comparable size to Brisbane: St. Helena in Napa County, pop. 5,814. Staff followed up with St. Helena planners and found that City is in the midst of reconsidering certain aspects of their STR ordinance, originally adopted in 2012. Part of the Council's focus was on data analysis, specifically code enforcement complaints

received by their police department. Of the 22 permitted STRs in the city, a majority (63%) had no calls for service during the 3 years they have been operating. Similar results were found in an analysis of suspected unpermitted STRs. Their staff has concluded that the majority of STR operators are “good neighbors,” and only a few properties generate issues in their neighborhoods that warrant calls for Police Department response. The 22 permitted STR operators provide approximately \$144,000 in TOT to the city’s General Fund annually.

Public Outreach Efforts

In March 2015, planning staff launched a non-scientific survey available on SurveyMonkey as well as in hard copy (mailed to every household in the STAR, and available at City Hall and Library). 188 unique responses to the survey were received that indicated an almost 50/50 split between respondents who support permitting the use of STRs and those opposing STRs.

Due to the launching of the Parkside Precise Plan process as well as the Baylands Final EIR and Specific Plan public hearings, staff held off on conducting new public outreach on this issue. The citywide Baylands survey distributed by the city in September included short-term rentals as a potential response to a question of what issues are of community concern (Question 3). Of the 580 survey respondents, 25% (145 respondents) thought it was extremely to very important to address the issue of short-term rentals, while almost half of respondents (273 respondents) thought it was not very important at all. The remaining respondents found it to have some importance (151). This particular survey question gauges only community interest in the topic as a whole; it did not provide direction regarding the respondent’s personal feeling towards STR regulation.

Brisbane Town Hall does provide a new online engagement forum that staff can use for additional public outreach. Since its launch in November 2015, the primary discussion topics have focused on the Parkside Precise Plan process. Participation in Town Hall has been fairly low, although staff is constantly working to entice more users. The most popular discussion topic used a survey, as opposed to the other topics that requested written comments which have seen at most 3 responses per topic. Given the relatively low community interest in the issue overall, staff believes it is unlikely that another round of community engagement on this issue will garner a level of participation approaching what was achieved through the original survey.

Attachments

1. Q&A with Bend, OR Community Development Department
2. Baylands survey question 3 data
3. Updated staff research memo on STR regulation in other communities
4. [July 16, 2015 staff report to City Council](#) (link to PDF on City website; hard copy not provided.)

Q&A with Bend, OR Community Development Staff

Q: How did the City conduct community outreach in developing the ordinance?

A: A 23-member Vacation Home Rental Task Force, representing a diverse set of viewpoints, met every two weeks over the course of several months. All meetings were open to the public and allowed time for public comment. Public comment was also encouraged via the City’s project website, Bend Voice (which is an online conversation platform), a public listening session held by the Planning Commission, and two public hearings. All written or emailed public comment was posted on the City’s project website. This was a very hot topic in the city, so both TV and print media covered this story quite closely. Staff gave presentations to the Central Oregon Association of Realtors and city Neighborhood Associations. Also, as required by Oregon state land use law, all property owners impacted by the new program were sent a mailed notice about the first public hearing (I believe it was 15,000 postcards).

Q: How has the new STR program been received by the community? Does the community and city staff perceive it as successful?

A: The City Council established a 23-member Vacation Home Rental Task Force to seek a balanced approach between protecting neighborhood livability and economic vitality. The end result is a compromise, which means that the neighborhood and livability advocates would have liked to see more restrictions and the economic use of property advocates would have liked to see fewer restrictions. The Planning Commission and City Council both remarked that only time will tell if this approach is successful and they were very clear about their intention to review this program to see how it is working. As the program rolls out, staff are tracking a number of statistics on the program – including how many new permits are issued, how many properties give up or void their licenses, and the volume and validity of complaints and subsequent code enforcement of violations.

Q: How has enforcement been managed in regards to staff time and resources?

A: Code enforcement (for land use complaints and violations) is funded through the General Fund; City Council allocated additional resources to Code Enforcement this year to assist with increased call volume on all code complaints, including but not limited to short-term rentals. A portion of the Room Tax remitted to the City is allocated to Police and Fire. The cost of getting the new program up and running has been covered by Room Tax remittances; fortunately, Room Tax remittances have been on the rise, so there were unallocated funds that could be used for this project. The cost of permits and licenses are intended to cover the staff time to administer the permits and licenses, not the cost of enforcement.

Contact: Rachel Ruppel, Associate Planner
 541-693-2111
 rruppel@bendoregon.gov

3. Next, below is a list of issues facing Brisbane residents. For each one, please indicate how important it is to you personally that Brisbane City government do something to address that issue.

	EXT IMPT	VERY IMPT	SMWT IMPT	NOT TOO IMPT	NOT AT ALL IMPT	DK/NA /REF	EXI/ VERY IMPT	TOTAL NOT IMPT
a. Parking on local streets -----	17%	23%	31%	21%	8%	1%	40%	28%
b. Open space preservation and enhancement -----	33%	32%	20%	10%	4%	1%	65%	14%
c. Replacing the old library-----	9%	16%	34%	28%	11%	1%	25%	39%
d. Potholes and street repair-----	12%	34%	36%	14%	3%	1%	46%	17%
e. Crime-----	28%	27%	24%	16%	4%	1%	55%	20%
f. The future of the Brisbane Baylands -----	51%	26%	17%	4%	1%	1%	77%	5%
g. Park maintenance -----	20%	46%	28%	4%	1%	1%	66%	5%
h. Maintaining Brisbane's small town character -----	43%	26%	18%	9%	3%	1%	69%	12%
i. Energy efficiency -----	32%	36%	23%	6%	2%	1%	68%	8%
j. Providing more housing alternatives -----	13%	18%	35%	21%	11%	1%	31%	33%
k. Recreational activities and programs-----	15%	33%	35%	14%	2%	1%	48%	16%
l. Water conservation -----	39%	35%	19%	5%	1%	1%	74%	6%
m. Short-term residential rentals, such as Airbnb-----	12%	13%	26%	25%	22%	2%	25%	47%
n. Creating more retail shopping and dining options-----	24%	20%	25%	18%	11%	2%	44%	29%

Trends in Regulating Short-Term Rentals

As the STR rental industry has grown, online hosting platforms and users of the service have increasingly advocated for its legalization in jurisdictions where the service is prohibited in residential zoning districts. Some of the benefits of municipal regulation of the industry include increased TOT revenue, minimization of undesirable neighborhood impacts, and increased tourist activity. Below is a summary of recent ordinances adopted by jurisdictions in California and Texas that allow the operation of STR rentals in residential zoning districts.

City of San Francisco, CA (pop. 805,235)

Approval process: Ministerial

Perhaps the most administratively complex of recently-adopted legislation is San Francisco's Ordinance 218-14 adopted by the Board of Supervisors in November 2014. The ordinance amends the City's Residential Unit Conversion Ordinance and Planning Code to define STR rentals as a subcategory of residential use, which may only be permitted if the following requirements are met:

- Only permanent residents may provide STR rentals. A permanent resident must be a natural person (i.e., not a corporation) who has resided in the unit for at least 60 consecutive days with the intent of establishing it as his/her primary residence. A permanent resident may be an owner or lessee.
- The permanent resident must reside in the unit for at least 275 days out of the calendar year during which the unit will be rented; or, if occupied less than a year, no less than 75% of the time during which the permanent resident has occupied the unit.
- The unit must be registered with the City's Short Term Residential Rental Registry. All advertisements for the unit must include the registration number.
- Liability insurance of at least \$500K required; may be provided by a Hosting Platform (e.g. Airbnb.com).
- Unit may not have any outstanding code violations or ongoing enforcement; violations will suspend ability to rent unit.
- Unit may not be a designated affordable (below-market rate) unit.
- Business license is required.

The registry will be a publicly viewable database of information on permanent residents permitted to offer short-term residential rental units. Only one unit may be registered for each permanent resident. Registration costs \$50 and is valid for two years.

