

ORDINANCE NO. 3908-5-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING SECTION 2-6 “HOTEL OCCUPANCY TAX” AMENDING SECTION 2-6(B)(1) BY AMENDING DEFINITION OF “HOTEL”; AMENDING CHAPTER 4 “BUILDINGS AND BUILDING REGULATIONS” BY ADDING “ARTICLE III SHORT-TERM RENTALS” ESTABLISHING REGULATIONS FOR THE SHORT-TERM RENTAL OF RESIDENTIAL PROPERTY; DEFINING TERMS; PROVIDING A REPEALING CLAUSE, PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2000); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Allen, Texas, has investigated and determined that it would be advantageous, beneficial and in the best interest of the citizens of the City of Allen, Texas, to amend the Allen Code of Ordinances to establish regulations for the short-term rental of residential properties by amending Chapter 4 “Buildings and Building Regulations” by adding “Article III Short-Term Rentals”; and,

WHEREAS, the City Council finds there are certain owners of residential short-term rental properties within Allen who do not provide adequate information on how to contact them; and,

WHEREAS, the City Council finds there are owners of residential short-term rental properties who do not reside locally or who reside out of state; and,

WHEREAS, the City Council finds some owners of residential short-term rental properties do not have firsthand knowledge of the condition of their properties or the individuals who are renting the structure for short-term rental; and,

WHEREAS, the City Council finds there are owners of certain residential short-term rental properties who do not pay the required hotel and motel occupancy tax; and,

WHEREAS, the City Council desires to preserve and enhance residential neighborhoods and property values; and,

WHEREAS, pursuant to the laws of the State of Texas, including Section 51.001 of the Texas Local Government Code, the City Council has the authority to adopt, publish, amend, or repeal an ordinance that, among other things, is for the good, government, peace, or order of Allen; and,

WHEREAS, Section 92.208 of the Texas Property Code allows a municipality to adopt an ordinance that conforms to the provisions of Texas Property Code, Chapter 92, Subchapter E, related to the disclosure of ownership and management of a dwelling.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The recitals and findings set forth above are true and correct, and incorporated herein.

SECTION 2. The Code of Ordinances of the City of Allen, Collin County, Texas, be and the same is hereby amended by amending Section 2-6 “Hotel occupancy tax” to add “short-term rental” to modify definition of “Hotel” to read as follows:

“Sec. 2-6. – Hotel occupancy tax.

...

(b) Definitions. As used in this section, the following words, terms and phrases are defined as follows:

- (1) *Hotel* shall have the meaning assigned by Texas Tax Code Section 351.001 as amended or the successor statute.

...”

SECTION 3. The Code of Ordinances of the City of Allen, Collin County, Texas, be and the same is hereby amended by amending Chapter 4 “Buildings and Building Regulations” to add Article III “Short-Term Rentals” to read as follows:

“ARTICLE III. SHORT-TERM RENTALS

Sec. 4-50. - Purpose.

This article is adopted to promote the public health, safety, and general welfare within the City by providing neighborhood sustainability and preserving property values. Having current and reliable information about the owners of Short-Term Rentals will allow the City to provide those owners with timely information on the condition of their properties and emergency contact information, to ensure collection of hotel and motel occupancy taxes, to protect the health and safety of guests of Short-Term Rentals and to aid in enforcement of applicable ordinances and laws. By requiring the registration of Short-Term Rental properties, the City Council seeks to protect property values and to prevent property damage within the City limits.

Sec. 4-51. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Agent means a person designated in writing by a Short-Term Rental owner or operator, in lieu of themselves, as the 24-hour emergency contact for a lawfully operating short-term rental.

Advertise means the act of drawing the public’s attention to a short-term rental to promote the availability of the residence for use as a short-term rental by communicating such availability in and through any medium, including, but not limited to, a sign, and/or print or digital newspaper, magazine, brochure, website, or mobile application.

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.

City means the City of Allen, Texas, and all areas within its corporate limits.

