

ORDINANCE O-5-19

AN ORDINANCE ADOPTING A NEW ARTICLE IV. "BED AND BREAKFAST FACILITIES AND SHORT TERM RENTAL FACILITIES" IN CHAPTER 14 "BUSINESS REGULATIONS AND TAXATION" OF THE CODE OF ORDINANCES OF THE CITY OF MCGREGOR, TEXAS, TO PROVIDE FOR THE LICENSING AND REGULATION OF BED AND BREAKFAST FACILITIES AND SHORT TERM RENTAL FACILITIES; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MCGREGOR, McLENNAN COUNTY, TEXAS:

Section 1. That Article IV. "Bed and Breakfast Facilities and Short Term Rental Facilities" in Chapter 14 "Business Regulations and Taxation" of the Code of Ordinances of the City of McGregor, Texas, is hereby adopted to read as follows:

ARTICLE IV. – BED AND BREAKFAST FACILITIES AND SHORT TERM RENTAL FACILITIES

Sec. 14-280. Purpose:

The purpose of the regulations set forth in this article is to provide a procedure to allow the rental of private residences to visitors on a short term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

Sec. 14-281. Definitions.

As used in this article:

Bed and Breakfast Facility includes a Bed and Breakfast Homestay Establishment or Bed and Breakfast Inn.

Bed and Breakfast Homestay Establishment shall mean an owner occupied residential property where short term lodging is provided that contains no more than 5 guest rooms and where breakfast service may be provided to overnight guests only. The owner must reside on the property and be present at the property for the duration of any short term rental. The property may be rented out to multiple short term lodging groups at a time.

Bed and Breakfast Inn shall mean a resident managed residential property where short term lodging is provided that contains no more than 15 guest rooms and where breakfast service may be provided to overnight guests only. The resident manager must reside on the property and be present at the property for the duration of any short term rental. The property may be rented out to multiple short term lodging groups at a time.

Group shall mean a unit of person(s) that are together under a single reservation.

Licensee shall mean a person issued a Bed and Breakfast Facility or Short Term Rental Facility license.

Designated Operator shall mean the operator of a Bed and Breakfast Facility or Short Term Rental Facility who resides in McLennan County, Texas and will be present in McLennan County and available at all times the rental is in use.

Short Term Rental shall mean a residential dwelling unit(s) that is rented out for compensation on a temporary basis for a period of less than 30 consecutive days.

Short Term Rental Facility includes a Short Term Rental Type I or Short Term Rental Type II.

Short Term Rental Type I shall mean an owner occupied residential property where short term lodging is provided to only one group at a time per dwelling unit. Non-conforming single family residential properties that contain more than one dwelling unit shall rent to only one group at a time. The owner must reside in the primary structure on the property and be present at the property for the duration of any short term rental.

Short Term Rental Type II shall mean a single family or duplex residential property where short term lodging is provided to only one group at a time per dwelling unit. Non-conforming single family residential properties that contain more than one dwelling unit shall rent to only one group at a time. The property is not part of a multi-family residential use. The owner does not reside on the property or is not present at the property for the duration of any short term rental.

Sec. 14-282. Bed and Breakfast Facility or Short Term Rental Facility license required.

It shall be unlawful to operate a Bed and Breakfast Facility or a Short Term Rental Facility:

- (1) Without a Bed and Breakfast Facility or Short Term Rental Facility license; or
- (2) In violation of any provision of a Bed and Breakfast Facility or Short Term Rental Facility license, this article, or any other applicable city ordinance or other law

Sec. 14-283. License application and review.

(a) To obtain a license for a Bed and Breakfast Facility or a Short Term Rental Facility, a person must submit an application on a form provided for that purpose to the Community Development department. The application must contain the following:

(1) The name, street address, mailing address, email address, and telephone number of the applicant, the owner, and the designated operator of the Bed and Breakfast Facility or Short Term Rental Facility. The applicant must assign a "Designated Operator" who resides in McLennan County, Texas and shall be present in McLennan County and available at all times the rental is in use.

(2) If the applicant or owner is a partnership, a corporation, or limited liability company, the application shall list the names of all partners, directors, members, and officers, as applicable, of the applicant and the owner.