The ordinance also requires hosting platforms (i.e., Airbnb, VRBO, etc.) to collect and remit TOT taxes to the city from users. Hosting platforms must provide notice to users listing units in San Francisco of the codes governing STR rentals and requirements for payment of TOT. If the Hosting Platform does not comply with these regulations, the City will levy fines against them. Enforcement of the law will be complaint based and must come from an "Interested Party," defined by the ordinance as a permanent resident, homeowner's association, the owner of the unit (if offered by a lessee), the City and County of San Francisco, or housing preservation non-profits.

Memorandum

To: John Swiecki, Community Development Director
From: Julia Capasso, Associate Planner and Quinn Haaga, Intern to the City Manager
Date: December 10, 2015
Re: Regulating Short-term Residential Rentals- Updated Memo

Background

Short-term residential (STR) rentals are typically defined as rentals of residentially-zoned properties for a period of less than 30 days. STR rentals fall into two general categories: those owned and operated by a permanent resident of the home ("homeshare"; owner/lessee may or may not be present during rental period), and those owned and operated by an individual or entity not living on-site (typically second homes or dedicated vacation rentals). Homeshare STR rentals have grown significantly as an industry since the advent of online hosting and advertising platforms, the most popular of which are Airbnb.com and HomeAway, Inc. (including VRBO.com and HomeAway.com). The industry has raised concern in municipalities due to its largely unregulated nature, loss of tax revenue, and incompatibility of transient rental uses in established single-family neighborhoods (e.g., parking and noise). In tourist-destination cities such as San Francisco and New York, housing advocacy groups have also lobbied for restrictions on STR rentals as long-term rental units become converted to such uses, further diminishing already strained housing supply.

Under current Brisbane Municipal Code zoning regulations, STR rentals are considered commercial hotel uses as defined in BMC Section 17.02.420.¹ Hotel uses include "...a building or group of buildings containing guest rooms or suites offered, for compensation, to the general public as transient lodging accommodations. The term includes...bed and breakfast establishment or similar use..." In the fall of 2014, Community Development staff sent code violation notices to seven owners of property listed on Airbnb.com in residential zoning districts, following up on a code enforcement complaint. Based on a cursory review of Brisbane listings on Airbnb.com (9 listings) and VRBO.com (2 listings, also posted on Airbnb) conducted in January 2015, STR rental listings in Brisbane fit in the "homeshare" category, where primary residences are offered by the owner/lessee for occasional occupation by transient users.

Transient Occupancy Tax

The City collects uniform transient occupancy tax (TOT) as outlined in BMC Section 3.24. TOT is assessed based on use of any structure occupied by transient users for compensation. For TOT purposes, *hotel* is defined as "any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any...tourist home or house...lodginghouse, [or] roominghouse." *Transient* is defined as "any person who exercises occupancy or is entitled to occupancy of a specific room in a hotel by reason of concession, permit, right of access, license or other agreement." Under this definition, operation of STR rentals would be subject to TOT tax should the use be legalized.

¹ Per City Attorney opinion provided to City staff.

Shortly after the ordinance was approved, HomeAway, Inc. sued the City and County of San Francisco, as well as the Planning Director (in his official capacity) and several Does on the basis that the ordinance violates the Commerce clause of the US Constitution by granting Airbnb and other similar “agency” hosting platforms a legal monopoly in the STR rental market. As HomeAway users are typically owners of second homes or vacation rentals, most cannot meet the permanent residency requirement. Additionally, HomeAway’s business model differs from Airbnb in that all financial transactions occur privately between renter and owner, at the discretion of the owner; the platform charges fees only to advertise the listing. Without a radical change to the company’s business model, it would be impossible to collect and remit TOT as required by the ordinance.

The outcome of the legal challenge likely will not be seen for some time, and may set a precedent for municipal regulation of the industry. As of this memo, no injunction on the ordinance (meant to go into effect on February 1, 2015) had been issued.

City of Palm Desert, California (pop. 48,445)

Approval process: Ministerial

The City of Palm Desert adopted Ordinance 1236 in 2012, which defines a STR rental as a property rented for 27 days or less. Rather than defining STR rentals as a subcategory of residential uses, the ordinance defines the use as a hotel use subject to discrete regulation under the City’s Revenue and Finance Code and Business Taxes, Licenses, and Regulations Code. The ordinance requires all STR rentals to obtain a permit from the City, to be renewed annually on the anniversary date of the initial application. The ordinance establishes minimum rental periods of no fewer than two consecutive nights and a maximum of two persons per bedroom. On-site parking is required, and occupants must comply with the City’s noise ordinance. Responsibility for responding to noise complaints or other violation of adopted “good neighbor” policies is assigned to the property owner, who must make themselves available within 60 minutes of notification of a disturbance at the property. The permit number must be included in any advertisements for the unit.

Administrative or infraction citations may be issued by the City to the property owners, occupants, or operators of the STR rental for failure to comply with the requirements of the ordinance. It also establishes violation of the ordinance as a public nuisance.

This ordinance is remarkable in that it regulates STR rentals through the tax code rather than through the zoning code. STR rentals are not defined as any kind of use in the zoning code.

City of St. Helena, California (pop. 5,814)

Approval process: Discretionary

The City of St. Helena adopted STR rental regulations in 2012, adding a new chapter 17.134 to the Zoning Ordinance. The ordinance requires a permit to operate STRs of less than 30 days, and caps the total permits active at one time at 25 permits. The ordinance restricts STR to single-family homes only, expressly prohibiting multi-family units or second dwelling units to be offered as STR rentals. Applicants for an STR rental permit must own the property and must designate a party who can respond to the STR rental for any reason within 30 minutes. The property owner is responsible for collecting and remitting TOT to the City, and must maintain a valid business license.

The application is subject to review and discretionary approval by the Planning Director. Following receipt of a qualified application, notices are mailed to neighboring properties within a 300-foot radius of the subject property. If 30% or more neighbors submit written protest, or if the property owner is not a natural person (i.e., a corporate entity), the application is subject to review by the Planning Commission for consistency with findings of approval for a conditional use permit (though no CUP is applied for or issued). Both the Planning Director and Planning Commission’s decisions may be appealed to the City Council. If approved, a permit is valid for two years, after which the owner must go through the application process once more.

This process provides more discretionary oversight than the previously described ordinances in terms of determining the appropriateness of the STR rental use to the site, and may allow for more active regulation of “problem” properties. By capping the number of issued permits, the City may be able to better allocate resources to monitor the program and assess and mitigate problems that may occur. Though it possesses the same owner-occupancy requirement as the City of San Francisco, it has not faced similar litigation likely due its small market-share of STR rentals.

City of Austin, Texas (pop. 790,390)

Approval process: Ministerial

The City of Austin’s Ordinance 20130926-144 permits STR rentals in all residential districts and certain commercial districts. The ordinance permits STR rentals to be offered by an entity or individual, with operational requirements tailored to different ownership profiles and subject to approval of a permit. Permits are valid for one year and may be renewed upon expiration. Proof of insurance and a certificate of occupancy or building inspection are required prior to permit approval. Neighbor notification is required, but neighbor input is not considered in the permit approval process.

The ordinance establishes the following limits for STR rentals in any district:

District	Limitation
Single-family district	
Owner-occupied	No limitation
Not owner-occupied	3% of the single-family units within a census tract
Multi-family district	3% of the buildings on the property and 3% of the units in any building
Commercial district	25% of the units on a property and 25% of the units in any building

These restrictions are geared toward limiting the density of STR rentals commensurate with the local impact to the neighborhood or community, rather than capping the total number of rentals.

