

## *DIVISION 1. DEFINITIONS*

### **Sec. 34.801. Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated. Where terms are not defined, they shall have their ordinary accepted meanings.

*Advertise* means the act of drawing the public's attention to a rental unit in order to promote the availability of the rental unit.

*Agent* means a person designated by the short term rental operator in lieu of themselves as the 24-hour emergency contact for a lawfully operating short term rental.

*Bed and breakfast* shall be as defined in City Code of San Marcos, Texas, Section 5.1.5.6.

*Block* means the distance along a street from where one road crosses or intersects it to the place where the next road crosses it or intersects it.

*City housing incentive* means any monetary payment or concession provided by the City of San Marcos which has the expressed purpose of spurring or encouraging the development of housing, whether affordable or not, or redevelopment in the City of San Marcos.

*Code official* means official who is charged with the enforcement of this Code.

*Code official* means city marshal or designated official who is charged with the enforcement of this Code.

*Complex*. See "multi-family unit (MFU)".

*Director* means the department(s) or division(s) of the City designated by the City Manager to administer and/or enforce the provisions of this Ordinance and any person or persons designated by such a department or division to represent the department or division for said purpose.

*Duplex unit (DU)—(two-family dwelling)*. As defined by the International Building and/or Residential Code.

*Good cause* for the purposes of denial, suspension, revocation, imposition of conditions, renewal, and reinstatement of a Short Term Rental Permit, means

- (1) the Applicant, Owner, the Owner's Agent, or the Local Contact Person has failed to comply with any of the terms, conditions, or provisions of this Chapter or any relevant provision of this Code, State law, or any rule or regulation promulgated thereunder;
- (2) the Applicant, Owner, Owner's Agent, or Local Contact Person has failed to comply with any special conditions that were placed upon the Short Term Rental by the Enforcement Official; or
- (3) the Short Term Rental has been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the Vacation Rental is located.

---

*Hosting platform* means a person who, for a fee or other charge, provides on an internet website an online platform that facilitates the rental of a short-term residential rental residential unit on behalf of an operator, including, without limitation, through advertising, matchmaking or other means.

*Hotel occupancy tax* means the hotel occupancy tax required to be assessed and collected for the operation of any short term rental and paid pursuant to Chapter 351 of the Texas Tax Code. Landlord means the owner, landlord, operator, and lessor, management company, managing agent or on-site manager of a rental unit or multi-family dwelling unit.

*Local responsible party* means an individual located in the City of San Marcos while a rental unit is being rented and who has access to the premises and is authorized to make decisions regarding the premises.

*Long term rental* means any rental unit with a lease term for a period of 30 consecutive days or more. A long term rental does not include a hotel or motel as defined in the city's Development Code, subpart B of the city's Code of Ordinances.

*Multi-family unit (MFU)* means any building or portion thereof which is designed, built, rented, leased, or let to be occupied as three or more dwelling units or apartments. The term shall not include hotels, motels, nursing facilities, or assisted living units as defined in the city's Development Code, subpart B of the city's Code of Ordinances.

*Occupant* means any individual living or sleeping in a building, or having possession of a space within a building. This includes, but is not limited to, persons that reside at a residence the majority of 21 calendar days, regardless if that person pays rent or provides in-kind services. The person is not required to have a lease, contract or other legal document to be considered an occupant.

*Operator* means any person who operates a short term rental, as defined in this article. For purposes of this article, a lessee of a unit, when expressly permitted in writing by owner, may serve as operator of a short term rental.

*Owner* means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or code official of the estate of such person if ordered to take possession of real property by a court.

*Owner-occupied rental unit* means a dwelling unit in which at least one owner of record of the property resides as his/her primary dwelling.

*Premises* means property, a lot, plot or parcel of land, easement or public way, including any structures thereon.

*Primary residence* means the usual dwelling place of the owner or tenant of a residential dwelling and is documented as such by at least two of the following: motor vehicle registration, driver's license, Texas State Identification card, voter registration, tax documents, or utility bill(s). For purposes of this chapter, a person may have only one primary residence.

*Property.* See "premises".

*Registrant* means owner, manager or representative of a property. For short term rentals only, it also includes a lessee of property under a lease for a period of at least 30 days.

*Rental property* means any property upon which a rental unit is located.

