

FAN ORDINANCE AMENDING CHAPTER 8 OF THE CODE OF CIVIL AND CRIMINAL ORDINANCES ENTITLED BUILDING STANDARDS BY ADDING ARTICLE XI ENTITLED SHORT TERM RENTAL REGISTRATION; ESTABLISHING REGISTRATION REQUIREMENTS AND REGULATIONS FOR USE OF A SINGLE-FAMILY RESIDENTIAL PROPERTY AS A SHORT-TERM RENTAL; ESTABLISHING FEES; PROVIDING DEFINITIONS; PROVIDING A PENALTY; PROVIDING SAVINGS, SEVERABILITY, AND REPEALER CLAUSES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Irving has conducted research on the nature and extent of short-term rentals (STRs) in the City of Irving and has obtained public input at City Council committee meetings regarding the impact of STRs on communities in Irving; and

WHEREAS, since 2017, the Irving City Council has been briefed on possible regulations of STRs and asked city staff in 2019 to identify and collect hotel occupancy taxes from STRs in Irving; and

WHEREAS, the City of Irving engaged a consultant, LodgingRevs, who has identified short-term rentals in Irving and based on the limited data collected, the City has determined that there are over 217 STRs in Irving, 169 of which are operating in single-family dwellings; and

WHEREAS, of the 217 identified STRs in Irving, 170 owners of STRs have not paid to the City the hotel occupancy tax as required by the applicable provisions of state law and the Irving Code of Civil and Criminal Ordinances; and

WHEREAS, the City has received numerous complaints about STRs in the past 5 years from citizens who have contacted code enforcement, police and city councilmembers about STRs in their neighborhoods; and

WHEREAS, when investigating complaints, the City does not have adequate contact information for owners of STRs, which would be beneficial in timely responding to complaints and in the event of life, health or safety emergencies; and

WHEREAS, out-of-town guests staying at STRs are often unfamiliar with City of Irving ordinance regulations governing noise, trash collection, occupancy restrictions, and parking, as those regulations vary by jurisdiction, and lack of familiarity with the City of Irving's ordinances can contribute to guests violating city ordinances; and

WHEREAS, it is incumbent on property owners to fully apprise STR guests of applicable City of Irving ordinance regulations to ensure that the STRs do not negatively impact residential neighborhoods because of the transient nature of the guests staying at STRs; and

WHEREAS, STRs can often times become party houses where there is an increase in activity of persons, traffic, and noise that are disruptive to the neighborhood; and

WHEREAS, the City Council desires to preserve and enhance residential neighborhoods; and ensure compliance with maximum occupancy requirements and other regulations applicable to single-family dwellings; and

WHEREAS, the City Council finds that enacting a registration program for STRs will serve to balance the rights of all stakeholders through a fair and balanced regulatory framework that permits STRs in single-family residential dwellings but ensures that the STRs do not become a nuisance to the residential neighborhoods; and

WHEREAS, regulations requiring the registration of STRs in Irving will allow the City to properly identify the location of STRs, to ensure that the STRs are paying all required taxes to the city, including hotel occupancy taxes, and to provide contact information for owners and agents of STRs to aid in responding to complaints and emergencies; 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 an ordinance that, among other things, is for the good government, peace, or order of Irving; and

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

WHEREAS, as a home-rule municipality with the full power of local self-government, the City of Irving has the power to enact ordinances in accordance with Article III, Section 2 of the Irving City Charter; and

WHEREAS, the City Council finds it is in the best interests of the citizens of Irving and will protect the public health, safety and welfare to adopt regulations requiring the registration of single-family dwelling STRs in Irving.

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

SECTION 1: Findings Incorporated. 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 Civil and Criminal Ordinances, Chapter 8, is hereby amended to add Article XI, entitled “Short Term Rental Registration,” to read in its entirety as follows:

PART II - THE CODE  
Chapter 8 - BUILDING STANDARDS CODE  
ARTICLE XI. SHORT TERM RENTAL REGISTRATION

## **ARTICLE XI. SHORT-TERM RENTAL REGISTRATION**

### **Sec. 8-80. Definitions.**

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*Agent* means a person who is at least 21 years of age and is authorized by the owner to make decisions regarding the day-to-day supervision, management, and maintenance of a short-term rental.

*Certificate of Registration* means a permit issued by the code enforcement director to the owner of a short-term Rental under this article.

*Department* means the Code Enforcement Department.

*Guest* means a person who is temporarily occupying, living, or sleeping in a short-term rental.

*Owner* means a person who owns the real property where a short-term rental is located.

*Registrant* means a person who applies for and/or possesses a certificate of registration for a short-term rental under this article.