City of Bend, OR (pop. 76,639)

Approval Process: Ministerial

In April of 2015, a dramatic increase in short-term rentals prompted the City Council the City of Bend to update their short term rental regulations to more strictly regulate STR for the sake of the community. Short term rentals are defined by the City of Bend as rentals for 29 or fewer days per tenant. To guide

the update process, the Council established a 23 person Vacation Home Rental Task Force. They met every two weeks over the course of several months and they also utilized "Bend Voice", an online conversation platform for other members of the public who could not attend the meetings. The City allocated additional resources to Code Enforcement to assist with increased call volume on all code complaints (including STR). The Task Force recommended that the City adopt amendments in the existing Development Code and to adopt a land use licensing program to regulate ongoing operation of STR. The City also adopted a set of Good Neighbor Guidelines for the renters and dwellers to follow.

STR rentals include whole-house rentals and the rental of up to 2 individual rooms in a house while the owner is present. In order to operate an STR, the property owner must obtain both a land use permit and operating license. STR's located in residential zoning districts must be located at least 250 feet away from other licensed STR's unless owner-occupied. The short-term rental must comply with specified performance standards including on-site parking. The ministerial review process is conducted by the Community Development Department.

Once granted, the land use permit remains valid in perpetuity until the use is abandoned (not rented for a period of at least 12 months) or the home is sold, with specified exemptions for unavoidable hardships. The operating license must be renewed annually, is non-transferable, and must be in the name of the property owner. The land use permit is voided if the operating license is not maintained. The property owner must prove that the property has been rented at least once in the past 12 months. The property owner or representative must be available 24/7 to address any concerns with the property. They must notify all neighbors within a 250 radius by mail or post a small placard that advises neighbors and tenants of the owner or authorized representative's contact information.

Encinitas, CA (pop. 59,518)

Approval process: Ministerial

The City of Encinitas defines a short term rental as renting a single-family home or duplex for "occupancy for dwelling, lodging, or sleeping purposes of 30 consecutive days or less." STR's may be operated on in single-family and duplex homes (including accessory structures) in residential districts and in condominium and multi-family developments in non-residential zones. STR's are prohibited in condominiums or multi-family developments in residential zones.

The short term rental property must have a permit that is renewed every year and is reviewed and issued by the office of the City Clerk. The permit application fee is \$150 and must include a floor plan. The STR must comply with defined performance standards including on-site parking. TOT payments are collected quarterly. The homeowner or responsible party designated by the property owner must respond to complaints in a timely manner and be available by phone 24/7. Although the responsible party can respond to complaints, it is ultimately up to the property owner to make sure that all laws and regulations are being followed. The short term rental unit must have an interior and exterior notice display for dwellers and the public. It is also required that adjacent property owners be notified of the STR use and contact information of the responsible party. The City Manager reserves the right to impose additional standards/or conditions to STR permits and can also investigate whenever there is reason to believe that a property owner has failed to comply with the provisions.

When the City of Encinitas adopted the Short Term Rental Ordinance they did not have an extensive community outreach component and the process was fairly straightforward. The City Council decided to regulate short term rentals because the City was received a lot of complaints related to STR regarding

noise, disorderly conduct, illegal parking, vandalism, overcrowding, and traffic congestion. The STR ordinance was adopted in 2006 and in January of 2009 TOT became collectable and enforceable.

Newport Beach, CA (pop. 85,186)

Approval Process: Ministerial

Chapter 5.95 of the Newport Municipal Code requires a STR permit for rental of a residential unit for 30 days or less. Newport's current STR regulations allow STR's to operate in duplex and multi-family districts only. STR's in single-family zones that were permitted prior to 2004 may continue to operate. The STR permits are reviewed and issued by the Finance Department, with supplementary review by the Planning Department. All short term rentals are subject to business license and TOT (TOT includes a 1% Visitor's Service Fee). The permit is valid for two years and must be placed in a conspicuous area with a contact (property owner or responsible party) who is available to deal with any issues or complaints 24/7. There is a disturbance advisement process through the Police Department that handles all loud and unruly gatherings that are sometimes common at short term rental properties.

Newport is unique compared to other cities reviewed because of the strength of its tourism industry; several thousand units are rented annually on a short term basis. The City of Newport recently initiated a review of its existing STR regulations in response to complaints from community members against short-term rental sites such as AirBNB that have increased demand for city services such as parking. In the summer of 2015 the City hired a temporary employee to inventory all of the short term rentals in the Newport area posted on various hosting websites. City staff will make a recommendation on what changes may be warranted to the existing STR regulations after the inventory and other background research is completed. There has been no targeted community outreach component in this review process.

City of San Luis Obispo, CA (pop. 45,119)

Approval Process: Ministerial

In January 2015 the City of San Luis Obispo adopted Ordinance no. 1611 that altered established Municipal Code Chapter 17.08 regarding a certain class of STR's referred to as "home stays". A home stay is defined as an owner-occupied dwelling unit (primary residence) where bedrooms are provided for compensation for fewer than 30 consecutive days with a maximum of four adult overnight guests. Regulation of only this specific class of STR is unique compared to other jurisdictions surveyed.

The City initiated a review of STR regulations in 2013 following numerous citizen complaints about short term rentals and their impact on the character of existing residential neighborhoods. At the time rentals less than 30 days were not defined under the land use code and therefore were not allowed. A new ordinance regulating home stays was crafted following a community engagement process that took a few months and incorporated SLO stake holders and the general public.

In order to operate a home stay the owner must obtain a ministerial permit and a business license through the department of Community Development. They also have to pay the TOT as well as a Tourism Business Improvement District tax. The owner has to provide evidence that this is their primary residence each year, such as a copy of the homeowner's tax bill indicating the homeowner's exemption at the subject property or other documentation. There is one parking space required in addition to their required residential parking. The Ordinance allows a maximum of four adult guests at any time. There must be a responsible party within a 15 minute drive of the property and available by phone 24/7 to

deal with any complaints or problems. The contact information of the responsible party must be provided to the guests as well as the adjacent neighbors. Home stays are not permitted in guest houses or guest quarters. Any violation of the requirements and standards will result in a revocation of the permit. At any time the permit can be referred to the Administrative Review Hearing where the permit can be revoked for code violations and/or infractions.

Path to Approval

Should the City Council wish to pursue legalization of STR rentals in residential districts in Brisbane, the regulatory programs described above set helpful precedents depending on the level of discretion desired. With the exception of St. Helena, most programs are ministerial in nature with clearly defined eligibility criteria and operation standards. Other common components include a public registry of permitted rentals and capping the number of permits issued based on varying criteria. Requirements for owner-occupancy may help protect the community character and/or public welfare and safety, with adequate explanation of why the restriction is necessary to achieve that objective.

In the event that legalization is desired, it may be helpful to conduct a workshop process with stakeholder groups to identify the concerns of neighborhood residents and STR rental operators and inform the breadth and components of a regulatory program for consideration by the City Council.

~~Attachments:~~

- ~~1. City of Palm Desert "Good Neighbor" brochure~~
- ~~2. City of St. Helena application packet~~
- ~~3. City of Austin, TX FAQ~~
- ~~4. City of Bend, OR FAQ~~

Not included.

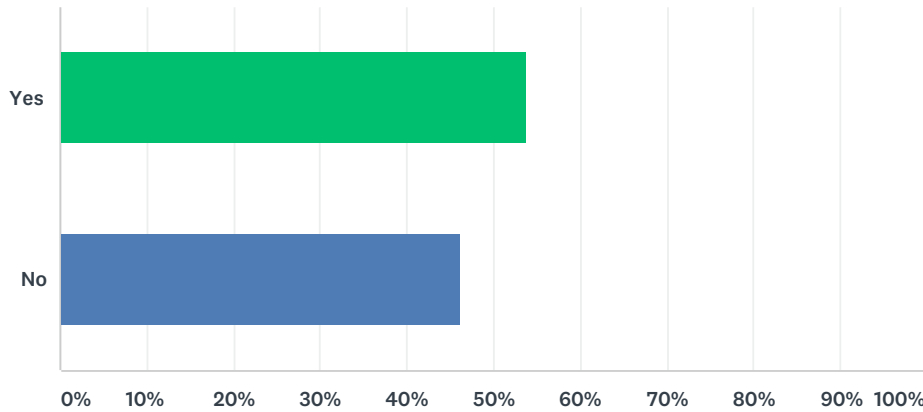
URL for July 16, 2015 City Council agenda report on City website:

<http://www.brisbaneca.org/sites/default/files/Short%20Term%20Rentals.pdf>

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Q1 The ordinance could limit the number of STRs permitted to operate at any time. This could help the City to manage the program and conduct enforcement actions. Should a limit be imposed in the ordinance, it could be amended by the City Council in the future if the program implementation shows over time that either more or fewer STRs would be appropriate for the community. Should the City cap the number of STRs permits issued?

