

ORDINANCE 23-02

AN ORDINANCE OF THE CITY OF WOODWAY, TEXAS; AMENDING CHAPTER 12, OFFENSES-MISCELLANEOUS, OF THE CODE OF ORDINANCES OF THE CITY OF WOODWAY, TEXAS, TO ADD ARTICLE X, SHORT-TERM RENTALS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE, AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS NOTICED AND WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Woodway, Texas is a home rule municipality operating under its Charter and the laws of the State of Texas; and

WHEREAS, the City of Woodway, Texas is predominantly zoned for single-family residential use; and

WHEREAS, the City Council of the City of Woodway, Texas is comprised of councilmembers duly elected by residents of the City of Woodway to set policies and enact ordinances designed to protect and preserve the community's health, safety, and welfare; and

WHEREAS, on March 13, 2023, came for discussion and consideration by the City Council of the City of Woodway, Texas an ordinance regulating short-term rentals within the City of Woodway, Texas; and

WHEREAS, said discussion and consideration occurred at a duly noticed and called meeting of the City Council of the City of Woodway, Texas; and

WHEREAS, said meeting was open to the public and conducted in accordance with the Open Meetings Act, Chapter 551 of the Texas Government Code; and

WHEREAS, at said meeting, the Council considered the effects short term rentals have on residential neighborhoods; and

WHEREAS, the City Manager reported that City staff receive approximately twenty-four complaints per year of problems and disruptions stemming from short-term rentals, including parked cars congesting roadways and concerns regarding proper permitting; and

WHEREAS, the City Manager reported that larger cities suffer from large gatherings, parking in yards, excessive garbage, and excessive noise due to short-term rentals; and

WHEREAS, the City does not receive hotel occupancy tax from short-term rentals operating in an unregulated and unregistered environment; and

WHEREAS, the Chief of Police reported that an incident of public indecency occurred when a tenant of a short-term rental behaved lewdly or obscenely in exposing himself to a resident neighbor of the short-term rental; and

WHEREAS, the City Manager informed the Council of difficulties of enforcing City ordinances against transient persons violating noise, trash, and other ordinances designed to maintain the health, safety, and welfare of the City of Woodway, Texas because violators do not return to address their citations; and

WHEREAS, one member of the public, a resident of the City of Woodway, expressed her concern that persons who reside in or own single-family residential properties abutting a short-term rental effectively abut a business to the residents' detriment; and

WHEREAS, another member of the public expressed concerns about public safety; and

WHEREAS, the City Council deliberated on the effects short term rentals have on the quality of life of families and long term residents who predominantly occupy residentially zoned areas of the City of Woodway; and

WHEREAS, the Council discussed and considered the disruption and danger short-term rentals pose to residents and long-term tenants when good social order cannot be maintained through the familiarity and accountability endemic to established neighborhoods; and

WHEREAS, the City Council of the City of Woodway, Texas, finds and affirms that the foregoing recitals are true and correct and accurately reflect the information provided to it and upon which it deliberated in considering whether to adopt an ordinance regulating short-term rentals within the City of Woodway, Texas, and the City Council finds that such an ordinance is necessary and beneficial for protecting and preserving the health, safety, and welfare of the City of Woodway, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODWAY, TEXAS:

SECTION I

That Chapter 12, Offenses-Miscellaneous, of the Code of Ordinances of the City of Woodway, Texas, is amended to add Article X, Short-Term Rentals which reads as follows:

ARTICLE X. SHORT-TERM RENTALS

Sec. 12-119. Definitions.

In this article:

Nonresidential district means a zoning district within the city other than a residential district.

Residential district means a zoning district in the city primarily for residential use, including the following zoning districts: R-1, R-D, R-2, R-P, R-MH, and PUD.

Short-term rental means the rental of all or part of a residential property to a person who is not a permanent resident, and who does not have the right to use or possess the property for at least 30 consecutive days.

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

Sec. 12-120. Confirmation of zoning violation.

