

ORDINANCE NO. 2021-3322

AN ORDINANCE OF THE CITY OF BEDFORD, TEXAS, AMENDING CHAPTER 26, "BUSINESSES" OF THE CODE OF ORDINANCES, TO CREATE A DEFINITION AND DEFINE THE STANDARDS AND REVIEW PROCESS FOR SHORT-TERM RENTALS; AMENDING APPENDIX A, "FEE SCHEDULE," PROVIDING FOR ADMINISTRATIVE FEES ASSOCIATED WITH PERMITTING AND INSPECTION OF SHORT-TERM RENTAL PROPERTIES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bedford, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the increase in the number of persons or entities desiring to rent their residential properties has led to the proliferation of transient and vacation rental uses within neighborhoods previously planned, approved and constructed for use as single-family residences; and,

WHEREAS, the use of single-family residences by individuals for short periods of time may negatively impact the residential character of many neighborhoods by reducing communication and accountability between permanent residents by partially substituting permanent residents with transient visitors; and,

WHEREAS, the regulation of the use and operation of such "short-term rental" property is intended to prevent the further erosion of pre-existing and stable single-family neighborhoods, and further advance the City Council's objective of championing great neighborhoods; and,

WHEREAS, the rise of substitute land uses for residential property contributes to the shortage of affordable housing, both ownership and long-term rental; and,

WHEREAS, the City Council finds and determines that regulations related to short-term rental uses should be adopted to define short-term rentals, establish standards for operation and appropriate review processes applicable to such uses, and establish commensurate permitting and inspection fees; and,

WHEREAS, the purpose of the regulations set forth herein is to provide a procedure to allow the rental of private residences to visitors on a short term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic and noise, and, additionally, to ensure that the number of occupants within such rental units do not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions; and,

WHEREAS, the City Council finds that these regulations are necessary to prevent the imminent destruction of property and injury to persons; and,

WHEREAS, the City Council finds that the amendment to Chapter 26, as outlined herein, is in the best interest of the City of Bedford and will promote the health, safety, and general welfare of the citizens of the City of Bedford and the general public.

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

SECTION 1. That the findings above are found to be true and correct, and are incorporated herein.

SECTION 2. That Chapter 26 of the Code of Ordinances, City of Bedford, Texas, is hereby amended by adding a new article, to be numbered Article V, which such article reads as follows:

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ARTICLE V. - SHORT-TERM RENTAL

Sec. 26-151. - Purpose of article.

The purpose of the regulations set forth herein is to provide a procedure to allow the rental of private residences to visitors on a short term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density and, additionally, to ensure that the number of occupants within such rental units do not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

Sec. 26-152. - 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:

Code or City Code shall mean the Code of Ordinances, City of Bedford, Texas.

Department shall mean the Development Department of the City.

Director shall mean the Development Director of the City or their designated representative.

Fire Marshal shall mean the Fire Marshal of the City or their designated representative, including any code or building inspections official of the City.

Permit shall mean the permit issued pursuant to the terms of this Article authorizing the operation of a short-term rental.

Short-Term Rental means the rental for compensation, of any residence or residential structure, or a portion of a residence or residential structure, located within a zoning district where the residential use is lawful, for the purpose of overnight lodging for a period of not more than thirty (30) days. A Short-Term Rental is also known as a tourist home or tourist house, but shall not include a hotel, motel, extended stay hotel/motel, boardinghouse, or rooming house.

Sec. 26-153. – Short-Term Rental Permit Application.