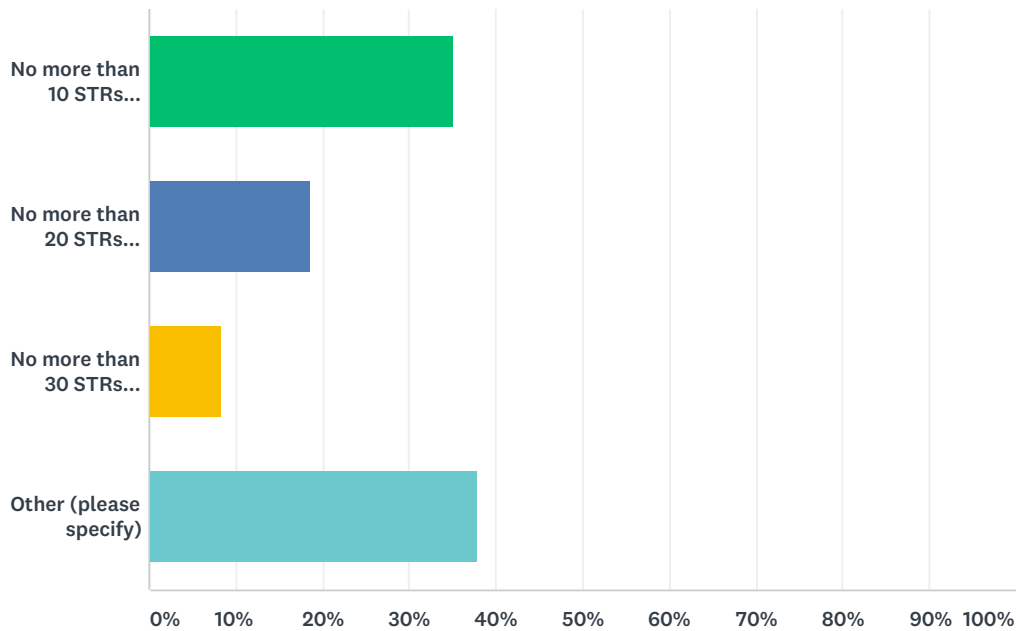
Answered: 175 Skipped: 0



ANSWER CHOICES	RESPONSES
Yes	53.71% 94
No	46.29% 81
TOTAL	175

Q2 If you answered “yes” to question 1 above, please share what you believe is a reasonable cap or maximum number of STRs in Brisbane.

Answered: 108 Skipped: 67



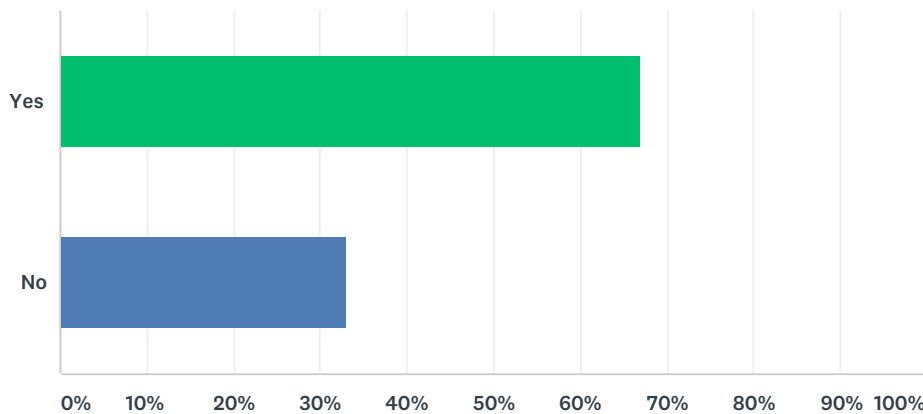
ANSWER CHOICES	RESPONSES	
No more than 10 STRs permitted at any time	35.19%	38
No more than 20 STRs permitted at any time	18.52%	20
No more than 30 STRs permitted at any time	8.33%	9
Other (please specify)	37.96%	41
TOTAL		108

#	OTHER (PLEASE SPECIFY)	DATE
1	No Cap	8/29/2019 2:46 AM
2	I'd prefer that STRs are not permitted in this small community	8/24/2019 5:33 AM
3	Do not want STR at all	8/21/2019 1:09 AM
4	Should be a % of totally housing, something like 1%	8/20/2019 10:58 AM
5	no days, short term rentals lead to many problems and will not be good for Brisbane	8/20/2019 3:30 AM
6	50	8/19/2019 11:37 PM
7	0	8/19/2019 12:49 PM
8	No more than 1 rental per unit, per month, maximum 35 total in town with license.	8/16/2019 12:14 PM
9	0	8/14/2019 10:17 AM
10	0 STRs permitted at any time	8/12/2019 5:58 AM
11	50	8/9/2019 7:29 AM
12	40	8/7/2019 6:59 AM

13	100	8/7/2019 1:11 AM
14	No cap.	8/7/2019 12:33 AM
15	No cap	8/6/2019 12:22 PM
16	Why cap it?	8/6/2019 12:11 AM
17	50	8/5/2019 7:59 AM
18	none	8/5/2019 2:08 AM
19	no cap	8/4/2019 1:08 PM
20	0, none	8/4/2019 8:40 AM
21	50	8/3/2019 6:02 PM
22	Na	8/3/2019 12:00 AM
23	Less than 10, on emergency basis only	8/2/2019 6:50 PM
24	Too vague	8/2/2019 10:48 AM
25	None at all	8/2/2019 9:51 AM
26	Caps are unfair to those who don't register in time	8/2/2019 9:14 AM
27	I don't think there should be a cap	8/2/2019 8:49 AM
28	Determine based on impact	8/2/2019 8:29 AM
29	None	8/2/2019 5:15 AM
30	A permanent cap. Such as 200 over all. If someone drops out you can bring it back to 200.	8/2/2019 3:56 AM
31	50-75	8/2/2019 3:08 AM
32	100	8/2/2019 2:39 AM
33	~25, ~1/10th of total housing.	8/2/2019 1:11 AM
34	30	8/1/2019 10:07 PM
35	100	8/1/2019 4:12 PM
36	I believe the 3rd choice should read 30 STRs	8/1/2019 3:34 PM
37	45	8/1/2019 3:15 PM
38	I think that the number should be higher - more like 50	8/1/2019 2:09 PM
39	The number of STRs is a concern a cap of the total amount is not. It is more important to cap the amount of STRs in any square block area.	8/1/2019 1:08 PM
40	NOTE: 2 of your options are for no more than 10 STRs permitted at any time. No more than 10 STRs at any time is reasonable.	8/1/2019 12:19 PM
41	No str without off street parking	8/1/2019 11:07 AM

Q3 Accessory dwelling units (ADUs) are smaller, secondary units on the same lot occupied by a single family dwelling. Examples include garden/backyard cottages, “granny flats,” or in-law units. The State of California has adopted laws and policies to make ADU development easier for homeowners in order to address the State’s affordable housing needs, which the City has implemented in its ADU ordinances. In Brisbane, ADUs may be established on any lot with a single-family home (max. one ADU per single-family home), and do not require dedicated parking spaces. Should STRs be allowed to operate in ADUs?

