

CITY OF THE COLONY, TEXAS

ORDINANCE NO. 2024-2545

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING CHAPTER 8, ARTICLE III, ENTITLED “HOTEL OCCUPANCY TAX” BY AMENDING SECTION 8-75, ENTITLED “DEFINITIONS” BY ADDRESSING DEFINITIONS CONCERNING SHORT-TERM RENTALS; AMENDING SECTION 8-86, ENTITLED “SHORT-TERM RENTAL FACILITY LICENSE REQUIRED” BY REQUIRING A LICENSE, PROVIDING FOR LICENSE APPLICATION REQUIREMENTS, PROVIDING PARKING RESTRICTIONS, REQUIRING A MINIMUM STAY REQUIREMENT, PROVIDING OCCUPANCY LIMITS, AND RELATED ISSUES; ADDING A NEW SECTION 8-89 TO PROVIDE FOR A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of The Colony, Texas, has discussed and considered such revisions and has determined that it is in the best interest of the City of The Colony, Texas, to amend and add various sections of Chapter 8, Article III, entitled “Hotel Occupancy Tax” to better address the payment of Hotel Occupancy Tax by short-term rentals consistent State law.

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

SECTION 1. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. That the Code of Ordinances of the City of The Colony, Texas, is hereby amended by amending Chapter 8, Article III, entitled “Hotel Occupancy Tax and Short-Term Rentals,” by amending section 8-75, which shall read as follows:

“ARTICLE III. - HOTEL OCCUPANCY TAX AND SHORT-TERM RENTALS

Sec. 8-75. - Definitions.

In this article:

- (1) *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.

- (2) *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.
- (3) *Consideration* means the cost of a hotel or short-term rental room only if the room is ordinarily used for sleeping, and does not include the cost of any food served or personal services rendered to the room or a person in the room unless related to the cleaning and readying of the room for occupancy.
- (4) *Booking Service* means any reservation and/or payment service provided by a person or Entity that facilitates a short-term rental transaction between an Owner and a prospective Occupant, and for which the person or entity collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment services provided for the short-term rental transaction.
- (5) *Designated operator* means a responsible party who can be contacted regarding immediate concerns and complaints from the public.
- (6) *Hosting Platform* means a person or entity that participates in the short-term rental business by providing, and collecting or receiving a fee for, Booking Services through which an Owner may offer premises for an occupant on a short-term basis. Hosting Platforms usually, though not necessarily, provide Booking Services through an online platform that allows an Owner to advertise the premises through a website provided by the Hosting Platform and the Hosting Platform conducts a transaction by which potential occupants arrange their use and their payment, whether the would-be occupant pays rent directly to the Owner or to the Hosting Platform.
- (7) *Hotel* means a building in which members of the public may obtain sleeping accommodations for consideration. The term includes a hotel, motel, 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.
- (8) *Licensee* shall mean a person or legal entity issued a short-term rental facility license.
- (9) *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.
- (10) *Owner* shall mean an individual person, proprietorship, partnership, corporation, association, or other legal entity.
- (11) *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.
- (12) *Tourism* means the guidance or management of tourists.

- (13) *Tourist* means an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture.”

SECTION 3. That the Code of Ordinances of the City of The Colony, Texas, is hereby amended by amending Chapter 8, Sections 8-86, entitled “Short-term rental facility license required,” which shall read as follows:

“Sec 8-86. - Short-term rental facility license required.

- (a) It shall be unlawful to operate a short-term rental facility without a short-term rental facility license in violation of any provision of a short-term rental facility license, this article, or any other applicable city ordinance or other law.
- (b) License application and review:
 - (1) To obtain a license for a short-term rental facility, a person must submit an application on a form provided for that purpose to the city’s third-party collection service. The application must contain the following:
 - (A) The name, street address, mailing address, email address, and telephone number of the applicant, the owner, and the designated operator of the short-term rental facility. The applicant must assign a "designated operator."
 - (B) 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.
 - (C) A short-term rental facility license shall be valid from the date of issuance unless otherwise suspended or revoked in accordance with section 8-87.
- (c) Operation of a short-term rental facility.
 - (1) The licensee shall comply with the noise requirements set forth in article IX of chapter 6 of this Code.
 - (2) The licensee will comply with all building, electrical, and other codes and ordinances of the city.
 - (3) Advertising, promoting or allowing of special events prohibited in violation of city ordinance. 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 that is in violation of city ordinance. It shall be unlawful for an owner

or occupant to allow, suffer or permit a banquet hall or special event as described to be held on the premises which is in violation of city ordinance.

- (4) *Lighting.* If the property is residentially zoned, all lighting must be directed toward the establishment and not at adjacent properties.
- (5) *Signage.* No on-premise signage shall be allowed advertising the property as a short-term rental consistent with the code and state law.
- (6) *Parking restrictions.* The maximum amount of motor vehicles allowed at a short-term rental shall be limited to the off-street parking area available on the driveway of the host property. It shall be unlawful for an owner or person to permit, allow or advise occupants to park more vehicles on the premises than the available off-street parking spaces, or to suffer or permit parking of vehicles on an unapproved surface. It shall be unlawful for an occupant of a short-term rental, or an owner thereof to allow an occupant, to park or occupy a motor home, recreational vehicle, boat, commercial vehicle, or otherwise prohibited motor vehicle on the premises of a short-term rental or on a residential street near a short-term rental.
- (7) *Minimum stay required.* It shall be unlawful for an owner to rent or lease a short-term rental for a period of less than two (2) nights.
- (8) *Physical conversion of premises prohibited.* 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 except consistent with the City's Code of Ordinances.
- (9) 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, and consistent with the City's Code of Ordinances.
- (10) *Occupants.* It shall be unlawful for an owner, person, or occupant to rent, allow, provide, advertise, or occupy a property by more than two (2) persons per bedroom, plus two (2) additional persons, when using the premises as a short-term rental.
- (11) *On premise curfew.* It shall be unlawful for an owner or person to allow the congregation of occupants outside at the premises between the hours of 10:00 p.m. and 9:00 a.m. and make unreasonable noise.
- (12) *Refuse service requirements.* It shall be unlawful for an owner or occupant to place, or allow to be placed, trash on the premises before 7:00 PM the evening prior to scheduled pickup or on a day not scheduled for pickup by the city's authorized solid waste transportation vendor and must be removed from the street or alley within 24 hours of service.

- (13) *Notice to occupants of short-term rentals.* An owner or person operating a short-term rental shall provide a notice of instructions (also known as “host rules”) 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, trash pickup, prohibitions on special events, limits on amplified sound, and curfew times.
- (14) *Designated operator or responsible party contact.* An owner must designate the name and contact information of a local designated operator or 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 City. 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.”

SECTION 4. That the Code of Ordinances of the City of The Colony, Texas, is hereby amended by adding a Chapter 8, Section 8-89, entitled “Penalties,” which shall read as follows:

“Sec. 8-89 – Penalty.

It shall be unlawful for any owner, occupant, or person to violate any of the provisions of this article and any owner, occupant, or person violating this article or any provision hereof shall, upon conviction, be punished by a fine of not less than \$1.00 nor more than \$2,000.00, and each day that a violation continues shall constitute a separate offense.”

SECTION 5. If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons 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 6. That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 7. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 2nd DAY OF JANUARY, 2024.

/s/Richard Boyer, Mayor
City of The Colony, Texas

ATTEST:

/s/Tina Stewart, TRMC, CMC, City Secretary

APPROVED AS TO FORM:

/s/Jeffrey L. Moore, City Attorney