*Rental unit* means a structure, property, or portion thereof that is rented or offered for rent as a residence; including but not limited to, single-family unit, duplex unit, tri-plex, quad-plex unit, multi-family unit, manufactured or mobile home unit, town home or condominium.

---

*Short term rental* means a primary residence having fewer than five bedrooms, or portion thereof, **whereby two bedrooms maximum may only be** used for lodging accommodations to guests with a lease term for a period of less than 30 consecutive days. A short term rental does not include a bed and breakfast inn as defined in the city's Development Code, Section 5.1.5.6.

- (1) **Type 1** Short term rental is defined as located in residential only zoning districts established under the city's Development Code of the city's Code of Ordinances having fewer than five bedrooms, or portion thereof, **whereby two bedrooms maximum may only be** used for lodging accommodations to guests with a lease term for a period of less than 30 consecutive days.
- (2) **Type 2** Short term rental is defined as located in non-residential zoning districts established under the city's Development Code of the city's Code of Ordinances. There are restrictions to the number of rooms that may be rented.

*Short term rental permit* means the permit issued by the city that identifies the subject property as a lawful short term rental, the short term rental permit number, the names and contact information of the owner, operator, and agent if applicable, and 24-hour emergency contact phone for at least one of the preceding.

*Single family unit (SFU)* as defined by the International Residential Code.

***Sleeping area* means a room within a dwelling designed or used for sleeping, including a bedroom. Tents, hammocks, recreational vehicles and/or other vehicles and outdoor areas shall not be considered a sleeping area.**

*Unit.* See "rental unit".

(Ord. No. 2018-04 , § 11, 4-17-18)

**Secs. 34.802—34.809. Reserved.**

**Sec. 34.802. Purpose and applicability.**

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

**Sec. 34.803. Authority of the director.**

The Director shall implement and enforce this chapter and may by written order establish such procedures, not inconsistent with this chapter or other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations, as the director determines are necessary to discharge any duty under this chapter.

**Sec. 34.804. Permit required.**

- (a) No short term rental shall operate within the City of San Marcos without a current valid short term rental permit.
- (b) All individual units having cooking, sleeping, and bathing facilities, within common buildings, regardless of ownership, shall require a separate, individual permit for each unit intended to be used as a short term rental.

**Sec. 34.805. Short term rental permits.**

- (a) *Application.* Application for a short term rental permit shall be made either in writing or electronically upon a form prescribed by the City of San Marcos for such purpose. Application for a short term rental permit shall be accompanied by a one-time application fee as established in the consolidated fee schedule and shall include the following information, at a minimum:
  - (1) A list of all owners, operators, and agents (if applicable) of the short term rental including names, addresses, current email address(es) of owner/operator, and telephone numbers.
  - (2) Proof of possession of the premises being registered, either by warranty deed, or valid lease.
  - (3) If the applicant does not own the property where the rental unit is located, the applicant must provide written documentation, signed by the property owner before a notary public, authorizing the registrant to operate a short term rental on the premises
  - (4) Proof that the premises is the primary residence of the applicant, including at least two of the following: Motor vehicle registration, driver's license(no temporary paper copies accepted), Texas State Identification card, voter registration, tax documents, homestead exemption, or utility bill.
  - (5) The zoning district classification of the property, to be verified by the planning and development services department.
  - (6) A sketch or narrative describing the location of the available parking spaces as required by Land, subsection 34.809, parking, Unified Development Code.
  - (7) A sketch of the floor plan, which identifies sleeping areas, proposed maximum number of guests, evacuation route(s), location of fire extinguisher(s).
  - (8) The name, address and 24-hour telephone numbers of a contact person, who is the owner, operator, or designated agent and who shall be responsible and authorized to respond to complaints concerning the use of the short term rental.
  - (9) A list of all hosting sites used to advertise the short term rental.

- (10) Written confirmation from the City of San Marcos Finance Department showing proof of registration with the City of San Marcos Finance Department for Hotel Occupancy Tax collection will need to be provided before permit is granted.
- (11) A sworn, self-certification that the owner of the short term rental has met and will continue to comply with the standards and other requirements of this article including, but not limited to: maintenance of insurance coverage of the unit or portions thereof in accordance with this article and obtaining annual independent inspections of required fire extinguishers in compliance with the city's current fire code.
- (b) *Completeness of application.* Applications shall not be considered complete until all documentation required under this article has been submitted, and until the full application and permit fees have been paid. Incomplete applications will not be accepted.
- (c) *Acknowledgement by applicant.* In connection with submission of the application, each applicant shall acknowledge that any permit granted by director under this article does not supersede any property-specific restrictions against short term rentals that may exist under law, agreement, lease, covenant or deed restriction.
- (d) The fee for the renewal of a permit to operate a short term rental is set in the consolidated fee schedule.