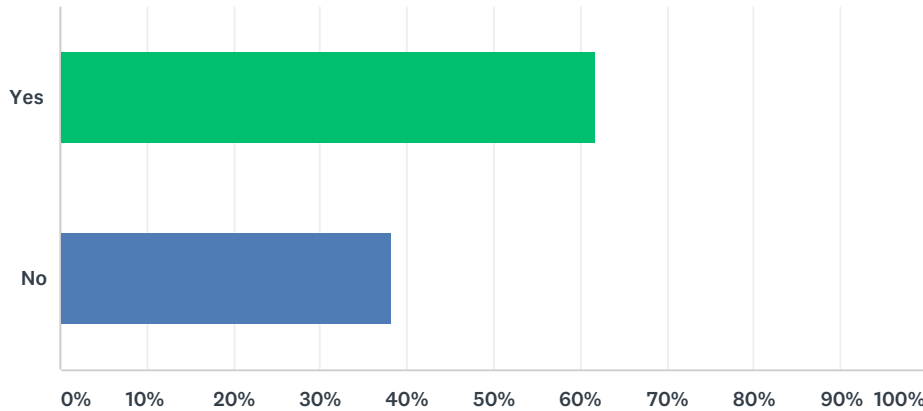
Answered: 172 Skipped: 3



ANSWER CHOICES	RESPONSES
Yes	66.86% 115
No	33.14% 57
TOTAL	172

Q4 Current parking requirements in Brisbane’s residential districts are one to two on-site spaces for dwellings under 1800 square feet, and three to four on-site spaces for dwellings over 1800 sq. ft. (Brisbane Municipal Code Section 17.34.020). Should the City require a dedicated parking space on the property to serve the STR separate from the parking spaces required for the main dwelling?

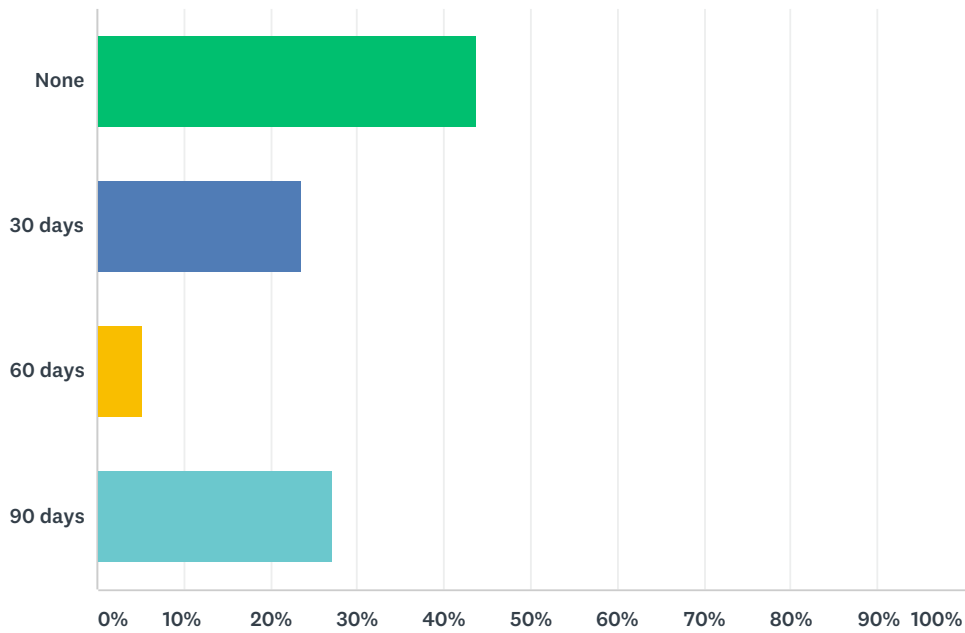
Answered: 170 Skipped: 5



ANSWER CHOICES	RESPONSES	
Yes	61.76%	105
No	38.24%	65
TOTAL		170

Q5 Hosted rentals are rentals of a room or portion of a home when the owner or permanent resident of a property is residing on the property. The City Council has indicated that to preserve the residential character of neighborhoods, the City’s STR regulations should limit unhosted rentals to prevent businesses or investors from buying dwellings and converting them exclusively to STR use. How many days per calendar year should STRs be permitted to be rented “unhosted,” without any permanent resident or property owner on-site?

Answered: 169 Skipped: 6



ANSWER CHOICES	RESPONSES	
None	43.79%	74
30 days	23.67%	40
60 days	5.33%	9
90 days	27.22%	46
TOTAL		169

Q6 Do you have any other concerns regarding STRs that were not addressed in the previous questions?

Answered: 90 Skipped: 85

#	RESPONSES	DATE
1	The cost of long-term rental units in Brisbane, as in the Bay Area as a whole, has skyrocketed and made this area unaffordable to many, many people. Permitting airbnb type rentals in Brisbane will further limit available long term rentals in Brisbane and contribute to the rise in rental prices. In normal times, I wouldn't be opposed to short term rentals in town as a way for people to generate income, but given the shortage in affordable and available housing in the area, I don't think more long term rental units should be taken off the market.	8/26/2019 6:54 AM
2	Safety of the neighborhood.	8/24/2019 5:36 AM
3	No	8/24/2019 2:35 AM
4	Do not want STR period. Has nothing to do with housing shortage. STR will negatively affect our quiet and peaceful community	8/21/2019 1:18 AM
5	Safety of the city when units are rented out short term	8/20/2019 3:56 PM
6	By far the most critical thing is to required hosted-rentals. If you want to STR, then you need to live on that property.	8/20/2019 11:01 AM
7	No, but I've seen how STR have destroyed neighborhoods when living in SF. Do not allow STR's at all in Brisbane	8/20/2019 3:32 AM
8	They should be required to register with the city and be fined if there is a violation.	8/16/2019 12:50 PM
9	I would like to see STRs licensed like they do in NY and Chicago. Just because it's a small town doesn't mean that wouldn't be applicable.	8/16/2019 12:16 PM
10	Since Brisbane is not a tourist destination, it seems unreasonable to expect that it will face the same issues with STRs that places like Lake Tahoe face. (Full house rentals with large groups, etc.) It seems this would be a wonderful way for neighbors to meet their neighbor's friends and families, as that would probably be a large section of the renters. It would also be a great way for residents to generate income with people flying out of SFO.	8/16/2019 4:26 AM
11	Limit the number operating in any one neighborhood at the same time. Regulate check in time. We're have people pulling up in front of our house at 2:30 3 o'clock in the morning unloading their guest. Should be owner occupied. Not people renting houses and then running all the rooms out to make a profit.	8/15/2019 10:08 AM
12	I am totally opposed to allowing STRs in residential neighborhoods. Transitory visitors have no incentive to be considerate of neighbors or to follow normal rules of behavior. Brisbane has plenty of hotel space. If someone has an extra living unit they can rent it to someone in need of affordable housing. BTW, the current ordinance is not enforced. How are you going to enforce restrictions?	8/14/2019 10:22 AM
13	I think my concerns are addressed but I want to make sure that STRs have no opportunity to supplant residential housing opportunities for full time renters.	8/13/2019 7:35 AM
14	Town of Brisbane is unique and still remains a small community and at best as of August 2019..we are feeling the crunch of more cars on our streets be it some Airbnbs, commercial, Lyft and Uber leaving cars/trucks while home owners look for a space in front of their homes. Permitting a new ordinance to regulate STRs is not in the best interest of me and Brisbane. Surveys with yes and no answers are hard to answer with so many variables...this one especially. Some people may miss speaking on this very important issue electronically and I personally hope the Planning Commission has more input for Brisbane residents and provide another way to share concerns. It was not easy to connect to this link and hopefully all voices with be heard.	8/12/2019 6:19 AM
15	Yes. This survey asks citizens to give opinions about a subject that most citizens know very little about. Then these opinions will most likely be used to establish policies. It seems like a flawed process.	8/12/2019 4:58 AM

