

ORDINANCE NO. 070920

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELMA, TEXAS, AMENDING SECTION 54-91 OF CHAPTER 54 OF THE CODE OF ORDINANCES TO ADD SHORT-TERM RENTALS TO THE DEFINITION OF HOTEL AND AMENDING THE FEE SCHEDULE IN APPENDIX A OF THE CODE OF ORDINANCES AND ADOPTING ARTICLE IV. SHORT-TERM RENTAL, OF CHAPTER 18 BUSINESSES, OF THE CODE OF ORDINANCES, PROVIDING REGULATIONS FOR THE REGISTRATION AND USE OF SHORT-TERM RENTALS, FOR THE ESTABLISHMENT OF SHORT-TERM RENTAL APPLICATION FEES, FOR DEFINITIONS; FOR INSPECTIONS FOR RESTRICTIONS, FOR BROCHURE AND SAFETY REQUIREMENTS, FOR VIOLATIONS AND PENALTIES OF A FINE NOT TO EXCEED THE AMOUNT LISTED IN SECTION 1-13 OF THE CODE OF ORDINANCES, A REPEALING CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that regulations needed are intended to protect the public health, safety, and general welfare of the citizens; and

WHEREAS, the City Council finds that short term rentals pose certain adverse externalities on neighbors not generally created by long-term rentals due to the nature of temporary, transient guests; and

WHEREAS, the City Council believes that regulating short-term rentals will assist in protecting and preserving the dignity, sanctity, and quiet enjoyment of low-density, single-family residential neighborhoods, which are the City's primary land use category; and

WHEREAS, the City Council desires to give City Staff tools to respond promptly to resident concerns related to short term rentals; and

WHEREAS, the Texas Legislature has defined the short-term rental of residential property as a business activity by the inclusion of short-term rentals in Texas Tax Code, Section 156 .001, making the same subject to the Hotel Occupancy Tax; and

WHEREAS, pursuant to Texas Local Government Code Section 211.003 the City has general authority to regulate the location and use of buildings, other structures and land for business, industrial, residential, or other purposes; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City, and the City Council finds that the terms of this Ordinance are reasonable, necessary, and proper for good government; and

WHEREAS, pursuant to Texas Local Government Code Section 217.042, the City has general authority to define and declare what constitutes a nuisance and authorize the summary abatement of the nuisance in any manner considered expedient; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Selma, Texas that:

SECTION 1: Chapter 54, Taxation, of the City of Selma Code of Ordinances, Section 54.91. Definitions are hereby amended by amending the definition of Hotel, which shall read as follows:

Hotel means a building in which members of the public obtain sleeping accommodations for a consideration. The term includes a hotel, motel, short-term rentals as defined in Section 18-161, inn, or bed and breakfast.

The term does not include:

- (1) A hospital, sanitarium, or nursing home; or
- (2) A dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by V.T.C.A., Education Code § 61.003, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution.

SECTION 2: APPENDIX A – FEE SCHEDULE, Chapter 18 – Businesses, is hereby amended to add a Short-Term Rental Application Fee, a Short-Term Rental Application Late Fee, and a Short-Term Rental Permit Renewal Fee to be as follows:

Sec.18-166(A)(2)(a)	Short-Term Rental Annual Application Fee	\$75.00
Sec.18-166(A)(2)(b)	Short-Term Rental Annual Late Application Fee	\$150.00
Sec.18-166(A)(2)(c)	Short-Term Rental Reinspection Fee	\$40.00

SECTION 3: Article IV of Chapter 18, Businesses, of the Code of Ordinances is hereby added to read as follow:

ARTICLE IV. – SHORT-TERM RENTAL

Secs. 18-137—18-159. - Reserved.

Sec. 18-160 - Purpose and applicability.

The purpose of this division is to establish regulations for the registration and use of Short-Term Rentals for single-family living units. The requirements of this division apply only to Short-Term Rentals, as defined herein, located in Single Family Dwelling Districts established under Division 2 of Article V of the City's Zoning Ordinance, Chapter 82 of the Code of Ordinances. Nothing in this Article, however, shall be construed to be a waiver of the requirement to assess and collect hotel occupancy taxes for any residential rental for less than 30 consecutive days or any other applicable provision of the City of Selma Code of Ordinances.

Sec. 18-161 – Definitions.

Advertise means the written, audio, oral or other methods of drawing the public's attention, whether by brochure, printed literature, or online posting to a Short-Term Rental in order to promote the availability of the short-term rental.

City means the City of Selma, Texas.

Guest means the overnight occupants renting a short-term rental unit for a specified period and the daytime visitors of the overnight occupants.

Hotel Occupancy Tax means the hotel occupancy tax, as set out in Chapter 54 of the City of Selma Code of Ordinances.

