

ORDINANCE NO. 1547

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING CHAPTER 26 – BUSINESSES AND BUSINESS REGULATIONS OF THE CODE OF ORDINANCES BY ADDING ARTICLE VIII, SHORT TERM RENTALS; PROVIDING FOR REGULATIONS FOR THE REGISTRATION AND USE OF SHORT TERM RENTALS; PROVIDING FOR REGISTRATION, PROVIDING FOR DEFINITIONS; PROVIDING FOR INSPECTIONS; PROVIDING FOR RESTRICTIONS; PROVIDING FOR BROCHURE AND SAFETY REQUIREMENTS; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED AND NO/100 DOLLARS (\$500.00); AMENDING CHAPTER 74 – TAXATION OF THE CODE OF ORDINANCES BY AMENDING THE DEFINITION OF A HOTEL TO INCLUDE SHORT TERM RENTAL UNITS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF LITTLE ELM, TEXAS:

Section 1. Chapter 26, Businesses and Business Regulations, of the Code of Ordinances is hereby amended by adding Article VIII, Short Term Rentals, which shall read in its entirety as follows:

CHAPTER 26, BUSINESSES AND BUSINESS REGULATIONS

...

ARTICLE VIII, SHORT TERM RENTALS

Sec. 26-303. - Purpose and Applicability.

The purpose of this article is to establish regulations for the registration and use of Short Term Rentals within residential zoning districts within the Town of Little Elm. The requirements of this division apply only to Short Term Rentals, as defined herein, located in residential zoning districts established in Chapter 106 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 Little Elm Code of Ordinances.

Sec. 26-304. – Definitions.

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

Hotel Occupancy Tax means the hotel occupancy tax as defined in Chapter 94 of the Little Elm Code of Ordinances and Chapter 351 of the Texas Tax Code.

Local Emergency Contact means an individual other than the applicant, who resides within 20 miles of the subject property, and who is designated by the owner/applicant 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 or code official of the estate of such person if ordered to take possession of real property by a court. The term "owner" does not include the holder of a non-possessory security interest in the property.

Party means a social gathering of people or special event, including those who have not rented the residence, for the primary purpose of eating, drinking or entertainment in a manner that is disruptive to the surrounding properties.

Short Term Rental (STR) is defined as "the rental of any residence or residential structure, or a portion of a residence or residential structure for a period of less than 30 days". 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 residential structure or portion of a residential or residential structure that is not designed or intended for habitation purposes;
- (3) a bed and breakfast as defined in zoning ordinance 1407; or
- (4) a hotel/residence hotel.

Sec. 26-305. – Short Term Rental Registration Requirements.

No person shall hereafter advertise, offer to rent or rent, lease, sublease, license or sublicense a residential property within the Town as a Short Term Rental for which a registration has not been properly made and filed with the Development Services Department of the Town. Registration shall be made upon forms furnished by the Town for such purpose and shall specifically require the following minimum information:

- (a) Name, address, phone number and e-mail address of the property owner of the Short Term Rental property.
- (b) Name, address, phone number and e-mail address of the designated Local Emergency Contact.

- (c) The maximum number of occupants permitted for the dwelling unit or sleeping room in accordance with Sec. 26-307 (a) of the Code of Ordinances.
- (d) A submission of a sketch floor plan of the dwelling with dimensional room layout.
- (e) Site Plan/Survey of the property indicating maximum number of vehicles that can be legally parked (according to Article V, Section 98, Parking in Residential Districts) on the property, without encroaching onto streets, sidewalks or alleys; other public rights-of-way or public property.

Sec. 26-306. – Right to Inspect Premises.

The Town of Little Elm reserves the right, with reasonable notice to the Owner, to inspect the residential premises in accordance with Section 22-141 (Rental Inspections) of the Code of Ordinances to determine compliance with this section as well as with the current adopted version of the International Property Maintenance Code.

- (a) If only a portion of the premises is offered for rent, then that portion plus shared amenities and points of access may be inspected.
- (b) If, upon completion of an inspection, the premises are found to be in violation of one or more provisions of applicable Town codes and ordinances, the Town shall provide written notice of such violation and shall set a re-inspection date for a violation to be corrected prior to its occupancy.

Sec. 26-307. – Restrictions on Short Term Rentals.

- (a) 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 Short Term Rental, except that:
 - 1. There shall be a maximum occupancy of ten (10) persons, adult and children.
- (b) Limits on number of vehicles. There shall be no more than five additional vehicles, not including any vehicles owned by the owner.
- (c) Other restrictions. It is unlawful:
 - 1. To operate or allow to be operated a Short Term Rental without first registering, in accordance with this article, the property in which the rental is to occur;
 - 2. To advertise or offer a Short Term Rental without first registering, in accordance with this article, the property in which the rental is to occur; documented advertisement of the subject property as a Short Term Rental, online or offline, shall be considered evidence of a violation of this ordinance;
 - 3. To operate a Short Term Rental that does not comply with all applicable town and state laws and codes.
 - 4. To operate a Short Term Rental without paying the required hotel occupancy taxes;
 - 5. To offer or allow the use of a Short Term Rental for the sole or primary purpose of having a Party venue;
 - 6. To fail to include a written prohibition against the use of a Short

Term Rental for having a Party venue in every advertisement, listing, or other publication offering the premises for rent.

7. Permit the use of Short Term Rental for the purpose of: temporary or transition housing for sex offenders; operating a structured sober, recovery or other purpose living home or similar enterprise; selling illegal drugs; selling alcohol or another activity that requires a permit or license under the Alcoholic Beverage Code, or operating as a sexually oriented business.

Town nuisance-related ordinance violation citations shall be issued to both the Owner and individual Short Term Rental occupants. Both parties shall be joint and severally liable for such citations.

Sec. 26-308. – Brochure and Safety Features.

- (a) *Informational brochure.* Each registrant operating a Short Term Rental shall provide to guests a brochure that includes:

1. The registrant's twenty-four (24) hour contact information;
2. A local responsible party's twenty-four (24) hour contract information if the Owner is not within Town limits when guests are renting the premises;
3. Pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, 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 and instructions for obtaining severe weather, natural or manmade disaster alerts and updates.

- (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 applicable Code of Ordinance requirements, including but not limited to Building and Fire Codes.

Section 26-309. – Registration Term, Fees, and Renewal.

- (a) All registrations approved under this Chapter shall be valid for a period of one year for the date of its issuance.
- (b) The fee for registration of a Short Term Rental shall be \$50 with a late fee of twice the established fee.
- (c) Upon receipt of an application for renewal of the registration, the director or their designee may deny the renewal if there is reasonable cause to believe that:

- (1) The registrant has plead no contest to or been convicted of a violation of any ordinance of the Town, 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.

Section 26-310. – Violations and Penalties.

Violation of this ordinance upon conviction shall be punished by the fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense and each and every day such violation shall continue shall be deemed to constitute a separate offense.

Section 2. Chapter 94, Taxation, of the Code of Ordinances, Section 94-41. - Definitions is hereby amended by amending the definition of Hotel, which shall read as follows:

Hotel means a building in which members of the public may obtain sleeping accommodations for consideration. The term includes a hotel, motel, short term rentals as defined in Section 26 - 304, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or other building where a room is furnished for a consideration, but does not include a hospital, sanitarium, or nursing home.

Section 3. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Little Elm hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

Section 4. That all ordinances of the Town in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the Town not in conflict with the provisions of this ordinance shall remain in full force and effect.

PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS, on this the 5th day of MAY, 2020.

David Hillock, Mayor

ATTEST:

Kathy Phillips, Town Secretary