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 permit application has not been properly made and filed with the Department, and a permit issued. A permit application shall be made upon forms furnished by the City for such purpose and shall specifically require the following minimum information:

- (1) The name, address, contact information, and signature of the owner of the premise (or signed owner authorization, on a form provided by the City);
- (2) The name, address, and phone number of the 24-hour contact;
- (3) The registration number for the City of Bedford Hotel Occupancy Tax as required by Section 26-154 (I), below;
- (4) A parking plan of the premises identifying the location of parking spaces to be used in conjunction with the short-term rental, in relation to the residence;
- (5) A dimensioned floor plan of the proposed short-term rental identifying bedrooms, other living spaces and emergency evacuation routes;

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- (6) Proof of host protection or liability insurance, which shall include the following:
 - a. The City, its officials, employees, agents and officers shall be named as an “additional insured” on all policies; and
 - b. Each policy shall be endorsed to provide the City with a minimum of a 30-day notice of cancellation, non-renewal, and/or material change in policy terms or coverage; provided, however, a minimum 10-days’ notice shall be required in the event of non-payment of premium;
- (7) A current tax certificate(s) indicating all taxes for the subject property have been paid to the current year (available from Tarrant Appraisal District). Tax statements printed from the Tarrant County website (pdf) are acceptable in lieu of the original certificate(s);
- (8) A copy of the proposed host rules for the short-term rental; and
- (9) A statement that the owner of the short-term rental complies with and will continue to comply with the standards and other requirements of this article.

Sec. 26-154. – Regulations.

- (a) **Maximum stay.** It shall be unlawful for an owner to rent or lease a short-term rental for a period of more than thirty (30) days.
- (b) **Occupancy.** The maximum number of persons permitted to stay in a short-term rental is limited to two (2) persons per bedroom, plus two (2) additional persons, while not exceeding a total of twelve (12) persons in the cumulative.
- (c) **Parking restrictions.** Parking is restricted to the number of spaces associated with the residential structure, either the driveway and garage, or by location or number assigned to a specific unit.
- (d) **Life Safety.**
 - (1) The *short-term rental* must be equipped with:
 - a. Working smoke detectors and working carbon monoxide detector (if served by natural gas) in accordance with the International Residential Code; and
 - b. A minimum of one 2A:10B:C type fire extinguisher (a standard five-pound extinguisher) properly mounted within seventy-five (75) feet of all portions of the structure on each floor.
 - (2) All gas appliances shall be properly ventilated outside the home.
 - (3) Emergency escape openings shall comply with the City’s currently adopted International Residential Code (IRC), with at least one emergency escape opening for each bedroom opening directly to the outdoors.
 - (4) An evacuation plan shall be posted in each bedroom.
 - (5) Any room that does not comply with subsection (d) *Life safety*, of this section shall not be used as a bedroom, and where equipped with a door, shall remain locked at all times when the dwelling is being used as a short-term rental. Any non-compliant bedroom shall not be included in the maximum occupancy calculation for the short-term rental, nor be advertised as a bedroom.

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- (e) **Conduct on premises.** Each short-term rental owner and occupant shall comply with all requirements of the City Code. In addition, the following shall be unlawful:
- (1) Use of amplified sound, excessive noise or other disturbances outside the short-term rental structure between the hours of 9:00 p.m. and 7:00 a.m. (pursuant to Section 54-34 of the Code) including, but not limited to, the following outside areas: decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas;
 - (2) Sleeping outdoors;
 - (3) Placing, or allowing to be placed, waste or recycling receptacles at the designated pickup location prior to 6:00 p.m. on the day before pickup or failing to remove waste and recycling receptacles within 24 hours after 7:00 p.m. of the scheduled collection days for that location (pursuant to Section 102-41 of the Code);
 - (4) Advertising or promoting a special event, or permitting the advertising or promotion of a special event (including, but not limited to, a banquet, wedding, reception, reunion, bachelor, bachelorette party, concert, or similar activity that would assemble large numbers of invitees) to be held on the premises; and
 - (5) Using or permitting the use of the short-term rental for the purpose of: housing 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.
- (f) **Signage.** On-premise signage advertising or identifying the short-term rental, shall not be permitted.
- (g) **Advertising.** The owner of a short-term rental shall not advertise or promote, or allow another to advertise or promote the short-term rental without including the occupancy limits and parking standards for the listing.
- (h) **Local Contact.** 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. Said individual must be available in person or by phone at all times while occupants are on the premises of the 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 receiving a call from the Director. A local responsible party must be authorized to make decisions regarding the premises and its occupants.
- (i) **Occupant Notification Packet.** The owner/operator shall post in a conspicuous location of the dwelling, a packet containing, at a minimum, the following information:
- (1) Maximum number of occupants;
 - (2) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas or on the street;
 - (3) Quiet hours and noise restrictions;
 - (4) 24-hour local contact person and phone number;
 - (5) Property cleanliness requirements;

