

# *City of Brisbane*

## *Agenda Report*

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: **City Regulations of Short Term Home and/or Room Rentals in Residential Zones**

DATE: January 15, 2015

### **City Council Goals:**

To provide for effective and efficient delivery of City services. (Goal#1)  
To preserve and enhance livability and diversity of neighborhoods. (Goal #14)

### **Purpose:**

For the City Council to determine if it wishes staff to initiate a review of city regulations regarding short term rentals in residential zones, including but not limited to Bed and Breakfast establishments, AirBNB and vacation home rentals.

### **Recommendation:**

That the City Council provide policy direction as it deems appropriate.

### **Background/Discussion:**

In late 2014, a citizen complaint was filed against all properties in Brisbane with an active AirBNB listing, a total of seven at the time the complaint was filed. Inasmuch as City regulations do not permit Bed and Breakfast establishments (B&Bs) in residential zones, all these properties were issued a Notice to Correct, which in this case would involve removing their AirBNB listing.

One of the parties cited has raised a number of concerns with the city's regulations and their applicability to internet-based "home sharing", along with a lack of clarity regarding the applicability of the City's regulations to other similar activities such as vacation rentals, home exchanges, and the like. An excerpt from the correspondence received from this party is attached for information. Since the matter is the subject of an active code enforcement action, the author is not identified in the attached correspondence.

Currently the City's zoning ordinance includes B&Bs in the definition of hotels, which are prohibited in residential zones (see attached zoning code excerpts), and is silent on other uses such as vacation rentals. The policy question before the City Council is whether the City's current zoning regulations are appropriate and adequately responsive to internet-based alternative lodging options that now exist, or whether the City Council wishes to have staff reevaluate the City's regulations.

If the City Council chooses to direct staff to study this matter further, this evaluation would typically occur in the form of a potential zoning code amendment subject to Planning Commission review, unless the City Council chooses to establish a different review process. If the City Council chooses not to direct staff to review the current regulations, any party cited by the City has the right to appeal the citation pursuant to the procedures set forth in Chapter 1.16 of the Brisbane Municipal Code, which provide for an administrative hearing before an independent hearing officer.

**Fiscal Impact:**

City staff time if authorized by the City Council. Any changes in the city regulations to permit B&Bs or other forms of short term rentals could result in the collection of transient occupancy tax (TOT) by the City.

**Measure of Success:**

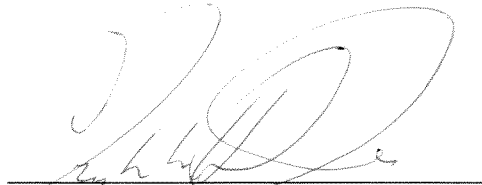
For the City Council to provide the appropriate policy direction.

**Attachments:**

Correspondence Excerpt From Cited Party  
Zoning Code Excerpts



John Swiecki, Community Development Director



Clay Holstine, City Manager

## CORRESPONDENCE EXCERPT FROM CITED PARTY

Home sharing on the Internet is a new phenomenon. All municipalities are having to review their Municipal codes and debate how best to change with the times, to make forward thinking decisions that benefit the most people, and create new legislation that addresses new sharing and business models. San Francisco, after much deliberation and public outreach, decided to allow homesharing with some limits. Arbnb worked with SF and now takes taxes directly from the online accounts and sends the tax revenue directly to the the tax collector. A simple solution that costs the City nothing and produces significant revenue for SF. Has Brisbane considered this? Has Brisbane addressed what kind of homesharing constitutes commercial use..renting a room for a month, for two weeks, renting a whole unit for 6 months, renting your home for the summer when you travel? Home swapping? Subleasing a rental for a long trip? These are all questions to be considered and addressed. Reactive decision making denies residents and the City of Brisbane of additional income and that the sharing economy can bring to a community. My guests have loved hiking the mountain and eating at our local restaurants, businesses who can certainly use additional patrons.

... I am respectfully requesting a formal review that includes community outreach, and an openness to consider how a thoughtful definition and response to homesharing can benefit our community. If Brisbane wants to outlaw homesharing across the board, I am interested in equal enforcement that includes VRBO, Craig's List, and investigation into all of the other hybrid rental arrangements that exist across town that may not be as obvious as an Arbnb listing, but that do exist.

**17.02.420 - Hotel.**

"Hotel" means 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 motel, inn, motor court, bed and breakfast establishment or similar use, but excludes single-room-occupancy dwelling units operated as supportive housing.

*(Ord. 422 § 4(part), 1998).*

*(Ord. No. 564, § 1, 10-3-11)*

**17.06.020 - Permitted uses.**

The following permitted uses shall be allowed in the R-1 district:

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- D. Small family day care homes.
- E. Secondary dwelling units, when authorized by a permit granted pursuant to Chapter 17.43 of this title.

*(Ord. 479 § 2, 2003; Ord. 463 § 6(part), 2002).*

**17.06.030 - Conditional uses.**

The following conditional uses may be allowed in the R-1 district, upon the granting of a use permit pursuant to Chapter 17.40 or 17.43 of this title:

- A. Cultural facilities.
- B. Day care centers.
- C. Educational facilities.
- D. Group care homes.
- E. Large family day care homes.
- F. Meeting halls.
- G. Mobilehome parks
- H. Places of worship.

*(Ord. 479 § 3, 2003; Ord. 463 § 6(part), 2002).*

**17.08.020 - Permitted uses.**

The following permitted uses shall be allowed in the R-2 district:

- A. Single-family dwellings.
- B. Duplexes.
- C. Multiple family dwellings containing not more than six (6) dwelling units.
- D. Dwelling groups.
- E. Accessory structures and uses incidental to a permitted use.
- F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- G. Small family day care homes.

*(Ord. 463 § 7(part), 2002).*

*(Ord. No. 575, § 3, 12-3-12)*

**17.08.030 - Conditional uses.**

The following conditional uses may be allowed in the R-2 district, upon the granting of a use permit pursuant to Chapter 17.40 of this title:

- A. Cultural facilities.
- B. Day care centers.
- C. Educational facilities.
- D. Group care homes.
- E. Large family day care homes.
- F. Mobilehome parks.
- G. Multiple family dwellings containing seven (7) or more dwelling units.
- H. Meeting halls.
- I. Places of worship.

*(Ord. 463 § 7(part), 2002).*

*(Ord. No. 575, § 4, 12-3-12)*