### **Sec. 34.806. Expiration and renewal of permit.**

- (a) Unless revoked by director earlier pursuant to this article, a permit to operate a short term rental expires, as follows:
  - (1) (Type 1) permits expire annually after the date of issuance
  - (2) (Type 2) permits expire two (2) years after the date of issuance
- (b) A new permit shall be required if a change in ownership, trade name or transfer occurs prior to the expiration of the current permit. The new landlord, owner, or registrant of the premises or rental unit shall have 30 days from the date the change occurred to file a new permit with the city and pay the applicable fee.
- (c) The director shall follow the procedures set forth in this article when determining whether to renew a permit.
- (d) Upon receipt of an application for renewal of the permit, the director may deny the renewal if there is reasonable cause to believe that:
  - (1) The registrant has violated any ordinance of the city, or any state, or federal law on the premises or has permitted such a violation on the premises by any other person; or
  - (2) There are grounds for suspension, revocation, or other permit sanction as provided in this article.

### **Sec. 34.807. Issuance or denial of a permit.**

A license shall be denied under this article if:

- (a) The short-term rental is not the applicant's primary residence. In determining whether a location is the applicant's primary residence for short-term rental licensing purposes, the director may consider any of the following applicable factors:
  - (1) Whether the applicant has or claims any other location for domestic, legal, billing, voting, or licensing purposes;
  - (2) Whether and how often the applicant returns to the short-term rental or resides at any other location within a calendar year;
  - (3) Whether the address listed on an applicant's legal documents or tax assessment records is different than the address of the short-term rental;

- (4) Whether an applicant's business pursuits, employment, income sources, residence for income or other tax purposes, leaseholds, situs of personal and real property, and motor vehicle registration indicate that the short-term rental is the applicant's primary residence;
  - (5) Whether the amount of time that the short-term rental has been, or will be, rented within the calendar year indicates the short-term rental is or is not the applicant's primary residence;
  - (6) Whether the applicant is actively deployed in the United States military; or
  - (7) Whether any other relevant information discovered by the director or submitted by the applicant indicates that the short-term rental is or is not the applicant's primary residence.
- (b) There is good cause to deny the application.
  - (c) The applicant fails to provide a complete application and documentation required pursuant to section 34.805.
  - (d) The application fails to comply with any state or local laws, or any rules and regulations adopted pursuant thereto.
  - (e) A short-term rental license may be suspended or revoked for any of the grounds for denial set forth in section 34.812 of this article.
  - (f) Procedures for investigation of license violations and for suspension, revocation or other licensing sanctions as a result of any rules and regulations promulgated by the director.

### **Sec. 34.808. Tiers.**

- (a) *Short term rental (Type 1)*. This subsection applies to a short term rental located in residential only zoning districts established under the city's Development Code of the city's Code of Ordinances is rented for periods of less than thirty (30) consecutive days; and property is owner or operator occupied.

A short term rental under this section:

- (1) May only have one operating short term rental operating on a block or 660 feet, or whichever is more limiting;
  - (2) Must notify all residential parcels within 400 feet of their;
    - a. Address
    - b. Short Term Rental Permit Number
    - c. Contact information provided by the City of San Marcos where an individual may lodge a complaint.
- (b) *Short Term Rental (Type 2)*. This subsection applies to a short term rental that is located in non-residential zoning districts established under the city's Development Code, of the city's Code of Ordinances and rented for periods of less than thirty (30) consecutive days; and is owner of operator occupied.

### **Sec. 34.809. General standards.**

All short term rentals permitted pursuant to this chapter are subject to the following standard requirements:

- (a) *Occupancy*. The maximum number of persons allowed to reside in a short term rental shall be **no more than two adult guests per bedroom (but excluding children under the age of twelve), plus no more than two additional adults for a total of six guests with two bedrooms being used for lodging accommodations to guests.**
- (b) *Parking*. Shall comply with City Code Chapter 7, Unified Development Code with respect to required parking (Article 1: Parking). No required parking shall be permitted within public right-of-way or access easements as

defined by city code and state regulations regarding parking, The yard(s) shall not be utilized to provide the necessary parking.