Local Emergency Contact means an individual other than the owner, who resides within 30 miles of the subject property, and who is designated by the owner to act as the owner's authorized agent if the owner has traveled outside of the immediate area or is otherwise unavailable. The local emergency contact should be reachable on a 24-hour basis, have access to the Short-Term Rental Property, and be authorized by the owner to act in the owner's absence to address any complaints, disturbances, and emergencies.

Owner means any person, agent, operator, firm, trust, corporation, limited liability company, partnership or business organization 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, administrator, or personal representative of the estate of such person if entitled to take possession of real property.

Short Term Rental or STR means the rental of any residence or residential structure, or a portion of a residence or residential structure for a period of fewer than 30 consecutive days. The term includes a tourist house, tourist home, tourist court, lodging house, hostel, single or multiple family dwelling, duplex, or a rooming house located in Residential Districts.

The term does not include:

- (1) a unit that is used for a nonresidential purpose, including an educational, health care, retail, restaurant, banquet space, or event center purpose or another similar use;
- (2) a bed and breakfast; or
- (3) a hotel/residence hotel or motel.

Residential districts: Includes the following districts: R-1, R-2, R-3 and any Planned Unit Development for a residential use.

Sec. 18-162 – Short-term Rental Registration Requirements

- A. No person shall hereafter advertise, offer to rent or rent, lease, sublease, license or sublicense a residential property within the City as a Short-Term Rental for which a registration has not been

properly made and filed with the City. The registration shall be made upon forms furnished by the City for such purpose and shall specifically require the following minimum information:

1. The name, address, phone number, and e-mail address of the property owner of the Short-Term Rental property.
2. Verification that the applicant is the owner or equitable owner of the Short-Term Rental property.
3. Name, address, phone number, and e-mail address of the designated Local Emergency Contact.
4. The maximum number of occupants permitted for the dwelling unit or sleeping room in accordance with Prohibited Uses listed in Article V of Chapter 82 of the Code of Ordinances.
5. A floor plan of the STR with dimensioned room layout that identifies sleeping areas, evacuation route(s), and location of fire extinguishers;
6. Site Plan/Survey of the property indicating a maximum number of vehicles that can be legally parked on the property, without encroaching onto street, sidewalks or alleys; other public rights-of-way or public property.
7. Proof of Hotel Occupancy Tax registration;
8. Such additional information as the Director of Development Services & Infrastructure, or designee, deems reasonably necessary to administer this article.

Sec. 18-163 – Inspection Required

A. Upon registration, and before the first rental occupant of a Short-Term Rental property, the owner is required to schedule and have completed a Short-Term Rental Registration Inspection of the residential structure with the City of Selma to ensure compliance with fire and safety standards under national codes adopted by the City.

1. Annual fire inspection. The city's fire inspectors will perform annual inspections for compliance with this section. The city fire inspectors will perform inspections immediately when a violation is suspected.
2. If upon completion of the inspection, the premises are found to be in violation of one or more provisions of applicable City codes and ordinances, the City shall provide written notice of such violation and shall set a re-inspection date for the violation to be corrected before its occupancy. The first re-inspection shall be provided at no cost to the owner. A re-inspection fee shall be assessed for all subsequent inspections.
3. Fire extinguishers. The owner is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the city's current fire code.
4. If only a portion of the premises is offered for rent, then that portion plus shared amenities and points of access shall be inspected.

Sec. 18-164 – Restrictions on Short-Term Rentals

A. *External Signage.* There shall be no external on-site or off-site advertising signs or displays indicating the property is a Short-Term Rental.

- B. *Limit on occupants allowed.* No more than two adult guests per bedroom, plus no more than two additional adults shall be allowed when renting a property as a home-share rental, except that:
1. There shall be a maximum occupancy of ten (10) persons, adults, and children.
 2. Bedrooms under 120 square feet shall be limited to only adult one occupant.
- C. *Limits on the number of vehicles.* There shall be a maximum of one vehicle per bedroom, or a maximum number of vehicles that can be accommodated within the garage and driveway, without extending over the public rights of way (including sidewalks and streets) whichever is less.
- D. *Advertisement and rental agreements.* Any advertisement of the property as a Short-Term Rental and all rental agreements must contain language that specifies the allowed maximum number of occupants and the maximum number of vehicles.
- E. *Fire and Life safety.* All Short-Term Rental properties shall be equipped with fire extinguishers, smoke detectors, and carbon monoxide detectors.
1. Every sleeping area shall have at least one operable emergency escape and rescue opening as required by all applicable law.
 2. An evacuation plan shall be posted conspicuously in each permitted sleeping area.
 3. Any room or sleeping area in a short-term rental that does not comply with this section shall not be used as a sleeping area, and when equipped with a door, shall remain locked at all times when the dwelling is being used as a Short-Term Rental. Non-compliant sleeping areas shall not be included in the maximum occupancy calculation 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.
 4. Each sleeping area must include, at a minimum, the shared use of a full bathroom.
- F. *Other restrictions. It is unlawful:*
1. For any person or entity to rent, or offer to rent, any short-term rental without a valid Short-Term Rental permit issued in accordance with this article;
 2. To advertise or offer a Short-Term Rental without first registering the property with the City in accordance with this article. Documented advertisement of the subject property as a Short-Term Rental, online or offline, without registration, shall be considered evidence of a violation of this article;
 3. To operate a Short-Term Rental in any location that is not owned by the registrant;
 4. To operate a Short-Term Rental that does not comply with all applicable city and state laws and codes;
 5. To operate a Short-Term Rental without paying the required hotel occupancy taxes;
 6. To offer or allow the use of a Short-Term Rental for the sole or primary purpose of having a party venue;
 7. To permit the use of the Short-Term Rental for housing sex offenders; operating a structured sober, recovery or other purpose living home or similar enterprise (unless permitted by applicable State law); selling illegal drugs; selling alcohol or another activity that requires a permit or license under the Alcoholic Beverage Code conducting any illegal activity; or operating as a sexually oriented business.