(3) A scaled site plan shall include property lines, setbacks, proposed and existing structures, proposed signage, proposed and existing site improvements such as parking, fences, landscaping, etc.

(4) A non-refundable license fee for the amount established in city fee schedule.

(5) Proof that the applicant has no delinquent hotel occupancy taxes due on the property.

(6) Proof that a Life Safety Inspection of the applicant's property has been approved by the Inspection Services department (required for the initial application). The Life Safety Inspection will not be required for structures that have attained a Certificate of Occupancy through construction or renovation of a structure within the last year.

(b) When a special permit for a Bed and Breakfast Facility or Short Term Rental Facility is required, the special permit must be issued prior to the issuance of a Bed and Breakfast Facility license or Short Term Rental Facility license.

Sec. 14-284. - Length of license; renewal.

(a) A Bed and Breakfast Facility license or Short Term Rental Facility license shall be valid for a period of one year from the date of issuance and may be renewed by applying in accordance with section 14-282.

(b) Bed and Breakfast Facilities or Short Term Rental Facilities with existing special permits, as of July 1, 2019 are required to obtain a license under the provisions of this article, subject to the following:

(1) A license must be obtained on or before January 01, 2020; and

(2) The initial license fee will be waived for such facilities with existing special permits.

Sec. 14-285. Fees.

A license fee will be charged at time of issuing the license and at the time of renewal. The city council shall set the fees for the license and renewal.

Sec. 14-286. Operation of a Bed and Breakfast Facility or Short Term Rental Facility.

- (a) The licensee shall comply with the noise requirements set forth in Article II of Chapter 34 of this code.
- (b) The licensee will comply with all building, electrical, and other codes and ordinances of the city.
- (c) The licensee shall obtain a Life Safety Inspection for compliance with applicable city codes. This inspection includes, but is not limited to, smoke detectors, at least one operable egress window per bedroom, an evacuation plan posted conspicuously in each sleeping area, repair of any exposed wiring, water heater inspection, required safety measures for pools (if applicable), and exterior stairwells (if applicable). The Life Safety Inspection of the licensee's property must be approved by the Community Development department.
- (d) Functions such as meetings, receptions, weddings and other social events provided for compensation or held by guests are not permitted as part of the Bed and Breakfast Facility or Short Term Rental Facility unless such facility is located in a commercial zoning district.
- (e) The designated operator shall be present in McLennan County and available at all times the property is being rented. Contact information will be furnished to owners of real property within 200 feet of the Bed and Breakfast Facility or Short Term Rental Facility by the Community Development Department when requested. Also, a sign must be posted conspicuously in the common area of each unit. This sign will be provided by the Community Development Department to the licensee and will contain the following information:
 - (1) The name and contact information of the owner and/or designated operator;
 - (2) The license number of the Bed and Breakfast Facility or Short Term Rental Facility; and
 - (3) The occupancy limits and requirements set forth in the license.
- (f) The license number and occupancy limit shall be included in all marketing materials, advertisements, and online listings for the Bed and Breakfast Facility or Short Term Rental Facility.

Sec. 14-287. Additional requirements and restrictions for Bed and Breakfast Facilities or Short Term Rental Facilities.

(a) *Distance and Density.*

- (1) In R-6, R-7.2 and R-10 zoning districts, a Bed and Breakfast Homestay Establishment or Short Term Rental Type II may not be located within 500 feet of another licensed Bed and Breakfast Homestay Establishment or Short Term Rental Type II.

(2) Bed and Breakfast Facilities and Short Term Rental Facilities with an existing special permit as of July 1, 2019 are exempt from the distance and density requirements of this section if:

- i. The license is granted to the same person or entity that the special permit was granted to; and
- ii. The license is continuously renewed prior to expiration; and
- iii. The license is not revoked after January 1, 2020.

(b) *Parking.*

(1) The parking requirements of this section shall not apply to properties located within the Central Business District (CBD) or Neighborhood Commercial (NC)

(2) A minimum of one (1) off-street parking space is required per rented room. Required parking must be an all-weather surface in accordance with the Article 5 of Appendix C, Zoning Ordinance prior to issuance of a license.