- (c) *Insurance.* The applicants shall keep, at a minimum, an insurance policy sufficient for personal injury liability of guests.
- (d) *Life safety.*
  - (1) Short term rentals and structures where they are located shall conform to all applicable city-adopted codes, regulations, and ordinances.
  - (2) A 2A:10B:C type fire extinguisher (a standard five-pound extinguisher) shall be properly mounted within seventy-five (75) feet of all portions of the short term rental on each floor.
  - (3) Smoke and carbon monoxide detectors shall be installed and conform to all applicable city-adopted codes, regulations, and ordinances.
  - (4) Every sleeping area shall have at least one operable emergency escape and rescue opening per all applicable city-adopted codes, regulations, and ordinances.
  - (5) An evacuation plan shall be posted conspicuously in each unit or permitted sleeping area.
  - (6) Every bedroom/sleeping area in a short term rental that does not comply with this section shall not be used as a sleeping area and where equipped with a door, shall remain locked at all times when the dwelling is being used as a short term rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation as defined by the San Marcos Property Maintenance Code for the short term rental. The owner/operator shall notify every occupant, in writing, that the non-compliant sleeping area may not be used for sleeping.
- (d) *Conduct on premises.*
  - (1) Short term rental operators shall be responsible for informing their occupants of all relevant city codes and occupants' liability for violations of same.
  - (2) Excessive noise or other disturbance outside the short term rental is prohibited per chapter 34, article 3, Division 3 – Noise, of the Code of Ordinances. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.
  - (3) No overnight sleeping outdoors or outdoor sleeping spaces for rent.
  - (4) Consistent with and as a reflection of the definition of the term "short-term residential rental" set forth in this Chapter, no short-term residential rental unit may be rented for the purpose of holding weddings, parties, receptions or similar events that typically are held at a banquet facility or other facility that is made available for the holding of events on a commercial basis. Any use of the short-term residential rental unit is limited to activities that are incidental to its use for dwelling, lodging or sleeping purposes
- (e) *Signage.*
  - (1) Signage shall be in compliance with the city's current sign code as well as any design, design review, and/or approval requirements for the zoning district in which the property is located.
  - (2) All advertisements, including online or proprietary (website, app, or other technology) will include the short term rental permit number within the description or body for public reference.
- (f) *Tenant indoor notification.* The operator shall post in a conspicuous location of the dwelling the following minimum information:
  - (1) Maximum number of occupants.
  - (2) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas.

- (3) Quiet hours and noise restrictions as defined per chapter 34, article 3, Division 3 – Noise, article III of the Code of Ordinances.
- (4) Restrictions of outdoor facilities.
- (5) Twenty-four-hour contact person and phone number.
- (6) Property cleanliness requirements.
- (7) Trash pick-up requirements, including location of trash cans.
- (8) Flooding hazards and evacuation routes.
- (9) Emergency numbers.
- (10) Notice that failure to conform to the occupancy and parking requirements is a violation of the City Code and occupant or visitor can be cited.
- (11) Short term rental permit, health department permit, and/or any other required permits, if applicable.
- (12) Hotel occupancy tax registration.
- (g) *Hotel occupancy tax.* Owner or operator must remit all applicable state, county, and city hotel occupancy taxes in a timely manner, pursuant to applicable laws and this article.
- (h) Short term rental is not permitted for any property that has not been registered under this article or where the registrant's permission to operate a short term rental has been suspended or revoked under this article.
- (i) An owner of property may not have more than one short term rental unit in the city that is registered or operated as a short term rental. When an owner of property registered or operated as a short term rental is a business organization, trust or other entity, no person or entity affiliated with such business organization, trust or other entity as an organizer, officer, member, manager, shareholder, trustee, beneficiary, partner, equity owner or investor shall be allowed to register or operate an additional short term rental at a different property address in the city.
- (j) No more than two adult guests per bedroom, plus no more than two additional adults (but excluding children under the age of twelve) for a total of six guests, shall be allowed when renting a property as a short term rental.
- (k) An approved short term rental permit shall not be assigned or transferred to any person or entity. Any attempt to transfer a permit shall render the permit subject to suspension or revocation as provided in this article.
- (l) It shall be the sole responsibility of the registrant, owner, and/or landlord to review the permit for each short term rental unit in accordance with the terms outlined within this article.