City Council means the City Council of the City of Allen, Texas.

Designated Local Responsible Party shall have the meaning given that phrase in Section 4-54 of the article.

Director or Designee means the department(s) or division(s) of the City designated by the City Manager to administer and/or enforce the provisions of this article and any person or persons designated by such a department or division to represent the department or division for said purpose.

Guest means a person contracting with an Owner, either directly or through a Short-Term Rental Listing Service, for use of a residential dwelling or premises as a Short-Term Rental and such person's invitees occupying the Short-Term Rental. Guest includes any individual person living, sleeping, or possessing a Short-Term Rental premises, or portion thereof for any portion of the time during which the rental agreement for the STR authorizes such possession. 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 a guest.

Hotel means a building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, housekeeping service and telephone are provided. Hotel room units are accessed through doorways into an internal hallway, courtyard, or lobby. Financial consideration for Hotel room units is generally calculated on a nightly basis.

Hotel Occupancy Tax means the hotel and motel occupancy tax as provided for in Section 2-6 of the City Code of Ordinances and Chapter 351 of the Texas Tax Code, as they exist or as may be amended and any successor ordinances or laws.

Operator means any person who operates a Short-Term Rental, as defined in this Article.

Owner means, in addition to such person or entity as defined in Section 4-51 of this Code, any person having a legal or equitable interest in real property or identified in the official records of the county as holding title to real property or otherwise having control of real property, including the guardian of the estate of such person and the executor of the estate of such person. The term "owner" does not include the holder of a non-possessory security interest in real property.

Person means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries and any other organization or entity of whatever character.

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

Short-Term Rental or STR means a dwelling that is (a) used or designed to be used as place where a person may reside, including a single-family dwelling, garage apartment, guest house or a unit in a multi-unit building, including an apartment, condominium, cooperative or timeshare; and (b) rented wholly or partly for a fee and for a period of less than thirty (30) consecutive days. The term "Short-Term Rental" does not include a premises that is used for a nonresidential purpose, including an educational, health care, retail, restaurant, banquet space or event center purpose or another similar use, or a bed-and-breakfast or hotel as defined in the Allen Land Development Code.

Short-Term Rental Listing Service means a person that participates in the Short-Term rental business by facilitating and/or collecting a fee for booking services through which an owner may offer Short-Term Rentals to potential guests. Short-Term Rental Listing Services usually, though not necessarily, provide booking services through an online platform that allows an owner to advertise the premises through a website or mobile application provided by the Short-Term Rental Listing Service and the Short-Term Rental Listing Service conducts a transaction by which potential guests arrange their use and their payment, whether the potential guest pays rent directly to the owner or to the Short-Term Rental Listing Service.

Short-Term Rental Permit means a permit issued by the City that identifies the subject property as a lawful Short-Term Rental.

Sec. 4-52. - Short-Term Rental Permit Required.

No Short-Term Rental shall operate within the City without a current, valid Short-Term Rental Permit. All individual units having cooking, sleeping, and bathing facilities within common buildings, regardless of

ownership, shall require a separate, individual permit for each unit intended to be used as a Short-Term Rental. A person commits an offense if that person owns or operates a Short-Term Rental in the City without a valid permit for such Short-Term Rental. A Short-Term Rental Permit is non transferrable and may not be assigned to another person or premises, including, but not limited to, any successor in title to ownership of the STR or upon lease of the STR to a person for a period longer than thirty (30) days.

Sec. 4-53. - Short-Term Rental Permit Application.