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- (6) Waste pick-up requirements, including location of waste and recycling receptacles;
 - (7) Flooding hazards and evacuation routes, as well as information on the outdoor warning siren system;
 - (8) Emergency and non-emergency numbers; and
 - (9) Notice that failure to conform to the occupancy and parking requirements constitutes a violation of the City Code and an occupant or visitor may be cited.
- (j) ***Rental agreement notification.*** The rental agreement between the owner/operator of the short-term rental and the renter shall include, by attachment, all of the information provided in the occupant notification packet.
 - (k) ***Changes in ownership.*** The purchaser of a short-term rental shall provide the Director with current application materials required by Section 26-153, revised to include any new information associated with the change in ownership, within thirty (30) days of the closing date for the purchase of the short-term rental.
 - (l) ***Hotel occupancy taxes.*** The owner of the short-term rental property shall register with the City of Bedford Finance Department to pay hotel occupancy taxes, prior to the date that the short-term rental permit application is submitted.
 - (m) ***Request for occupancy history.*** Upon request of the Director the owner of a premises used as a short-term rental shall remit, within thirty (30) days, an accounting of all rental activity and the hotel occupancy taxes paid therefor.
 - (n) ***Right to inspect premises.***
 - (1) ***Inspections.*** The City shall perform periodic inspections of each short-term rental property to ensure compliance with this ordinance and other applicable laws. For the purpose of performing inspections, the City may enter, examine, and survey, at all reasonable times, all buildings, dwelling units, guest rooms, and the premises used as a short-term rental property. An owner or other authorized individual may refuse to consent to an inspection conducted by the City. If consent is refused, the City may seek an administrative search warrant authorized by Article 18 of the Texas Code of Criminal Procedure "Search Warrant" and the City of Bedford Code of Ordinances.
 - (2) The City may perform the following inspections:
 - a. ***Annual fire inspection.*** The Fire Marshal may perform annual fire inspections of the short-term rental property.
 - b. ***Repeat inspections.*** If, upon completion of an inspection, the premises are found to be in violation of one or more provisions of this Section, the City shall provide written notice of such violation and shall set a re-inspection date. If a property fails to pass an inspection, a re-inspection fee will be charged after the first re-inspection of the premises. A property cannot be occupied as a short-term rental while its status with the Fire Marshal's Office is noted as being in violation.
 - c. ***Fire extinguishers.*** The owner/operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the City and State regulations.

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- d. ***Change in ownership inspection.*** As part of the change in ownership process for a short-term rental the Fire Marshal shall conduct an inspection to verify compliance with this article.

Sec. 26-155. – Permit term, fees.

- (a) All permits issued under this article shall be valid for a period of one year from the date of its issuance.
- (b) A nonrefundable fee for administration of the application shall be charged. Such fee shall be paid at the time the application is made and shall not be returned to the applicant, regardless of whether a permit is issued. The fee for permitting of a short-term rental shall be as established in Appendix A of this Code.

Sec. 26-156. – Repeat offenses.