16	I am VERY concerned that UNhosted STRs could negatively affect the community feel and composition of Brisbane. I love knowing my neighbors and interacting with them on a near daily basis. I would be open to considering hosted rentals. I think these are very different, and that they inspire interaction with guests by the host, and ensure that hosts remain Brisbane residence And this members of the community.	8/11/2019 3:35 PM
17	I think a tax on these units is beneficial. I also believe that how Napa has handled this is terrible. Do not limit the STR licensing to specific homes. If I needed the extra income from renting out rooms short or long term I'd want the choice to do so. They also don't particularly bother me, especially because housing is so expensive.	8/11/2019 12:06 PM
18	No	8/9/2019 2:22 PM
19	Will STRs be limited to commercial districts? Will the City be collecting hospitality taxes on STRs?	8/9/2019 8:49 AM
20	they should not be allowed at all.	8/9/2019 8:36 AM
21	It may be necessary to address extreme parties that disturb neighborhood families.	8/9/2019 8:18 AM
22	No, thank you.	8/8/2019 4:18 PM
23	Worried about how enforcement would take place. There are STRs currently operating in city limits without any regard it seems. How will it be tracked?	8/8/2019 3:07 PM
24	We are having to leave Brisbane and the bay area due to absurdly high home prices and rent prices. STRs often take up dwellings that could instead accommodate long-term renters, driving down supply and increasing costs. I'm glad Brisbane is considering STRs not because I have any direct issue with STRs, but because housing prices must be addressed. I also think that the city of Brisbane, and the state of California, should strongly consider limiting or banning the sale of residential homes to foreign investors. When we considered buying a home in Brisbane, we quickly realized it would not be possible for us after house after house sold for cash, over asking price, to foreign investors. It is driving young families like ours out of Brisbane.	8/8/2019 12:41 PM
25	the same nuisance regulations that apply to STRs should apply to LTRs. There are noise and parking issues with LTS for neighbors and we have no recourse.	8/7/2019 1:18 AM
26	Yes there should be a limit to time check in so we don't have people showing up at Kate hours	8/7/2019 12:35 AM
27	My mother was diagnosed with cancer and a maximum of 3 years left to live. It's been very hard on our family. After my friend encouraged me to try Airbnb I found a way to spend more time with her, taking 1 - 2 months off a few times per year that I can spend with her, making her remaining time with us more enjoyable. I could NEVER have done this without the extra income from my guests. Why do we have to limit this for future cases like mine? Let's agree that guests need to be respectful, hosts need to make it clear that no parties or any other disturbances are allowed and allow for a forum to receive complaints for irresponsible hosting. Besides that, what is the issue with people like me opening our homes to guests who choose to stay in this beautiful part of the world? Thanks for considering!	8/6/2019 12:25 PM
28	STR create noise, vandalism, parking issues. Please keep our neighborhoods safe, clean and quiet. Thanks!	8/6/2019 7:37 AM
29	If renting out your house is not "commercial activity", how is renting out for a short period of time different? It's a transaction either way	8/6/2019 6:22 AM
30	Yes - my neighbor who is renting is also illegally hosting str rentals. They double park all the time. Who should I notify?	8/6/2019 3:00 AM
31	Not at this time.	8/6/2019 2:49 AM
32	STRs are a great option for owners to improve their financial situation. Let's not allow the outliers punish those acting in the spirit of the rules and regulations.	8/6/2019 1:48 AM
33	I depend on this income for my retirement. Please don't force me to leave this beautiful town.	8/6/2019 12:12 AM
34	Brisbane does not need regulations	8/5/2019 1:03 PM
35	Yes you should not tell people what to do with their property and remove all limitations of short term rental	8/5/2019 1:02 PM

36	I don't believe there shouldn't be many limits on how private property owners can use their property. These seem like reasonable regulations though, if you have to have any at all. Except the parking one is dumb because if people are renting out their houses then they've probably left and took their cars with them, LOL. Also it's not fair to limit the number of rentals in town, because that just benefits people who get in early and lock down their permit. If you have to have a limit it should be much higher. 10?? in all of Brisbane?!? Anyway, please keep it light -- we don't want to end up miserable with over-regulation like in the city.	8/5/2019 4:37 AM
37	If we are truly in a housing crisis - enough to justify the huge amount of building planned in Brisbane, SSF and Southern SF these units should not be used for short term housing but for long term rentals. I am not generally opposed to short term rentals, I have used them. However in our town where it cost over 3500. to rent a 700 sq. ft. house it makes no sense to make fewer units available for housing. Let's ease the housing shortage in simple ways, the city has loosened restrictions on secondary units so let's use them to house people and reduce the outrageous costs so our parents and children can live in their own community. It is hypocritical to do otherwise. It is hypocritical to say we need to build and then ignore the housing stock we have - one should include the other.	8/5/2019 2:17 AM
38	Given the housing crisis, everything that should be done to encourage responsible and safe expansion of housing supply MUST be taken.	8/4/2019 1:10 PM
39	While I understand the desire (and sometimes the need) to generate extra money, the STR's in my part of Brisbane have at times been out-of-control party houses. This is unacceptable. Additionally, while the safeguards the City is proposing are good, it will be nearly impossible to enforce them. Will the City regularly inspect every STR for compliance? Will the City review every rental occurrence for compliance? How will the City ensure the tax is properly paid? Will the projected tax revenue cover the expected City costs for compliance? How will the City ensure that the cap is adhered to? (Note: there are many STR websites and some are closed to the public). I am in favor of keeping the correct STR ban in Brisbane. Thank you	8/4/2019 8:51 AM
40	I'm not at all concerned by a single STR on a property whether the owner is there or not. I think it's more important to limit the total STRs on any given property, as this has much greater impact on parking, noise, etc.	8/4/2019 5:43 AM
41	Corporations buying property should not be allowed.	8/3/2019 6:04 PM
42	Please focus on up-zoning the city to allow for more housing instead of focusing on curing a symptom of the housing shortage.	8/3/2019 5:58 AM
43	Maybe they would be addressed in the Residents with STRs located in close proximity will need a process to submit formal complaints, and requiring STRs to be permitted can facilitate this, so this is a good step. However, I am concerned that the City will take its usual hands-off approach, as they do with building permits, by forcing residents impacted by their neighbors' construction projects to have to settle things on their own, as the city regards these as civil disputes. This is a big concern in relation to STRs. If we as a community value the rights of residents to operate STRs, then we as a community have a shared need for protection from the impact on our safety, property, and peace.	8/3/2019 3:42 AM
44	There should probably be penalties if owners allow their guests to create disruptions in the neighborhoods, either by noise or too many cars. A car limit would be good.	8/3/2019 3:30 AM
45	Since these are commercial enterprises they should be held to the same Building, Fire and Safety codes as all other businesses in Brisbane. The permit to operate should include regular inspections from the Building Department and the Fire Department.	8/3/2019 2:19 AM
46	Guests from STR smoking outside neighbor's Windows.	8/3/2019 2:15 AM
47	No	8/3/2019 1:44 AM
48	STRs are good for the local economy.	8/3/2019 1:23 AM
49	Enforcement, including policing and inspections	8/2/2019 6:53 PM
50	I wouldn't have a problem with the STRs if it came with its own parking spots... BRISBANE has a bigger issue with parking on the streets as it is now and really have not come up with a solution for this and it just keeps getting worse	8/2/2019 3:57 PM
51	No	8/2/2019 2:01 PM