(3) No on-street parking shall be allowed for Bed and Breakfast Facility or Short Term Rental Facility guests.

(c) *Signs.*

(1) In R-6, R-7.2 and R-10 zoning districts signs shall meet the following criteria:

- a. The size of the sign shall not exceed four square feet in area.
- b. The maximum height shall be four feet.
- c. The front yard setback shall be five feet from property line.
- d. All signs shall be non-illuminated

(2) In office and commercial zoning districts, signage shall comply with the requirements of Article VI of Appendix C, Zoning Ordinance.

(3) The design for a sign must be submitted with the site plan during the application process.

(d) *Lighting.* If the property is residentially zoned, all lighting must be directed toward the establishment and not at adjacent properties.

(e) *Occupancy.*

(1) The maximum number of adults allowed to reside in any Bed and Breakfast Facility or Short Term Rental Facility is 2 adults per bedroom plus 2 additional adults per rental unit.

(2) In R-6, R-7.2 and R-10 zoning districts, a Bed and Breakfast Homestay Establishment, a Short Term Rental Type I or a Short Term Rental Type II may not be occupied by more than 4 individuals unrelated by blood, marriage, or adoption at any given time.

Sec. 14-288. Revocation, suspension or denial of a license.

The City Manager or his/her designee may immediately revoke or suspend the license, or deny either the issuance or renewal thereof, if it is found that:

- (1) The licensee, designated operator, or guest has violated or failed to meet any of the provisions of this article or conditions of the license;
- (2) The licensee, designated operator, or guest has violated any federal, state, or city law, or regulation pertaining to the use of the property as a Bed and Breakfast Facility or Short Term Rental Facility;
- (3) The chief of the police department, chief of the fire department or the fire marshal has determined that the Bed and Breakfast Facility or Short Term Rental Facility would pose a serious threat to public health, safety, or welfare; or
- (4) The applicant has made a false statement of material fact on an application for a Bed and Breakfast Facility license or Short Term Rental Facility license.

Sec. 14-289. Notice to applicant/licensee; appeals.

(a) Upon denial of an application for a License or application to renew, or suspension or revocation of a License, the Director of Community Development shall notify the applicant or licensee in writing either in person or by certified mail to the address listed on the application of the action taken and the reasons therefore. A person may appeal a decision to deny, revoke, or suspend a license to the city council. Appeals shall be submitted to the city secretary in writing within 15 days following the date the applicant or licensee receives the decision. A hearing on the denial, suspension, or revocation will be scheduled for the next regular meeting of the city council that is more than six days away. The council will render a decision on the appeal within ten days of the hearing. A licensee shall not operate Bed and Breakfast Facility or Short Term Rental Facility during the appeal process.

(b) At the appeal hearing on a denial of an initial license application, the appealing party must present evidence clearly indicating that the Community Director was incorrect in determining that the stated grounds for the License denial existed.

(c) At the appeal hearing on a License application denial, suspension, revocation, or refusal to renew, the Community Development Director must present evidence clearly indicating that the stated grounds for such action existed.

Section 2. REPEAL OF CONFLICTING ORDINANCES. All ordinances, orders and resolutions heretofore passed and adopted by the City Council of the City of McGregor, Texas are hereby repealed to the extent said ordinances, orders or resolutions, or parts thereof, are in conflict herewith.

Section 3. SEVERABILITY CLAUSE. If any section, article, paragraph, sentence, clause, phrase or work in this Ordinance or application thereto any person or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity

of the remaining portions of this Ordinance and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. PENALTY CLAUSE. Any person who intentionally or knowingly violates or fails to comply with any provision of this Ordinance shall be fined, upon conviction, in an amount not to exceed Two Thousand Dollars (\$2,000.00), and each day any violation continues shall constitute a separate offense.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MCGREGOR, TEXAS, THIS THE 8th DAY OF MAY 2019.

CITY OF MCGREGOR

By:



JAMES S. HERING, Mayor

ATTEST:



ANGELIA SLOAN, CITY SECRETARY