- (a) A person who desires to operate a Short-Term Rental shall submit a written application for a Short-Term Rental Permit to the Director on a form available from the City or through the City's Online Permit Portal. Each application for Short-Term Rental Permit shall be accompanied by a non-refundable permit fee established by resolution of the City Council from time to time, and shall include the following information:
 - (1) A list of all owners, operators, and agents (if applicable) of the Short-Term Rental including names, addresses and current email addresses and telephone numbers of each such person;
 - (2) The name, address and 24-hour telephone number of a contact person who is the owner, operator, or owner's designated agent relating to ownership and/or operation of the Short-Term Rental, and the designated local responsible party appointed in accordance with Section 4-54 of this article;
 - (3) An acknowledgement that any permit granted under this Article does not supersede any property-specific restrictions against Short-Term Rentals that may exist under law, agreement, lease, covenant, or deed restriction;
 - (4) A depiction of the floor plan that identifies sleeping areas, proposed maximum number of guests, evacuation routes and location of all fire extinguishers and smoke detectors;
 - (5) The guest safety information;
 - (6) A sworn statement that the owner has met and will continue to comply with all requirements of this article including, but not limited to, obtaining annual independent inspections of required fire extinguishers in compliance with the City's current Fire Code; and
 - (7) Other information as may be required by the Director.
- (b) An application shall be considered complete when all documentation required by this article has been provided and the permit fee has been paid. Incomplete applications will not be accepted.
- (c) Unless earlier revoked by the Director pursuant to this article, a Short-Term Rental Permit expires on the last day of the calendar year in which the permit is issued. A permit holder shall apply for renewal prior to the expiration of the permit on a form provided by the Director. The permit holder shall update the information contained in the original permit application or any subsequent renewal applications if any of the information has changed. The permit holder shall sign a statement affirming that there is either no change in the information contained on the original permit application and any subsequent renewal applications, or that any information that has been updated, is accurate and complete. Complete application for renewal received after the expiration of a current permit shall be treated as an application for a new permit. The application for renewal of a permit shall be accompanied by non-refundable permit fee established by resolution of the City Council from time to time.
- (d) Upon receipt of a complete application for renewal of a Short-Term Rental Permit, the Director may deny the renewal of a Short-Term Rental Permit if it is determined that the permit was issued in error, on the basis of incorrect information supplied by the applicant, or if:

- (1) The permit holder has pleaded no contest to or been convicted of a violation of any ordinance of the City or any state or federal law related to operation of a Short-Term Rental on the premises or has permitted a violation on the premises of the Short-Term Rental by any other person. Such violation may include, but is not limited to, parking, noise, littering, destruction of property, disorderly conduct, or failure to pay hotel occupancy taxes; or
- (2) There are grounds for suspension, revocation, or other registration sanctions as provided for in this article.

Sec. 4-54. - Designation of Local Responsible Party.

- (a) 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 about a Short-Term Rental. Said individual must be available to be reached in person, or by phone at all times while guests 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 a call from the Director. A local responsible party must be authorized to make decisions regarding the premises and its occupants.
- (b) The owner shall provide timely updates to the City of any changes to the name, address and 24-hour telephone number of the contact person who is the owner, operator, or designated agent responsible and authorized to respond to complaints concerning the Short-Term Rental within one hour or less. Should a law enforcement officer or code enforcement official respond to the premises of a Short-Term Rental and issue a citation or notice of violation for any violation of City ordinances or other law, such responsible person may be contacted by the officer or designee. The responsible person shall attempt to contact the occupants within one (1) hour of any contact from the City to address the occupants about the complaints. Should a second complaint be filed or made, and citation issued to the occupants or guests, the owner and responsible party must take appropriate steps to assure future complaints do not occur. Failure to provide updated information to the City regarding 24-hour contact person shall be a violation of this section.

Sec. 4-55. - Hotel Occupancy Tax.

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 Section 2-6 of the Code of Ordinances, as amended, with respect to the rental of the Short-Term Rental. Not later than 30 days after delivery of written request by the Director, the owner of a premises used as a Short-Term Rental shall submit to the Director a written report and accounting of all guests and occupants who have rented the premises and the hotel occupancy taxes paid therefor. It shall be unlawful for a person to fail to provide or timely provide said information to the Director.

Sec. 4-56. - Parking.

