

## **ORDINANCE NO. 666**

**AN ORDINANCE OF THE CITY OF KENNEDALE, TEXAS, AMENDING CHAPTER 11 "LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS" OF THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE XIII "SHORT-TERM RENTALS" PROVIDING REGULATIONS FOR THE REGISTRATION, INSPECTION, AND USE OF SHORT-TERM RENTALS; AMENDING EXHIBIT A "SCHEDULE OF FEES" OF SECTION 2-3 "FEES FOR LICENSES, INSPECTIONS, PERMITS, ETC.", TO ADD PERMIT AND INSPECTION FEES FOR SHORT-TERM RENTALS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kennedale, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City has neighborhoods previously planned, approved and constructed for use as single-family residences; and

**WHEREAS**, the use of single-family residences by individuals for short periods of time may negatively impact the residential character of neighborhoods by reducing communication and accountability between permanent residents by partially substituting permanent residents with transient visitors; and

**WHEREAS**, the regulation of the use and operation of such "short-term rental" property is intended to prevent the erosion of pre-existing and stable single-family neighborhoods, and further advance the City Council's objective of championing great neighborhoods; and

**WHEREAS**, the rise of substitute land uses for residential property contributes to the shortage of affordable housing, both ownership and long-term rental; and

**WHEREAS**, the City Council finds that regulating the short-term rental of residential property is necessary for the health, safety and welfare of the general public, the promotion of consistent land uses and development, and the protection of landowners and residents of the City of Kennedale.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS, THAT:**

## **SECTION 1.**

That Chapter 11 "Licenses, Taxation and Miscellaneous Business Regulations," of the Kennedale Code of Ordinances is hereby amended by adding a new Article XIII "Short-Term Rentals," to read as follows:

### **"ARTICLE XIII. – SHORT-TERM RENTALS**

#### **Sec. 11-296. – Purpose.**

The purpose of this article is to safeguard the life, health, safety, welfare, and property of the occupants of residential dwelling units, the neighbors of said occupants, and the general public, through the regulation of short-term rental residential property. The intent of this article is to preserve the neighborhood character of residential subdivisions within the city and to minimize adverse impacts to the housing supply caused by the conversion of residential units to tourist or transient use.

#### **Sec. 11-297. – Applicability.**

The provisions of this article shall apply to all existing and future residential properties.

#### **Sec. 11-298. – Definitions.**

*Administrator* means the Director of the department designated by the city manager to enforce and administer this article, including the Director's designees.

*Advertise* means the act of drawing the public's attention to a short-term rental in order to promote the availability of the residence for use as a short-term rental. Said advertising may be found in any medium, including but not limited to, newspaper, magazine, brochure, website, or mobile application.

*Bedroom* means the living area(s) of the dwelling unit that is designed and furnished for sleeping and which has proper egress as required by the International Residential Code or other applicable building regulations adopted by the city.

*Occupant* means any individual person living, sleeping or possessing a building, or portion thereof. A person is not required to be paying rent, providing in-kind services, or named in any lease, contract or other legal document to be considered an occupant.

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

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

*Short-term rental* means a residential premises, or portion thereof, used for lodging accommodations to occupants for a period of less than thirty (30) consecutive days. The definition of short-term rental does not include a bed and breakfast or hotel.

**Sec. 11-299. – Unpermitted short-term rentals prohibited.**

- (a) It shall be unlawful for any owner or person to rent, lease, advertise, or otherwise permit or allow any residential premises to be operated or used as an unpermitted short-term rental.
- (b) It shall be an affirmative defense to a violation of this section that the occupant is a party to the sale of the premises and was occupying the premises pursuant to a written post-closing occupancy agreement.

**Sec. 11-300. – Short-term rental permit required.**

An owner who desires to use its premises as a short-term rental must have a valid, active short-term rental permit from the city prior to using, allowing the use of, or advertising the use of said premises as a short-term rental. Upon application to the city, a short-term rental permit shall be approved by the administrator, or designee, if the application satisfies all the conditions of this article, and all other applicable regulations of the city. The administrator may place reasonable conditions on a short-term rental permit to ensure compliance with the provisions of this article.