### **Sec. 34.810. Inspections.**

To ensure continued compliance with the requirements of this section a short term rental may be inspected in the following methods:

- (a) Inspection upon application for initial and renewal permit.
- (b) Inspections upon complaint or suspicion of a violation. The city may perform inspections when a violation is reported or suspected in accordance with established code enforcement procedures.

### **Sec. 34.811. Enforcement, violations, penalty.**

- (a) A violation of this division is a class C misdemeanor offense. Any persons, firm, corporation or any others acting on behalf of said person, persons, firm or corporation violating or failing to comply with any of the provisions of this division is subject to payment of a fine not to exceed \$2,000.00 plus court costs. Each act of violation and each day upon which such violation occurs constitutes a separate offense. Additionally, this division authorizes cumulative enforcement action against repeated or multiple violations under this division.



- (b) Violations of this division shall additionally be enforced in accordance with and subject to the remedies in division 4 of this article.
- (c) It is unlawful, and shall be considered a violation of this article, to:
- (1) Rent, lease, or otherwise permit or allow any rental unit or premises to operate, or be operated as a short term rental without first registering the property in which the rental is to occur and unless all requirements of this code and State laws and codes are met;
  - (2) Operate a short term rental in any location that is not the registrant's primary residence;
  - (3) Operate a short term rental without paying the required hotel occupancy taxes;
  - (4) Operate or allow to be operated a short term rental without first registering the property in which the rental is to occur with the city in accordance with this article;
  - (5) Operate a short term rental in any location that is not the registrant's primary residence;
  - (6) Operate a short term rental that does not comply with all applicable city and state laws and codes;
  - (7) Operate or allow the operation of more than one short term rental within the city limits;
  - (8) Operate a short term rental without paying the required hotel occupancy taxes;
  - (9) It shall be unlawful to advertise a short term rental without the license number clearly displayed on the face of the advertisement. For the purpose of this section, the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a short term rental.
  - (10) Consistent with and as a reflection of the definition of the term "short-term residential rental" set forth in this Chapter, no short-term residential rental unit may be rented for the purpose of holding weddings, parties, receptions or similar events that typically are held at a banquet facility or other facility that is made available for the holding of events on a commercial basis. Any use of the short-term residential rental unit is limited to activities that are incidental to its use for dwelling, lodging or sleeping purposes;
  - (11) Fail to include a written prohibition against the use of a short term rental for having a party in every advertisement, listing, or other publication offering the premises for rent;
  - (12) Notwithstanding the provisions of Chapter 34, Division 3 of San Marcos Code of Ordinances, the use of any radio receiver, stereo, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound shall take place only within an enclosed short-term residential rental unit. The property owner or operator of a short-term residential rental unit shall use reasonably prudent business practices to ensure that the occupants or guests of the rental unit do not create unreasonable noise or disturbances.
  - (13) Fail to renew required permit (may result in double fees);
  - (14) It shall be unlawful for any booking service provider to receive payment, directly or indirectly, for an unlicensed short-term rental located in the City of San Marcos. The provisions of this subsection (13) are entirely strict liability in nature; or
  - (15) It shall be unlawful for any person or entity to fail to comply with section 34.814.
- (b) *Emergency contact.* The owner/operator of the short term rental shall provide the city with a 24-hour contact number for the operator or a designated agent per section 34.805 and shall provide timely updates to city of any changes thereto. Should a law enforcement officer respond to the short term rental and issue a citation for any violation of city ordinances, the operator or their agent shall be called by the officer. The operator or their agent shall attempt to contact the occupants within one hour of the call to address the occupants about the complaints. Should a second complaint be filed, and citation issued to any part of the occupants or guests, the owner/operator must take appropriate steps, in accordance with the individual rental agreement, to assure future complaints do not occur. Short term rental permits shall be revoked if three (3) or more confirmed citations are issued at a permitted property within any six (6) month period,

whether issued to the operator or any occupants. Failure to provide updated information to the city regarding designated agent or responsible party shall be a violation of this section.