- (a) The number, location, and size of off-street parking for a premises used as a Short-Term Rental shall comply with the applicable provisions of the Allen Land Development Code. Public rights-of-way, public access easements, yards, or unimproved parking surface shall not be included for purposes of determining compliance with the required number of parking spaces to be provided in association with the use of a property as a Short-Term Rental.
- (b) The maximum number of motor vehicles allowed to park on the premises of a Short-Term Rental shall be limited to the number of available off-street parking spaces.
- (c) It shall be unlawful for an owner or person to permit, allow or advise guests to park vehicles on the premises of a Short-Term Rental in numbers exceeding the number of available off-street parking spaces, or to allow or authorize the parking of motor vehicles on an unapproved surface.

- (d) It shall be unlawful for a guest of a Short-Term Rental, or an owner thereof to allow a guest 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.

Sec. 4-57. - Number of Occupants.

- (a) It shall be unlawful and an offense for an owner or person to use, rent, or advertise a Short-Term Rental for more than two (2) persons for each bedroom within the Short-Term Rental, plus two (2) additional persons.
- (b) Regardless of the number of bedrooms within a Short-Term Rental, it shall be unlawful for more than twelve (12) persons (including children), to occupy a Short-Term Rental at any one time;

Sec. 4-58. - General Standards.

It shall be unlawful and an offense for the owner or a person:

- (a) To advertise on a Short-Term Rental Listing Service or offer a Short-Term Rental without first obtaining a Short-Term Rental Permit in accordance with this Article;
- (b) To operate a Short-Term Rental in a manner that does not comply with all applicable City ordinances and state laws;
- (c) To operate a Short-Term Rental without collecting and paying the required hotel occupancy taxes as required by Section 4-55;
- (d) To rent a Short-Term Rental to a person who is under the age of twenty-one (21);
- (e) To post or allow signs on or off the premises of a Short-Term Rental that indicates the property is a Short-Term Rental;
- (f) To fail to include the City permit number for the Short-Term Rental in all advertisements, including online, for the Short-Term Rental within the description or body for public reference;
- (g) To permit the use of a Short-Term Rental to promote activities that are illegal or for the purpose of temporary or transition housing for registered 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 Texas Alcoholic Beverage Code; operating as a sexually oriented business, or for rental periods of less than 24 hours;
- (h) To permit the use of tents, hammocks, recreational/camper vehicles or other vehicles and outdoor areas that are not residential dwellings as Short-Term Rentals;
- (i) To advertise or promote a special event, or allow the advertising and promotion of a special event, or use a Short-Term Rental for 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; or
- (j) To advertise a Short-Term rental without including the current Short-Term Rental Permit assigned by the Director.

Sec. 4-59. - Guest safety notification and minimum requirements.

- (a) Each owner of a Short-Term Rental shall provide to guests of a Short-Term Rental a brochure and post in a conspicuous location of the Short-Term Rental the following minimum information:
 - (1) The owner, operator, the designated agent's name and twenty-four (24) hour contact telephone number of the designated local responsible party under this Article; the occupancy, and the prohibition of special events as defined in Section 4-58 of this Article;
 - (2) Pertinent neighborhood information including, but not limited to, parking restrictions, trash collection schedules and location of required off-street parking, other available parking, and prohibition of parking in the yard and on unapproved surfaces;
 - (3) Quiet hours and noise restrictions as specified under Section 7.08 of the Allen Land Development Code;
 - (4) Information to assist guests in the case of an emergency posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire and emergency medical services and instructions for obtaining severe weather, natural or manmade disaster alerts and updates; and
 - (5) Depiction of floor plan identifying evacuation routes, including the dwelling's exits, primary evacuation routes and secondary evacuation routes near the front door of the dwelling.
- (b) Each Short-Term Rental owner shall provide in the Short-Term Rental working smoke detectors in accordance with adopted City Codes, and at least one working Type A fire extinguisher. The premises of the Short-Term Rental shall be in compliance with applicable Code of Ordinance and Allen Land Development Code requirements, including but not limited to, all building and fire codes.
- (c) The Short-Term Rental Permit shall be posted at a conspicuous location inside the front entrance(s) to the Short-Term Rental.