**Sec. 11-301. – Expiration of permit; renewals.**

A short-term rental permit shall expire on the last day of the month one year after the date of issuance. No short-term rental permit may be renewed without a completed renewal application submitted by the owner and payment of the renewal fee. If the renewal application satisfies all the conditions of this article and all other applicable city regulations, including the Unified Development Code, an application for the renewal of a short-term rental permit shall be approved by the administrator, or designee. The administrator may place reasonable conditions on a short-term rental renewal permit to ensure compliance with the provisions of this article.

**Sec. 11-302. – Requirements of application.**

- (a) Except as provided in this section, every complete application for a short-term rental permit shall include the following information with such detail and in a form approved by the administrator:
  - (1) The name, address, contact information and authenticated

signature for the owner of the premises;

- (2) The name, address and contact information of the operator, agent if any, and designated local responsible party as required in section 11-303;
  - (3) The city registration number for hotel occupancy tax;
  - (4) A plot plan of the premises identifying the location of parking spaces to be used in conjunction with the short-term rental;
  - (5) A dimensioned floor plan of the proposed short-term rental identifying bedrooms, other living spaces and emergency evacuation routes;
  - (6) Proof of insurance as required in section 11-304;
  - (7) The name and contact information for the property or homeowner's association, if any, of which the premises is covered by the dedicatory instruments;
  - (8) A copy of the proposed host rules for the short-term rental, if any; and
  - (9) Such certifications deemed necessary and proper to ensure compliance with this article.
- (b) An application for a short-term renewal permit must be filed at least thirty (30) days prior to expiration of a current permit. Every complete application for a short-term rental renewal permit shall include updates, if any, to the information contained in the original permit application or any subsequent renewals. The permit holder shall sign a statement affirming that there is either no change to such information, or that any updated information is accurate and complete. The administrator may require such certifications deemed necessary and proper to ensure continuing compliance with this article.
- (c) An application for a short-term rental renewal permit submitted after the expiration of the most immediate permit for the premises shall be treated as an application for a new permit as described in subsection (a) of this section.
- (d) If a complete application for a short-term renewal permit is submitted less than thirty (30) days prior to expiration of the current permit, the administrator in his or her sole discretion may grant a one-time extension of the current permit not to exceed ten (10) days.

**Sec. 11-303. – Designation of local responsible party required.**

An owner must designate the name and contact information of a local responsible party who can be contacted regarding immediate concerns and complaints from the public. Said individual must be available to be reached in person or by phone at all times while occupants are on the premises of a short-term rental. If called, a local responsible party must be able to and shall be present at the premises within one (1) hour of call from the administrator, or his designee. A local responsible party must be authorized to make decisions regarding the premises and its occupants. A local responsible party may be required to, and shall not refuse to, accept service of citation for any violations on the premises. Acceptance of service shall not act to release owner of any liability under this article.

**Sec. 11-304. – Proof of insurance required.**

It shall be unlawful for the owner of a premises operating as a short-term rental to operate without host protection or other liability insurance commensurate with the operations of the short-term rental that provides coverage of up to \$1 million per occurrence. A certificate of insurance must be on file with the administrator. Proof of insurance shall be required at the time of application and notice of cancellation of insurance must be made to the administrator within thirty (30) days.

**Sec. 11-305. – Inspection required.**

No permit or renewal permit will be approved for a short-term rental until the city has inspected the premises and found the premises to be in compliance with this article and all city regulations governing minimum health and safety requirements for use and occupancy. If a premises fails to pass an inspection, a reinspection fee may be charged for each subsequent inspection in accordance with the fee established by the city council.

**Sec. 11-306. – Permit fees.**

A fee established by the city council will be charged to reimburse the city for all costs associated with the administration of this article.