- (a) Short-term rentals in the residential districts of the city are an unlawful use in those districts as a business or commercial use incompatible with the zoning of the city's residential districts.
- (b) Any person subject to enforcement under section 12-122 violating a provision of this section shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty section 1-7 of this Code.

Sec. 12-121. Declaring a nuisance.

- (a) The traffic, parking difficulty, noise, trash, and other aspects of hotel, motel, bed and breakfast and related business activities are not the norm in a residential neighborhood of the City of Woodway, Texas. Those aspects of commercial use are the basis for the separation through zoning of commercial and residential uses. Therefore, the city declares short-term rentals a nuisance in the residential districts, and prohibited in the residential districts of the city.
- (b) Any person subject to enforcement under section 12-122 violating a provision of this section shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty section 1-7 of this Code.

Sec. 12-122. Persons subject to enforcement.

The owner of the property, the tenant and each of his or her guests, the management company, and any partnership, corporate entity acting in those capacities are subject to enforcement of this article.

Sec. 12-123. Permit required.

The owner or operator of a short-term rental in a non-residential district must obtain a short-term rental permit within 180 days of the effective date of this ordinance.

Sec. 12-124. Short-term rental permit application.

Application for a short-term rental permit shall be in writing on an application form available in the Community Services department, shall be accompanied by a payment of the fee of \$500.00 and shall include the following information at a minimum:

- (1) A list of all of the owners of the short-term rental including names, addresses and telephone numbers of individuals, if owned by individuals, or by members, officers, principals, and managers of the entity owning the short-term rental, if owned by an entity.
- (2) A scale drawing depicting the location of the available parking for short term renters.
- (3) A scale drawing of the floor plan.

- (4) The name, address and 24-hour telephone numbers of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the short-term rental.
- (5) Proof of hotel occupancy tax compliance with V.T.C.A., Tax Code ch. 351 before the permit is granted.
- (6) Proof of insurance for the property covering short-term rentals.
- (7) A statement that the owner of the short-term rental has met and will continue to comply with the standards and other requirements of this article.
- (8) A current email address for the owner or operator, if applicable.
- (9) If the owner/operator has a property management or agent, owner/operator shall provide property management or agent phone number, mailing address and email address.

Sec. 12-125. Short-term rental standards.

- (a) *Occupancy.* The maximum number of persons allowed to reside in a short-term rental is two persons per sleeping area plus an additional four persons per residence.
- (b) *Parking.* A minimum of two off-street parking spaces shall be provided.
- (c) *Life safety.*
 - (1) All building and fire related construction shall conform to the city's building codes for residential dwellings.
 - (2) A standard five-pound fire extinguisher shall be properly mounted within 75 feet of all portions of the structure of each floor.
 - (3) Every sleeping area shall have at least one operable emergency escape or rescue opening.
 - (4) An evacuation plan shall be posted conspicuously in each sleeping area.
- (d) *Conduct on premises.* Each occupant and visitor to a short-term rental shall comply with all applicable provisions of the City's Code, including, without limitation: noise and disorderly conduct, litter prohibition, parking, trespassing, and nuisance provisions. All occupants and visitors shall be informed in writing of relevant city's ordinances including, but not limited to, the city's nuisance ordinance by the owner or operator of the short-term rental.
- (e) *Tenant indoor notification.* The owner or operator shall post in a conspicuous location of the dwelling the following minimum information:
 - (1) Maximum number of occupants;
 - (2) Location of off-street parking and other available parking and prohibition of parking on landscaped areas;
 - (3) Any quiet hours or noise restrictions;
 - (4) Twenty-four-hour contact person and phone number;
 - (5) Property cleanliness requirements;
 - (6) Trash pick-up requirements;
 - (7) Emergency evacuation routes;

- (8) Emergency numbers;
- (9) Notice that failure to conform to this article is a violation of the City's Code and occupant or visitor can be cited;
- (10) Other useful information about the community.

Sec. 12-126. Short-term rental permit renewal.

A short-term rental permit will be renewed annually through an inspection conducted by the fire marshal to verify continued compliance with this article. A renewal of a short-term rental permit will include renewal fee of \$300.00 payable by the owner or operator before the permit is renewed.