Sec. 4-60. - Other restrictions on use of premises.

This article does not create any right to operate a Short-Term Rental in violation of any lease, license, deed restriction, covenant, easement, or other legal encumbrance. Unless expressly authorized by the City, any premises which has received an economic development grant or incentive from the City (including Allen Economic Development Corporation and Allen Community Development Corporation) is ineligible to receive a permit to operate a Short-Term Rental during the period of time that the owner (or a third-party beneficiary, as the case may be) is eligible to receive such grant or incentive.

Sec. 4-61. - Authority of the Director.

The Director shall implement and enforce this article and may by written order establish such procedures as the Director determines are necessary to discharge any duty under this article and are not inconsistent with this article or other City ordinances, rules, or regulations, or any county, state, or federal laws or regulations.

Sec. 4-62. - Revocation of Permit; Appeal; Administrative Process.

- (a) *Revocation of Permit.* After providing an opportunity for a hearing, the Director is entitled to suspend or revoke a permit required by this article for serious or repeated violations of any of the requirements of this article, for violations of other applicable law relating to public health, safety, or welfare and/or for interference with law enforcement officers in the performance of their duties. Prior to suspension or revocation, the Director shall notify the permit holder in writing of the reason for which the permit is subject to suspension or revocation and that the permit shall be suspended or revoked at the end of the tenth (10th) calendar day following service of such notice unless a written request for a hearing

is submitted to the Director by the permit holder within such ten (10) calendar day period referred to in the notice. If a written request for a hearing is received by the Director within the required time-period, (1) the suspension or revocation shall not take effect unless and until the Director determines to do so in the ruling at the conclusion of the hearing; and (2) the Director shall hold a hearing and either enact or reject the suspension or revocation. At least two (2) business days before the hearing occurs, the Director shall provide the permit holder with notice of the time and place of the hearing. The permit holder shall be permitted to attend and be heard at the hearing. If no request for a hearing is filed within the ten (10) calendar day period referred to in the notice, the suspension or revocation of the permit becomes final.

- (b) *Appeals.* An administrative decision issued in connection with the requirements of this article, including denial of issuance or renewal or revocation or suspension of a permit required by this article, is final unless the permit holder submits a written request for an appeal to the City Manager. The appeal shall be filed in writing within ten (10) calendar days after the date of notice of the administrative decision. At least two (2) business days before the appeal hearing occurs, the City shall provide the permit holder with notice of the time and place of the hearing. The permit holder shall be permitted to attend and be heard at the hearing. The City Manager shall hear and rule on the appeal within thirty (30) calendar days after notice of the appeal. The City Manager shall have the power to reverse a decision of the Director on the basis that such decision was not meritorious and that such a reversal will not adversely affect the public health, safety, or welfare. The decision of the City Manager is final. The City Manager's failure to take action on any such appeal shall constitute approval of the decision by the Director.
- (c) *Administrative process.* A notice required by this Section is properly served when it is delivered to the permit holder via hand-delivery, or when it is sent by registered or certified mail, return receipt requested, or when it is sent via courier service that provides a return receipt showing the date of actual delivery to the last known address of the permit holder.”

SECTION 4. All ordinances of the City of Allen, Collin County, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this ordinance, as amended hereby, be adjudged, or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION 6. Any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinance of the City of Allen, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense, and each, and every day such violation shall continue be deemed to constitute a separate offense.

SECTION 7. This Ordinance shall become effective on June 1, 2022, and after its passage and publication in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 10TH DAY OF MAY 2022.

APPROVED:

APPROVED AS TO FORM:

Kenneth M. Fulk, MAYOR
ATTEST:

Peter G. Smith, CITY ATTORNEY
(PGS:5-6-22:TM 127378)

Shelley B. George, TRMC, CITY SECRETARY