**Sec. 11-307. – Hotel occupancy taxes; Request for occupancy history.**

It shall be unlawful for an owner of premises used for a short-term rental to fail to pay hotel occupancy taxes required under state law and article XII of the Kennedale City Code, as amended. Upon request of the administrator or the finance department of the city, the owner of a premises used as a short-term rental shall remit, within thirty (30) days, an accounting of all occupants who rented the premises and the hotel occupancy taxes paid therefor. It shall be unlawful for a person to fail to provide said information requested in a timely manner.

**Sec. 11-308. – Short-term rental permit nontransferable.**

A short-term rental permit is non-transferable and shall not be assigned nor transferred to another person or entity. Any attempt to transfer a permit or attempt to use another person's permit may be grounds for revocation of the permit.

**Sec. 11-309. – Restrictions on number of occupants.**

- (a) It shall be unlawful for an owner or person to rent, allow, provide, or advertise for more than two (2) persons per bedroom, plus two (2) additional persons, when using the premises as a short-term rental.
- (b) It shall be unlawful for more than five (5) individuals unrelated by blood, marriage, or adoption to occupy a short-term rental.

**Sec. 11-310. – Parking restrictions.**

The maximum amount of motor vehicles allowed at a short-term rental shall be limited to the lesser of:

- (a) one vehicle per bedroom; or
- (b) the number vehicles that can be accommodated within off-street parking and on-street parking within the boundary lines of the premises.

**Sec. 11-311. – Minimum stay required.**

It shall be unlawful for an owner to rent or lease a short-term rental for a period of less than 24 hours.

**Sec. 11-312. – Physical conversion of premises prohibited.**

- (a) It shall be unlawful for an owner or person to convert a garage to living space, remodel, renovate, enlarge or otherwise modify premises to add additional bedrooms for use as a short-term rental.
- (b) It shall be unlawful for an owner or person to pave or otherwise cover pervious soil to create additional on-premise parking without prior approval from the city.

**Sec. 11-313. – Sound equipment restrictions.**

It shall be unlawful for an owner or occupant of a short-term rental to use or allow the use of amplified sound equipment that produces sound audible beyond the property line of the premises between the hours of 10:00 p.m. and 8:00 a.m.

**Sec. 11-314. – Signage.**

It shall be unlawful for there to be any on-site or off-site advertising signs or displays indicating the premises is a short-term rental.

**Sec. 11-315. – Advertising, promoting or allowing of special events prohibited.**

- (a) It shall be unlawful for an owner or occupant to advertise or promote a special event, or allow the advertising and promotion of a special event (e.g. banquet, wedding, reception, reunion, bachelor or bachelorette party, concert, or any similar activity that would assemble large numbers of invitees) to be held on the premises.
- (b) It shall be unlawful for an owner or occupant to allow, suffer or permit a special event as described to be held on the premises.

**Sec. 11-316. – Distance requirements.**

It shall be unlawful for a short-term rental to be located on a premises that is within 500 feet of a premises on which another short-term rental use is located. For purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property line of the premises where the existing short-term rental is located to the nearest portion of the property line of the premises where the new short-term rental is proposed.

**Sec. 11-317. – Notice to occupants of short-term rentals.**

An owner or person operating a short-term rental shall provide a notice of instructions to occupants staying at the premises. The notice shall instruct the occupants as to all applicable city regulations pertaining to short-term rentals. These include, but are not limited to, occupancy restrictions, limits on parking, prohibitions on special events, and limits on amplified sound.

**Sec. 11-318. – Permit to be displayed.**

A copy of the approved short-term rental permit shall be posted at a conspicuous location inside the front entrance(s) to the short-term rental.

**Sec. 11-319. – Use of assigned permit number required.**

It shall be unlawful for an owner or person to advertise a short-term rental in any medium, including but not limited to newspaper, magazine, brochure, website, or mobile application without including the current permit number assigned by the administrator.

**Sec. 11-320. – Use of unauthorized permit number prohibited.**

It shall be unlawful for an owner or person to use, advertise or promote or allow the use, advertisement or promotion of a short-term rental using a permit number not assigned to the owner or person, or to a different address, or to a different dwelling unit.