Sec. 12-127. Short-term rental permit transferability.

A short-term rental permit is transferable to a new property owner, if the new property owner submits a short-term rental permit application and agrees in writing to comply with the requirements of this ordinance. A new owner must apply for a short-term rental permit within 90 days from the closing date of the purchase. The new owner must provide a copy of the closing statement with the short-term rental permit application form. Failure of the new property owner to apply for permit within 90 days from the closing date will revoke the short-term rental permit.

Sec. 12-128. Short-term rental permit appeal.

If an application for a short-term rental permit or renewal is denied, the owner or operator may appeal to the Board of Adjustment by written notice delivered within 30 days of denial or revocation.

Sec. 12-129. Inspections.

- (a) *Fire extinguishers.* The owner or operator is responsible for obtaining annual independent inspection of the fire extinguishers in compliance with the city's current fire code.
- (b) *Immediate inspection.* The city will perform inspection immediately when the city reasonably suspects the short-term rental to be in violation of City Codes.
- (c) *Annual fire inspection.* The city's fire marshal, or his designee, will perform annual inspections for compliance with this article.

Sec. 12-130. Enforcement and penalty.

- (a) *Emergency contact.* The owner or operator of the short-term rental shall provide the city with a 24-hour contact number. Should a law enforcement officer respond to the short-term rental and issue a citation for any violation of city ordinances, the owner or operator shall be called by the officer. The owner or operator 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 or operator must take appropriate step, in accordance with the individual rental agreement, to assure future complaints do not occur. Should three separate citations be issued to an occupant or their guest(s), or involving separate occupants under separate rental agreements within a six-month period, the short-term rental permit may be revoked in accordance with this article.
- (b) *Hotel occupancy tax.* Failure to pay hotel occupancy tax timely is considered a violation of this section and may result in revocation of the short-term rental permit in accordance with this article. Owner shall have 30 days from the date the city or state issues a notice of delinquency to submit

delinquent hotel occupancy tax to city and state before revocation of the short-term rental permit begins.

- (c) *Proof.* An advertisement promoting the availability of a short-term rental in violation of any city ordinance or state law requirement is prima facie evidence of a violation and constitutes probable cause to issue a citation for a violation of this article.
- (d) *Offense.* It is an offense for the property owner, any agent of the property owner, or the occupant(s) to directly occupy or indirectly allow, permit, cause, or fail to prohibit an occupancy in violation of this article. Each day that a unit is occupied in violation of this article shall be considered a separate offense and subject to a fine in accordance with the general penalty section 1-7 of the Code of Ordinances of the city.

Sec. 12-131. Revocation.

If any violations stated in section 12-130 have been committed and not corrected within the time specified the building official shall begin the procedures to revoke the short-term rental permit in accordance with the following:

- (1) The city shall give 30-day written notice to the owner or operator regarding the public hearing date and decision by the building and standards commission.
- (2) The city shall provide written notice to property owners within 200 feet of the subject property at least 15 days prior to the hearing.
- (3) If a short-term rental permit is revoked, the owner or operator may not reapply for the same property for a period of 12 months.

SECTION II

That if any provision of this ordinance is found by a Court of competent jurisdiction to be invalid, unconstitutional or unenforceable, or if the application of this ordinance to any person or circumstances is found to be invalid, unenforceable or unconstitutional, such invalidity, unenforceability or unconstitutionality shall not affect the other provisions or application of this ordinance which can be given effect without the invalid, unenforceable or unconstitutional provisions or application.

SECTION III

That all ordinances, codes, regulations, policies and guidelines of and in the City of Woodway, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION IV

That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required by law.

PASSED AND APPROVED this 13th day of March 2023.

CITY OF WOODWAY, TEXAS

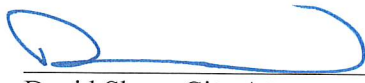

Amine Qourzal, Mayor

David Mercer Mayor Pro Tem

ATTEST:


Donna Barkley, City Secretary

APPROVED:


David Shaw, City Attorney