Sec. 18-165 – Brochure and safety features.

- A. *Informational brochure.* Each registrant operating a Short-Term Rental shall provide guests with a brochure, printed or electronic, that includes:
1. The owner's twenty-four (24) hour contact information;
 2. A Local Responsible Party's twenty-four (24) hour contact information if the property owner is not within the city limits when guests are renting the premises;
 3. Pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, nuisances, maximum occupancy, and trash collection schedules;
 4. Information to assist guests in the case of emergencies posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire, and emergency medical services providers.
- B. *Safety features.* Each Short-Term Rental registrant shall provide in the premises working smoke detectors in accordance with adopted codes and at least one working carbon monoxide detector and alarm, and one working fire extinguisher. The premises shall, otherwise, comply with the City Code of Ordinances and all City-adopted Building Codes, Fire Codes, and other applicable codes.

Sec. 18-166 – Registration term, fees, and renewal.

- A. All registrations approved under this chapter shall be valid for a period of one year from the date of issuance. The application fees for a Short-Term Rentals, as established or revised by Ordinance of the City Council, are listed under Appendix A - Fee Schedule of the Code of Ordinances. A new application and new fees are due annually
1. A separate Short-Term Rental Permit application fee must be submitted for each Short-Term Rental Unit. Each Short-Term Rental Unit shall be assigned a unique permit number upon permit issuance by the City.
 2. The application fee(s) for a Short-Term Rental:
 - a. the application fee;
 - b. a late fee of twice the registration fee;
 - c. a re-inspection fee.
- B. Upon receipt of an application for renewal of the registration, the City Secretary or designee 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 registration sanction, as provided in this article.
- C. Short-Term Rental Permits are valid for one year and may be renewed annually by payment of the permit fee on or before the permit expiration date. If a Short-Term Rental permit is

revoked for any reason, the operator may not reapply for such for the same property for a period of twelve (12) months from the revocation. A Short-Term Rental permit is not transferable to another owner, operator, or location

Sec. 18-167 – List of Registered Short-Term Rental properties

A. The City will maintain a list of all registered Short-Term Rental properties.

Section 18-168. – Collection of hotel occupancy tax required.

A. The operator of Short-Term Rentals or online travel companies, owning, operating, managing, or controlling any Short-Term Rental shall remit hotel occupancy taxes as provided in this Article IV. Failure to remit the tax as required by law shall be grounds for revocation of the Short-Term Rental Permit.

Sec. 18-169. – Violations and Penalties

A. Violations of this Ordinance upon conviction shall be punished by a fine not to exceed the sum listed in Sec. 1-13. - General penalty; continuing violations of the Code of Ordinances. Each day such violation shall continue shall be deemed to constitute a separate offense.

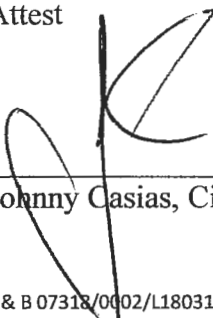
SECTION 4. That all provisions of the ordinances of the City of Selma in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Selma not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 5. Severability. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 7. That this Ordinance shall take effect on September 1, 2020.

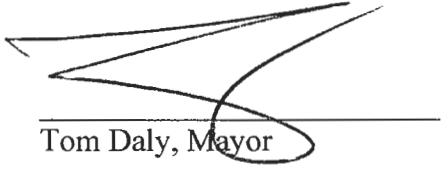
ADOPTED AND APPROVED this 9th day of July 2020.

Attest



Johnny Casias, City Secretary





Tom Daly, Mayor