**Sec. 11-321. – Notification of approval of short-term rental.**

Within ten (10) days of the approval of a short-term rental permit, a notice will be sent by the planning and development department of the city to all property owners within two-hundred feet (200 ft.) of the premises, and shall include a contact number for complaints and emergencies, and pertinent information about this article.

**Sec. 11-322. – Revocation of permit.**

- (a) *Grounds.* Any permit issued hereunder may be revoked by the administrator if the permit holder has: (1) received more than two citations for violations of this article; (2) failed or refused to comply with an express condition of the permit and remains in non-compliance ten (10) days after being notified in writing of such non-compliance; (3) knowingly made a false statement in the application; or (4) otherwise become disqualified for the issuance of a permit under the terms of this article.
- (b) *Notice.* Notice of the revocation shall be given to the permit holder in writing, with the reasons for the revocation specified in the notice, served either by personal service or by certified United States mail to their last known address. The revocation shall become effective the day following personal service or if mailed, three (3) days from the date of mailing.
- (c) *Appeal; hearing.* The permit holder shall have ten (10) days from the date of such revocation in which to file notice with the administrator of their appeal from the order revoking said permit. The administrator shall provide for a hearing on the appeal in accordance with the provisions of this article.
- (d) *One-Year Waiting Period.* In the event an owner's short-term rental permit is revoked by the administrator, no second or additional permit shall be issued for a short-term rental on the premises for one year of the date such permit was revoked.

**Sec. 11-323. – Administrative appeals of denial or revocation of permit.**

- (a) Upon denial or revocation of a permit, the administrator, or his designee, shall notify the applicant or permit holder, in writing, of the reason for



which the permit is subject to denial or revocation. To contest the denial or revocation of a permit, the applicant or permit holder shall file a written request for a hearing with the administrator within ten (10) days following service of such notice. If no written request for hearing is filed within ten (10) days, the denial or revocation is sustained.

- (b) The appeal shall be conducted within twenty (20) days of the date on which the notice of appeal was filed with the administrator.
- (c) The hearings provided for in this section shall be conducted by the administrator or a designated hearing officer at a time and place designated by the administrator or the hearing officer. Based upon the recorded evidence of such hearing, the administrator or the designated hearing officer shall sustain, modify or rescind any notice or order considered at the hearing. A written report of the hearing decision shall be furnished to the applicant or permit holder requesting the hearing.
- (d) The determination of the administrator or designated hearing officer shall be final.
- (e) An appeal shall not stay the denial or suspension of the permit unless otherwise directed by the administrator.

**Secs. 11-324. — 11-340. – Reserved.”**

## **SECTION 2.**

The Schedule of Fees adopted in Section 2-3 “Fees for licenses, inspections, permits, etc.” of the Kennedale City Code is hereby amended to add permit and inspection fees for short-term rentals as shown on Exhibit “A” to this Ordinance.

## **SECTION 3.**

This Ordinance shall be cumulative of all provisions of all ordinances of the City of Kennedale, Texas, and the Kennedale Code of Ordinances, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

## **SECTION 4.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining, phrase, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City Council without incorporation in this Ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than \$2000.00 for all violations involving zoning, fire safety, or public health and sanitation, including dumping or refuse, and shall be fined \$500.00 for all other violations of this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 6.**

The City Secretary of the City of Kennedale is hereby directed to publish this Ordinance as required by law.

**SECTION 7.**

This Ordinance shall take effect after its passage and publication as required by law, and it is so ordained.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS, THIS THE 16<sup>TH</sup> DAY OF JULY, 2019.**

**APPROVED:**

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MAYOR BRIAN JOHNSON

[CITY SEAL]

**ATTEST:**

\_\_\_\_\_  
CITY SECRETARY LESLIE E. GALLOWAY

**APPROVED AS TO FORM AND LEGALITY:**

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CITY ATTORNEY DREW LARKIN