52	STRs have destroyed the ability of people to find rentals. People who visit, especially unhosted, don't care about their surrounding neighbors. Too many destroy the character of the neighborhood an sense of community. Look at San Francisco!	8/2/2019 11:22 AM
53	STR should not be able to use all the parking - need to park in the garage or in driveway	8/2/2019 10:31 AM
54	STRs must be regulated like hotels, including building codes, taxes, inspections, etc. BEFORE approval.	8/2/2019 10:05 AM
55	In the city of Brisbane there are and exceptional number of "nosy neighbors". The current laws only require a neighbor to complain repeatedly to shut down an STR. This may lead to many STR's being shut down by a vindictive/nosy neighbor.	8/2/2019 10:05 AM
56	I have been told by neighbors that someone that rents out their home has loud guests and created parking problems. I firmly believe that if you put in an in-law it should be for permanent renters who are desperate for housing, not for vacationers !!!!	8/2/2019 9:55 AM
57	Most guests don't need the parking spot, so requiring an extra spot is not necessary, especially when home larger than 1800 sqft already have 4 spots....	8/2/2019 9:16 AM
58	Please consider the help that STRs provide to homeowners who due to hardship or other reasons depend on the income!	8/2/2019 8:51 AM
59	No	8/2/2019 8:31 AM
60	What about STRs that aren't "registered" through the city? How will those be managed? There are a lot of these happening now with no plan to ever let anyone know about it	8/2/2019 6:44 AM
61	Don't like them, as they cheapen a town which all ready has enough residential problems.	8/2/2019 6:36 AM
62	Noise, garbage, parking, unknown people running around, crime children's safety	8/2/2019 5:22 AM
63	Should we have some tax implications or ordinances about other problems that arise due to STRs such as increased production of Trash, STRs not recycling or taking sustainability measures. And there should be noise restrictions for STRs.	8/2/2019 5:09 AM
64	Larger garage cans, instead of filling neighbors can with very dirty garbage.	8/2/2019 3:59 AM
65	STRs should not be allowed at Viewpoint at the Ridge. It turns the area into a hotel / motel environment instead of a "permanent home" neighborhood.	8/2/2019 3:49 AM
66	I felt question 5 needed to have an other option. I am uncomfortable with the options presented on that question and felt it was biased towards limitation. I selected 90 days but would have preferred an "other" option where I could have written in a different answer.	8/2/2019 3:10 AM
67	no	8/2/2019 2:57 AM
68	No	8/2/2019 2:40 AM
69	Just parking. STR parking is a problem on my street.	8/2/2019 2:21 AM
70	Yes, there should be a time limit for check In like 10:00pm, we have 3 air B & bs within a block Of our house & 2:30 am is not ok	8/2/2019 2:21 AM
71	STRs are currently prohibited in Brisbane, but this prohibition is not enforced. What guarantee is there that any new limitations WILL be enforced?	8/2/2019 1:39 AM
72	None.	8/2/2019 1:13 AM
73	How to manage when guests disrupt neighborhood (e.g. parties, trash etc)	8/1/2019 10:10 PM
74	I'm not sure that 90 days should be an answer. I think more like it could be unhosted no more than 6 months or a year. But then again maybe the owner must actually live in it for at least a year before they can rent it out short term.	8/1/2019 4:32 PM
75	Mainly the impact on already strained parking. People in my area report cars to the police frequently. On fellow neighbors.	8/1/2019 4:08 PM
76	increase in crime, and traffic.	8/1/2019 3:47 PM
77	No	8/1/2019 3:38 PM
78	Unhosted rental days should be unlimited. People should be able to earn a living in the way they see fit and do what they wish with their own property.	8/1/2019 3:32 PM

79	Parking and security are the most important. I also am concerned with making sure that there are affordable long term rentals available. Not sure how to regulate that.	8/1/2019 3:08 PM
80	No	8/1/2019 2:59 PM
81	No. I believe that residents should be allowed to do as they wish with their own homes. Guests enrich the neighborhood and bring money to local businesses Short term rentals make affording mortgages possible in this expensive economy	8/1/2019 2:46 PM
82	Go slow on this! People/families NEED permanent housing. I feel residents will opt to make more money by having overnights and very short term places to rent!	8/1/2019 2:31 PM
83	STRs, while banned in Brisbane, are happening in town. We have numerous on my street. They impact parking, have a negative effect on the neighborhood and take housing out of the market for potential renters. The lack of housing for renters is my number one concern.	8/1/2019 2:26 PM
84	Although I do not think that STRs should require extra parking, we should still require enough parking for ADUs and large houses. We grant too many variances on parking.	8/1/2019 2:14 PM
85	#5 should have unlimited to get an honest unbiased survey. I understand that to many non hosted STRs can be a problem but stepping on property rights are a problem too. Property rights & economic impact should be the two top concerns followed by parking.	8/1/2019 1:30 PM
86	Enforcement of the regulations (especially parking) and the process for reporting bad hosts or bad short term renters. My concern is that enforcement will fall on residents that don't operate STRs. It seems the majority of residents have the burden of enforcement and get nothing out of this. STRs are no benefit for the majority of the community, which will not be operating an STR. Also, concerned that this survey is considering including ADUs as STRs. The removal of parking requirements for ADUs was done with the rationale that ADUs would help more people in the area afford a place to live. Allowing ADUs to be used as an STR is a direct conflict with the whole purpose of ADUs.	8/1/2019 12:52 PM
87	1. Immediate neighbors of STR applicants should be able to petition city government to prevent the STR from reaching fruition, and if a majority of the immediate neighbors vote against the applicant the STR should be banned. 2. Who monitors STR compliance with Brisbane's regulations? The police? Neighbors? 3. If neighbors complain to Brisbane's City Council about STRs which are not compliant with STR regulations and the STR owner begins threatening his/her neighbors or filing frivolous lawsuits against them, what action will City Council (or the Brisbane Police Department or any other governmental entity) take against such threats and frivolous lawsuits? 4. How does the City of Brisbane plan to enforce collection of its proposed transient taxes from either the STR owner or the online platform (Airbnb, VRBO, etc.)? What does the City plan to do to penalize parties or platforms which refuse to pay any transient taxes? How much money will it cost the City in attorney fees to pursue parties/platforms refusing to pay transient taxes, and if the revenue from the taxes would be less than the attorney fees necessary for pursuing collection, then what?	8/1/2019 12:35 PM
88	Parking	8/1/2019 11:11 AM
89	N/A	8/1/2019 11:06 AM
90	If STRs are allowed & if there are problems with them, how fast and effective will enforcement be?	7/30/2019 7:48 AM

Joe + Jenni Sulley
4 Margaret Ave
Brisbane, Ca 94005

2-10-20

RECEIVED

FEB 11 2020

Comm. Dev. Dept. Brisbane

Brisbane Planning Commission
50 Park Place
Brisbane, Ca 94005

Dear Planning Commission Members:

Thank you for working on plans for Air B+B regulations in Brisbane. On Friday night 2/7 we were awakened at 2:30 AM by people trying to locate the Air B+B located at 250 Kings with driveway access at 250 Margaret across from our house. We would appreciate if you could set a time limit for guests to check in rather than leaving a lock box. We are seniors, we live on a quiet private road that is not so private anymore. Ten o'clock would be a good check-in limit.

Sincerely,

Joe + Jenni Sulley

Ayres, Julia

From: Viana, Alberto
Sent: Thursday, February 20, 2020 8:10 AM
To: Ayres, Julia
Subject: FW: Short Term Rentals

-----Original Message-----

From: Kathleen Enright Salvia [mailto:ksalvia@comcast.net]
Sent: Monday, February 17, 2020 3:07 PM
To: Planning Commissioners
Subject: Short Term Rentals

Gentlepersons:

My name is Kathleen Salvia. I have lived at 300 San Bruno Avenue in Brisbane for nearly 24 years. I am writing in solidarity with my fellow neighbors who have been negatively impacted by short term rentals like the one on Humboldt that advertises that it can sleep 25 people. This would seem to be counter to the R1 zoning area in which the house sits. I know you have been grappling with this problem for quite some time, so forgive me if i state the obvious. I would come to the meeting but will be out of the country on the date it is scheduled.

I urge you to ban units that do not provide adequate parking for the short term tenants. Do not allow street parking. As we all know, the streets are already packed and parking spaces are at a premium.

I urge you to limit the number of individuals to whom a home or room may be rented.

I also suggest a licensing process which will allow for revocation of one's license should they be cited for a specified number of violations of City requirements, set by you, such as garbage control, parking, and noise levels.

Ok. That's my two cents. Thank you for listening.

Kathleen Salvia
300 San Bruno Avenue
Brisbane, CA 94004
415 606 9697
ksalvia@comcast.net

Barbara Ebel, Brisbane resident, spoke against the project.

Michele Salmon, Brisbane resident, spoke against the project.

Joe Sulley, Brisbane resident, spoke against the project.