- (a) If the Director finds that the owner, operator or person in control of a short-term rental failed to comply with any requirement of this article, at least twice within a 12-month period, the Director may revoke an existing permit; or may deny an application to renew a permit. No new permit may be sought for the subject property, for a period of 12 months, following a denial or revocation pursuant to this section.
- (b) If a property is the subject of three or more violations of City Code, state or federal law within the previous 24-month period, the Director may: revoke an existing permit; may deny an application for an original permit; or, may deny an application to renew a permit, based on: (1) the frequency of any repeated violations; (2) whether a violation was committed intentionally or knowingly; and (3) any other information that demonstrates the degree to which the owner or occupant has endangered public health, safety, or welfare. No new permit may be sought for the subject property, for a period of 12 months following the denial or revocation pursuant to this section.
- (c) A permit applicant may appeal the Director's decision to revoke an existing permit or deny an application, in accordance with the process set forth in section 26-157 of this article.

Sec. 26-157. – Appeals.

- (a) The revocation of a permit or the denial of an application for a permit to operate a short-term rental, by the Director, may be appealed to the City Manager in accordance with the provisions of this section.
- (b) An appeal filed under this section must be filed with the Director no later than the 20th calendar day following the date on which the permit was revoked or denied. The appeal must identify each alleged point of error, facts and evidence supporting the appeal, reasons why the action of the Director should be modified or reversed, and must be sworn.
- (c) The City Manager or a designee shall, not later than the 10th calendar day after the date the notice of appeal is filed, hear the appeal, and may affirm, modify or reverse a permit revocation or application denial.
- (d) The City Manager or designee shall give written notice of a decision on an appeal to the appellant.
- (e) An appellant who seeks judicial review of the City Manager's review on appeal must file a petition with a court of competent jurisdiction not later than the 30th calendar

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day after receipt of the notice of the decision.

Sec. 26-158. – Enforcement.

- (a) If the owner of the short-term rental property fails or refuses to comply with the standards contained herein, the City may initiate enforcement action against the property owner including, but not limited to, the immediate issuance of a citation.
- (b) *Prima Facie evidence of a Short-term rental use.* Any advertisement, whether it be online or in print, promoting the availability of a property within the City for rent for a period of thirty days (30) or less, shall constitute prima facie evidence of the property's use as a short-term rental.

SECTION 3. That Appendix A, "Fee Schedule," of the Code of Ordinances, City of Bedford, Texas, is hereby amended to add a fee of \$200.00 for a short-term rental permit, under the Building Department Fee Schedule list, Miscellaneous, to be inserted alphabetically as follows:

Appendix A. – Fee Schedule

Building Department Fee Schedule

Miscellaneous

Short-term Rental Registration Permit \$200.00

SECTION 4. That Appendix A, "Fee Schedule," of the Code of Ordinances, City of Bedford, Texas, is hereby amended to add a fee of \$60.00 for a short-term rental inspection or re-inspection, under the Fire Department Fee Schedule list, Fire Marshal/Inspections, to be inserted alphabetically as Fire Marshal Annual Inspection Fee - Short-Term Rental, and shall read as follows:

Appendix A. – Fee Schedule

Fire Department Fee Schedule

Fire Marshal/Inspections

Annual Inspection/Re-Inspection Fee - Short-term rental \$60.00

SECTION 5. That short-term rentals operating on the effective date of this Ordinance shall be brought into full compliance with the terms of this Ordinance within sixty (60) days of the effective date hereof.

SECTION 6. That this Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Bedford, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

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SECTION 7. That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 8. That any person, firm, or corporation who violates any provision of this Ordinance as adopted by the City Council of the City of Bedford shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-7 of the Code of Ordinances, City of Bedford, Texas. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 9. That all rights and remedies of the City of Bedford are expressly saved as to any and all violations of the provisions of the Code of Ordinances as amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 10. That this Ordinance shall be in full force and effect from and after January 1, 2022.

PRESENTED AND PASSED this 26th day of October 2021, by a vote of 7 ayes, 0 nays, and 0 abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

Michael Boyter, Mayor

ATTEST:

Michael Wells, City Secretary

APPROVED AS TO FORM:

Bryn D. Meredith, City Attorney