*Short-Term Rental* means any single-family residential structure, or portion thereof, used for lodging accommodations to guests for a period of less than 30 consecutive days.

### **Sec. 8-81. Certificate of Registration.**

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A person commits an offense if he owns or operates a short-term rental within the city without a valid certificate of registration under this article.

#### **(a) Application.**

- 1) An owner of a short-term rental shall submit to the city an application on a form supplied by the department. The following information must be supplied on the application:
  - i. The physical/street address of the short-term rental;
  - ii. The name, physical/street address, mailing address, facsimile number, e-mail address, telephone number, date of birth, driver's license number, of the owner and agent;
  - iii. If the owner is not an individual, the name, physical/street address, mailing address, facsimile number, e-mail address, and telephone number of the corporate representative with authority to act on behalf of the owner and a copy of the documents filed with the Texas Secretary of State establishing the business entity and showing the entity is in good standing with the State of Texas;
  - iv. The name and website link to all internet platforms that host advertisements or take reservations for lodging at the short-term rental at any time during a 12-month period from the date of application;
  - v. The account number issued by the City of Irving for the payment of hotel occupancy taxes in connection with the operation of the short-term rental;
  - vi. The number of bedrooms in the short-term rental and the number of off-street parking spaces available on the property where the short-term rental is located;
- 2) The registrant shall sign the application for a certificate of registration.

- 3) The registrant must notify the department in writing of any material change in the information contained in the application for a certificate of registration within seven (7) days of the change, including a change of ownership; management; and advertisements hosted on internet platforms.
- (b) Issuance. The code enforcement director shall issue a certificate of registration to the registrant if the code enforcement director determines that:
- 1) All fees required under this article and taxes, including hotel occupancy taxes required under Chapter 16A of the Code of Civil and Criminal Ordinances of the City of Irving, Texas, have been paid to the city;
  - 2) The registrant has submitted a complete application and has complied with all requirements for issuance of a certificate of registration; and
  - 3) The registrant has not made a false statement as to a material matter in the application for the certificate of registration.
- (c) Denial. If the code enforcement director determines that the requirements of subsection (b) of this section have not been met, the code enforcement director may deny the certificate of registration. The code enforcement director shall deliver written notice to the registrant that the certificate of registration has been denied and the basis for the denial.
- (d) Transfer Prohibited. A certificate of registration is not transferable to a different owner of the short-term rental or to a different short-term rental located on another premises.
- (e) Expiration and Renewal.
- 1) A certificate of registration expires upon the earlier of the following occurrences:
    - i. One (1) year after the date of issuance; or
    - ii. When the ownership of the short-term rental changes.
  - 2) An owner shall file an application to renew a certificate of registration by making application in accordance with section 8-81 and paying all fees described in section 8-82. A registrant shall apply for renewal of the certificate of registration at least thirty (30) days but no more than sixty (60) days prior to its expiration.
- (f) Revocation and Reinstatement.
- 1) The code enforcement director may revoke a certificate of registration if:
    - i. the registrant fails to comply with any provision of the city ordinances or any state or federal law applicable to the operation of the short-term rental or the property on which it is located;
    - ii. the registrant intentionally makes a false statement regarding a material matter in the application for the certificate of registration or in a hearing concerning the certificate of registration;
    - iii. the registrant fails to notify the code enforcement director in writing of any material change in the information contained in the application as required in sub-section (a)(3);
    - iv. the registrant fails to pay a fee required by this article at the time the payment was due; or

- v. the registrant fails to pay any hotel occupancy tax required under Chapter 16A of the Code of Civil and Criminal Ordinances of the City of Irving, Texas.
- 2) Prior to revoking the certificate of registration, the code enforcement director shall deliver written notice of the possible revocation, the basis of the revocation, and a statement that the registrant has ten (10) days after delivery to comply with the notice to prevent revocation.
- 3) Upon revocation of the certificate of registration, the code enforcement director shall send written notice of revocation, the basis of the revocation, and a statement informing the registrant of the right to appeal a revocation.
- 4) Once during a registration period, the code enforcement director may reinstate a revoked certificate of registration of a short-term rental if the basis of the revocation is remedied within thirty (30) days of revocation.

(g) Appeal.

- 1) If the code enforcement director denies the issuance or renewal of a certificate of registration or revokes a certificate of registration, the action is final unless the registrant files a written appeal to the construction board of appeals within seven (7) calendar days of delivery of the notice of revocation.
- 2) If a written request for an appeal hearing is filed with the code enforcement director within the seven-day period, the construction board of appeals shall hear the appeal within thirty (30) days from the city's receipt of the appeal unless otherwise agreed by the city and the appellant.
- 3) Failure to file an appeal in accordance with this section is a waiver of appeal and the code enforcement director's decision shall be final.
- 4) The revocation of a certificate of registration is stayed pending appeal.
- 5) At the appeal hearing, the construction board of appeals may only affirm or reverse a denial or revocation if the appellant proves that the code enforcement director erred in denying or revoking the certificate of registration as of the date of the revocation or denial. The board may not consider the appellant's subsequent remedial measures or payments in determining whether to affirm or reverse the code enforcement director's decision. The decision of the board is final as to administrative remedies, and no rehearing or appeal may be granted.