- (c) Violation of any section of this article shall constitute an offense resulting in permit revocation in accordance with subsection 34.812, revocation procedures.
- (d) Failure to timely pay any applicable hotel occupancy tax is a violation of this section and shall result in permit revocation if arrearage is not paid within ninety (90) days of the issuance of a delinquency notice, in accordance with subsection 34.812, revocation procedures.
- (e) Failure to successfully complete the renewal process of a short term rental permit is considered a violation of this section.
- (f) The provisions of this subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by city ordinances, county, or state law.
- (g) For each day any violation of this section occurs it shall constitute a separate offense and is separately punishable but may be joined in a single prosecution.

### **Sec. 34.812. Revocation procedures.**

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

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

### **Sec. 34.813. Appeals.**

If the director denies issuance or renewal of a permit or suspends or revokes a permit issued under this article, the action is final unless the permit holder files a written appeal within ten (10) business days to the director, or his/her designee. Appeals regarding technical matters will be reviewed by the appropriate advisory board.

### **Sec. 34.814. Records/Reports.**

- (a) Each hosting platform that facilitates the rental of a short-term residential rental within the City must submit to the Department a quarterly report that includes the information set forth in Subsection (C) of this Section.
- (b) Each operator must submit to the Department a quarterly report that includes the information set forth in Subsection (C) of this Section, but only to the extent that such information is not collected by a hosting platform.
- (c) Each report required by Subsections (A) and (B) of this Section must state, for the quarter being reported and with respect to short-term residential rentals within the City:
  - (1) The number of bookings, listings, and operators;
  - (2) The average number of bookings per listing;
  - (3) Current year-to-date booking value;

- 
- (4) Current year-to-date revenue collected from all short-term residential rentals through the hosting platform, disaggregated by operator; and
  - (5) The average length of a short-term residential rental.
- (d) Each booking service provider shall provide the following information for short-term rental transactions facilitated in the City of San Marcos upon request:
- (1) The name of the person who offered the short-term rental;
  - (2) The address of the short-term rental;
  - (3) The dates for which the short-term rental was booked by a guest;
  - (4) The price paid by the guest for each short-term rental transaction; and
  - (5) The short-term rental license number.
- (e) The department shall maintain and make publicly available a list of all licensed short-term rentals within the city.

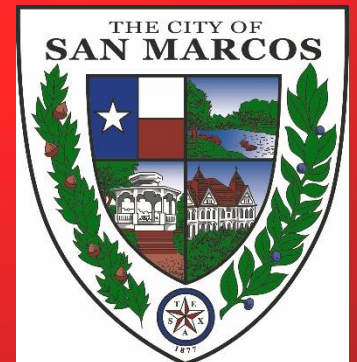
### **Sec. 34.815. Nonconforming rights.**

Short term rentals (Type 1) in existence as of date of ordinance. Properties which are used as short term rental (Type 1) establishments as of date of ordinance adopting this article that can also provide written confirmation showing proof of permit and proof that their account is not in arrears with the City of San Marcos Finance Department for hotel occupancy tax collection, may be registered as short term rental (Type 1) establishments at the department of development services and upon such permit will be granted a permit, subject to compliance with requirements under this article. Permitting of the short term rental (Type 1) establishment shall be complete with receipt of applicable permit. Permit is not transferable to another owner, operator, or location. Nonconforming rights shall not transfer with change of owner, and any short term rental permit shall be revoked by director. Notwithstanding the foregoing, for purposes of this subsection, the conveyance or transfer of a unit or property ownership to a legal entity controlled by or providing equitable ownership of the prior owner shall not constitute a change in owner. It shall be the obligation of any new property owner to apply for a new short term rental permit under this article, and to provide evidence satisfactory to director that ownership did not change, in order to maintain nonconforming rights hereunder. Nonconforming rights only pertains to Section 34.808 (a).



# Short Term Rental

## Ordinance Update





# Council mandated

- No non owner occupied.
- Neighborhood Notification
- Limits to number in a neighborhood

***These are non-negotiable***



# Recommended Changes

## Reduce the number of bedrooms allowed to be rented

*Short term rental* means a primary residence having fewer than five bedrooms, or portion thereof, whereby two bedrooms maximum may only be used for lodging accommodations to guests with a lease term for a period of less than 30 consecutive days. A short term rental does not include a bed and breakfast inn as defined in the city's Development Code, Section 5.1.5.6.