With no one else coming forward to address the Commission, Commissioner Patel moved to close the public hearing. Commissioner Gooding seconded the motion and it was approved 4-0.

The Planning Commission commenced deliberation and identified concerns with the street tree removal and street improvements required by the City Engineer, as well as the potential impact to site hydrology.

Chairperson Sayasane recognized audience members wishing to speak after the public hearing was closed.

Barbara Ebel, Brisbane resident, spoke against the project.

Prem Lall, Brisbane resident, spoke against the project.

The Commission resumed deliberation. Following deliberation, Commissioner Patel moved to deny the permit. Commissioner Mackin seconded the motion and the motion was approved 4-0. (*Administrative note: no findings of denial were adopted; therefore, final action on this item must be continued to the next regular meeting.*)

H. OLD BUSINESS

1. **CONTINUED PUBLIC HEARING: Zoning Text Amendment RZ-2-19;** Zoning Text Amendments to adopt regulations for short term residential rentals (STRs) by adding a new Chapter 17.35 to the Brisbane Municipal Code; Citywide; City of Brisbane, applicant.

Senior Planner Ayres gave the staff presentation and answered questions from the Commission to clarify the ordinance's provisions regarding citations, renting of accessory dwelling units (ADUs) by permanent residents of the ADU, limitations on listings and bookings, and neighbor notification.

Chairperson Sayasane opened the public hearing.

David McWaters spoke against non-hosted rentals and suggested a cap on number of people per habitable bedroom.

Dennis Busse spoke against the STR ordinance, and thought the insurance requirements were too low.

Lori Lacsamana spoke against the STR ordinance, with concerns about parking.

Sharon Boggs spoke against non-hosted rentals and allowing ADUs to be STRs.

Julia Babiarz spoke against the STR ordinance, with concerns about non-hosted rentals and occupancy limits under the ordinance.

Peter Bockrath spoke against non-hosted rentals, with concerns about traffic and parking on narrow roads.

Joe Sulley spoke against the STR ordinance, with concerns about enforcement.

Nancy Lacsamana spoke against the STR ordinance, with concerns about non-hosted rentals and housing supply lost to STRs and read a petition signed by many residents.

Jodi Borghesi voiced concerns about parking, noise, and non-hosted rentals and support for hosted rentals.

Prem Lall spoke against the STR ordinance, with concerns about quality of life.

Barbara Ebel spoke in favor of non-hosted rentals with limitations and against renters being permitted to host STRs.

Linda Seekins spoke against the STR ordinance, specifically non-hosted rentals.

Michele Salmon spoke in favor of the STR ordinance but against non-hosted rentals.

Willy Chang spoke in favor of the STR ordinance with limits on occupancy.

Aaron Klevin, spoke in favor of the STR ordinance and for allowing limited non-hosted rentals.

Philipp Reichardt spoke in favor of the STR ordinance.

Dean Gough spoke against the STR ordinance, with concerns about parking and noise.

Radu Mihaila spoke in favor of the STR ordinance.

With no one else coming forward to address the Commission, Commissioner Mackin moved to close the public hearing. Commissioner Gooding seconded the motion and it was approved 4-0.

Following deliberation, Commissioner Mackin moved adoption of Resolution RZ-2-19 recommending Council approval of Zoning Text Amendment RZ-2-19 with modifications, including:

- Impose a 275-day residency requirement for hosts.
- Publish a public STR registry.
- Extend window for complaints relative to suspending a permit to 12 months.
- Initial permits valid for 1 year and renewed permits valid for 2 years or less.
- Ban unhosted rentals with exceptions for unplanned host absences.
- Ban STRs completely on any property that has an ADU built on or after 4/1/2017.

Commissioner Gooding seconded the motion and it was approved 4-0.

I. ITEMS INITIATED BY STAFF

BRISBANE PLANNING COMMISSION
Action Minutes of January 9, 2020
Regular Meeting

A. CALL TO ORDER

Chairperson Sayasane called the meeting to order at 7:30 p.m.

B. ROLL CALL

Present: Commissioners Gomez, Gooding, Mackin, Patel and Sayasane.

Absent: None.

Staff Present: Senior Planner Johnson

C. ADOPTION OF AGENDA

Commissioner Gomez moved adoption of the agenda. Commissioner Gooding seconded the motion and it was approved 5-0.

D. CONSENT CALENDAR

Commissioner Patel moved adoption of the consent calendar. Commissioner Mackin seconded the motion and it was approved 5-0.

E. ORAL COMMUNICATIONS

There were none.

F. WRITTEN COMMUNICATIONS

Chairperson Sayasane acknowledged written communications from Sarah Duffy and Sher Gias regarding cannabis retail storefront regulations and the Bay Area Monitor.

G. NEW BUSINESS

1. **PUBLIC HEARING: Zoning Text Amendment RZ-2-19; Zoning Text Amendments to adopt regulations for short term residential rentals by adding a new Chapter 17.35 to the Brisbane Municipal Code; Citywide; City of Brisbane, applicant.**

Senior Planner Johnson gave the staff presentation.

Chairperson Sayasane opened the public hearing.

Prem Lall opposed the ordinance due to concerns with sex trafficking, prostitution, and other criminal behavior at short term rentals.

Jeri Sulley asked for a limit for check-in hours to prevent neighborhood disturbances.

Joe Sulley shared the disturbances he experienced with short term rental guests in his neighborhood regarding noise, parties, and parking, and asked for a limit on check-in hours such as 10 PM.

Senior Planner Johnson said the draft ordinance included a check-in cut off of 10 PM.

James Seto shared the noise disturbances, lack of parking, trash, and other nuisances he has experienced with short term rentals in his neighborhood. He asked for a two-night minimum to prevent one-night parties.

Mr. Sulley shared the disturbances caused by short term rentals regarding garbage cans in the street.

Philippe Reichardt addressed the concerns voiced by prior speakers about short term rentals and family events at his home, and information about requirements for identify verification. He opposed the requirement for renting out accessory dwelling units for long-term renters due to infeasibility for his family and the cap on guests allowed per bedroom and the number of bedrooms that could be rented at the same time.

Mr. Lall asked why city staff would inform the public that short term rentals were allowed. He asked if the draft regulations would prevent a homeowner with an ADU from moving from their home into their ADU and then renting out their home as a short term rental.

Mr. Seto asked if the draft regulations would limit the size of the house that could be offered for short term rental.

Olga Alexander said she had managed short term rentals in other states and supported regulating and permitting them which generated revenue for the City and the homeowners. She suggested establishing a hotline for neighbors to report issues.

Chairperson Sayasane said the public hearing would be continued to February 27, 2020.

Commissioner Gomez and Commissioner Patel requested information on enforcement options to relieve neighbors from the burden of complaining to the homeowner or other contact person.

Commissioner Patel stated staff members should monitor short term rental listing websites and should proactively fine illegal listings without neighbors needing to complain. He requested fees that support that level of monitoring.

Chairperson Sayasane requested that complaints and citations related to short term rentals be logged in a system that police and other staff could access. She asked for clarity on fees and penalties.

Senior Planner Johnson provided references to the fees and penalties in the Municipal Code.

Mr. Lall asked if permits were revocable and if so if there was a list of criteria. When the Commission confirmed that was the case, Mr. Lall asked if illegal rentals after a permit has been revoked could be even more heavily fined.

Deb Horen shared she previously received a notice that her short term rental was illegal in 2014, followed by another letter in 2015 that said the City was not enforcing the rules during the time it discussed how to regulate them. She opposed allowing unhosted rentals.

Mr. Seto asked if the homeowner could pass the fine or violation to be pushed onto the rental guests.

Mr. Reichardt said hosts on Airbnb could not pass on fines to guests. He supported the owner and operator to be liable for any guest violations. He asked for higher penalties to be considered and make permit revocation automatic. He said Airbnb may have an option to block rentals from displaying unless they have a registered permit number on the listing.

It was the consensus of the Commission to table further discussion on the matter until the meeting of February 27, 2020.