- (h) Presentation of Certificate of Registration. A certificate of registration must be presented upon request to the department's employees.

**Sec. 8-82. Certificate of Registration Fee.**

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- (a) For issuance or renewal of a certificate of registration, registrants shall pay a fee of two-hundred dollars (\$200.00) to the city.
- (b) The fee shall be paid at the time the initial application is filed and at the time each renewal application is filed with the code enforcement director.
- (c) The fee for issuing a replacement or duplicate certificate of registration is twenty dollars (\$20.00).

**Sec. 8-83. Agent and Emergency Contact.**

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- (a) The owner shall designate an agent who will be able to arrive at the premises on which a short-term rental is located within one (1) hour of being contacted by a city employee regarding an emergency at the short-term rental or premises. An emergency includes a fire, serious police incident, natural disaster, or other condition that requires an immediate response to prevent adverse health impacts and risk substantial danger of injury to persons or property.
- (b) The agent shall be at least 21 years of age; authorized by the owner to make decisions regarding the day-to-day supervision, management and maintenance of the short-term rental; and be capable of being contacted twenty-four (24) hours a day and seven (7) days a week.

**Sec. 8-84. Guest Notification.**

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- (a) The owner of a short-term rental shall post and maintain in a conspicuous location within the interior of a short-term rental the following:
  - 1) The owner's and designated agent's name and twenty-four (24) hour contact telephone number;
  - 2) Pertinent information on forms provided by the code enforcement director that shall include but not be limited to:
    - i. City ordinances and regulations for parking, trash collection and noise;
    - ii. Police and Fire department emergency and non-emergency telephone numbers; and
  - 3) A floor plan of evacuation routes and exits within the short-term rental.

**Sec. 8-85. Other Standards.**

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- (a) It shall be unlawful to advertise a short-term rental listing or offer lodging in a short-term rental without first obtaining a certificate of registration.
- (b) It shall be unlawful to advertise accommodations or use of a short-term rental that exceeds the maximum occupancy standards in Section 8-31.

**Sec. 8-86. Notices by City.**

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A notice given by the city pursuant to this article is deemed to have been delivered by the city on the date that it is delivered in person, posted on or near the front door of the structure if personal delivery cannot be obtained, or delivered by certified mail to the registrant at the address provided by the registrant in the application for the certificate of registration. If the notice is returned as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

**Sec. 8-87. Authority of Code Enforcement Director.**

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The code enforcement director shall implement and enforce this article and may establish in writing such policies, regulations, or procedures, not inconsistent with this article as the code enforcement director determines are necessary to discharge any duty under or to affect the policy of this article.

## **Sec. 8-88. Violations; Penalty.**

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(a) A person who violates a provision of this article or fails to perform an act required of the person by this article commits an offense. A person commits a separate offense each day or portion of a day during which the violation is committed, permitted, or continued.

(b) An offense under this article is a strict liability offense and the culpable mental state required by the Texas Penal Code is hereby specifically negated and clearly dispensed with for the commission of an offense under this article.

(c) Unless specifically provided otherwise in this chapter or by state or federal law, a person who commits an offense under this chapter, upon conviction, shall be fined an amount not to exceed \$500.00.

(d) An offense under this chapter is a strict liability offense and the culpable mental state required by the Texas Penal Code is hereby specifically negated and clearly dispensed with for the commission of an offense under this chapter.

(e) The criminal remedies in this section are in addition to and cumulative of the remedies available to the City for enforcement of the provisions of this chapter. Nothing in this section shall limit any and all other civil or administrative remedies available to the City in seeking to enforce the provisions of this chapter, including but not limited to a petition for injunctive relief to require compliance with this chapter.

SECTION 2. That nothing in this ordinance shall be constructed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION 3. That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Irving, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION 4. Should any paragraph, sentence, 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.

SECTION 5. That this ordinance shall take effect October 1, 2022 and shall be published in accordance with the provisions of the Texas Local Government Code and the Irving City Charter.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS,  
on February 24, 2022.

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RICHARD H. STOPFER  
MAYOR

ATTEST:

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Shanae Jennings  
City Secretary

APPROVED AS TO FORM:

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Kuruvilla Oommen  
City Attorney