## Create two types of short term rentals

- (1) **Type 1** Short term rental is defined as located in residential only zoning districts established under the city's Development Code of the city's Code of Ordinances having fewer than five bedrooms, or portion thereof, whereby two bedrooms maximum may only be used for lodging accommodations to guests with a lease term for a period of less than 30 consecutive days.
- (2) **Type 2** Short term rental is defined as located in non-residential zoning districts established under the city's Development Code of the city's Code of Ordinances. There are restrictions to the number of rooms that may be rented.



# Recommended Changes

## Additional permitting requirements

- A sketch or narrative describing the location of the available parking spaces as required by subsection 34.809, parking.
- A sketch of the floor plan, which identifies sleeping areas, proposed maximum number of guests, evacuation route(s), location of fire extinguisher(s).
- A list of all hosting sites used to advertise the short term rental.
- Written confirmation from the City of San Marcos Finance Department showing proof of registration with the City of San Marcos Finance Department for Hotel Occupancy Tax collection will need to be provided before permit is granted.





# Recommended Changes

## Tiers

- *Short term rental (Type 1)*. This subsection applies to a short term rental located in residential only zoning districts established under the city's Development Code of the city's Code of Ordinances is rented for periods of less than thirty (30) consecutive days; and property is owner or operator occupied.
- A short term rental under this section:
  - (1) May only have one operating short term rental operating on a block or 660 feet, or whichever is more limiting;
  - (2) Must notify all residential parcels within 400 feet of their;
    - a. Address
    - b. Short Term Rental Permit Number
    - c. Contact information provided by the City of San Marcos where an individual may lodge a complaint.
- *Short Term Rental (Type 2)*. This subsection applies to a short term rental that is located in non-residential zoning districts established under the city's Development Code, of the city's Code of Ordinances and rented for periods of less than thirty (30) consecutive days; and is owner of operator occupied.



# Recommended Changes

## Permit expiration dates

- (Type 1) permits expire annually after the date of issuance
- (Type 2) permits expire two (2) years after the date of issuance

## General Standards

- *Occupancy.* The maximum number of persons allowed to reside in a short term rental shall be no more than two adult guests per bedroom (but excluding children under the age of twelve), plus no more than two additional adults for a total of six guests with two bedrooms being used for lodging accommodations to guests.
- *Parking.* Shall comply with City Code Chapter 7, Unified Development Code with respect to required parking (Article 1: Parking). No required parking shall be permitted within public right-of-way or access easements as defined by city code and state regulations regarding parking, The yard(s) shall not be utilized to provide the necessary parking.
- *Insurance.* The applicants shall keep, at a minimum, an insurance policy sufficient for personal injury liability of guests.



# Recommended Changes

## General Standards Continued

- *Conduct on premises.*
  - Short term rental operators shall be responsible for informing their occupants of all relevant city codes and occupants' liability for violations of same.
  - Excessive noise or other disturbance outside the short term rental is prohibited per chapter 34, article 3, Division 3 – Noise, of the Code of Ordinances. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.
  - No overnight sleeping outdoors or outdoor sleeping spaces for rent.
  - Consistent with and as a reflection of the definition of the term "short-term residential rental" set forth in this Chapter, no short-term residential rental unit may be rented for the purpose of holding weddings, parties, receptions or similar events that typically are held at a banquet facility or other facility that is made available for the holding of events on a commercial basis. Any use of the short-term residential rental unit is limited to activities that are incidental to its use for dwelling, lodging or sleeping purposes
  - No more than two adult guests per bedroom, plus no more than two additional adults (but excluding children under the age of twelve) for a total of six guests, shall be allowed when renting a property as a short term rental.



# Recommended Changes

## Inspections

- To ensure continued compliance with the requirements of this section a short term rental may be inspected in the following methods:
  - (a) Inspection upon application for initial and renewal permit.
  - (b) Inspections upon complaint or suspicion of a violation. The city may perform inspections when a violation is reported or suspected in accordance with established code enforcement procedures.

## MISC

**34.812. Revocation procedures.**

**34.813. Appeals.**

**34.814. Records/Reports.**

**34.815. Nonconforming rights. (For location only)**