ORDINANCE NO. 2020-4191

AN ORDINANCE AMENDING CHAPTER 103, "BUILDINGS AND BUILDING REGULATIONS," OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY ADDING A NEW ARTICLE VI, "SHORT TERM RENTAL REGULATIONS," RELATING TO THE REGULATION OF SHORT TERM RENTALS; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 103, "BUILDINGS AND BUILDING REGULATIONS," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit "A"** attached hereto and made a part of this Ordinance for all purposes.

PART 2: If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.

PART 3: That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars ($25.00) and not more than five hundred dollars ($500.00) or more than two thousand dollars ($2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 4: This Ordinance becomes effective October 1, 2020.

PASSED, ADOPTED and APPROVED this 25th day of June, 2020.

ATTEST:

Tanya Smith

City Secretary

APPROVED:

Karl Mooney

Mayor

APPROVED:

Carla A. Robinson

City Attorney

EXHIBIT A

That Chapter 103, "BUILDINGS AND BUILDING REGULATIONS," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by adding a new Article VI, "SHORT TERM RENTAL REGULATIONS," to read as follows:

ARTICLE VI. – SHORT TERM RENTAL REGISTRATION

Sec. 103-242. – Applicability.

This article applies to all Short Term Rental operators unless expressly provided otherwise herein.

Sec. 103-243. – Purpose and Intent.

The purpose of this article is to safeguard the life, health, safety, welfare, and property of the occupants of residential dwelling units, the neighbors of said occupants, and the general public, through the registration and regulation of Short Term Rentals and to ensure the collection and payment of hotel occupancy taxes.

The intent of this article is to preserve the neighborhood character of residential subdivisions within the City of College Station and to minimize adverse impacts to residential subdivisions caused by Short Term Rentals.

Sec. 103-244. - 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:

Administrator means the City Manager or designee.

Bed and breakfast facility means an accessory to a single-family dwelling in which no more than four (4) unrelated individuals occupy the property overnight, maintain a residential appearance and be the permanent residence of the proprietor, no more than four (4) rooms where shared/common bathrooms are provided, and no cooking facilities permitted in individual rooms.

Dwelling Unit means a residential unit providing complete, independent living facilities for one (1) family including permanent provisions for living, sleeping, cooking, eating, and sanitation.

Hotel Occupancy Tax means the hotel occupancy tax required to be assessed and collected for the operation of any Short Term Rental and paid pursuant to Chapter 351 of the Texas Tax Code.

Local Contact means an individual located within 30 miles of the College Station City Hall who has access to the property and is authorized to make decisions regarding the property while a Short Term Rental is being rented.

Operator means any person, firm, or corporation who operates a short term rental, as defined in this article.

Owner means any person, firm, trust, corporation, partnership, or any other legal entity who has a legal or equitable interest in the property.

Owner-occupied means the property's owner of record that utilizes the dwelling as the owner's primary residence.

Previously Existing Non-Owner Occupied Short Term Rental means a Short Term Rental located within General Suburban (GS), Restricted Suburban (RS), or Wellborn Restricted Suburban (WRS) where the property's owner of record does not utilize the dwelling as a primary residence or homestead and has engaged in the operation of a Short Term Rental in the City for a period of at least 12 months prior to the effective date of this Article.

Short Term Rental means a dwelling unit that is rented out for compensation on a temporary basis for a period of less than 30 consecutive days; including but not limited to, single-family unit, duplex unit, tri-plex, four-plex unit, multi-family unit, manufactured or mobile home unit, townhome, or condominium.

Short Term Rental I means a bed and breakfast facility located in a residential zoning district. The property must be a single-family dwelling in which no more than four (4) unrelated individuals occupy the property overnight and be the permanent residence of the proprietor. No more than four (4) rooms where shared/common bathrooms are provided are permitted, and no more than one (1) meal is served daily.

Short Term Rental II means a short term rental unit that is owner-occupied within a residential zoning district of General Suburban (GS), Restricted Suburban (RS), or Wellborn Restricted Suburban (WRS). This may include an accessory dwelling located on the property; if so, the owner or designated local contact is required to be on the premises during the rental.

Short Term Rental III means short term rental within a residential zoning district other than General Suburban (GS), Restricted Suburban (RS), or Wellborn Restricted Suburban (WRS) that may be non-owner-occupied.

Short Term Rental Permit means a permit issued by the City that identifies the address of the subject property as a lawful short term rental, the short term rental permit number, the names and contact information of the owner and local contact, and a 24-hour emergency contact phone number for all the preceding persons.

Sec. 103-245. – Permit Required.

(a) It shall be unlawful for any person or entity to rent, or offer to rent, any short term rental without a valid short term rental permit issued under this article.

(b) A permit issued under this article may not be transferred and does not convey with the property upon sale. Each new owner of a permitted or previously permitted dwelling unit must apply for a short term rental permit to rent property under the short term rental guidelines.

(c) Each short term rental, shall be issued a permit with a unique permit number. The permit number must be included in any and all advertisements for the short term rental including internet booking sites.

(d) A permit shall be valid for a period of one year from the date of issuance and may be renewed by applying in accordance with this article.

Sec. 103-246. Permit Application.

A person seeking a short term rental permit shall submit an application to the City Manager or designee. Said application shall be in writing, on a form provided by the City, and shall include the following information (if applicable):

(b) The name, address, email address, and telephone number, of the property owner or operator. If the applicant or owner is a partnership, a corporation, or limited liability company, the application shall list the registered agent;

(c) For Short Term Rental I and II, proof that the premises is the claimed Brazos County homestead residence of the applicant, or the applicant may provide proof of application for the Brazos County Homestead Exemption for the property along with two of the following: motor vehicle registration, driver's license, Texas State Identification card, voter registration, tax documents, or utility bill. Evidence of the Brazos County Homestead Exemption must be provided before permit renewal and may lead to permit denial if not received.

(d) The name, address, email, and twenty-four (24) hour telephone number of a local contact person;

(1) The local contact person is the person designated by the Operator who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of: (A) responding in person within one hour to complaints regarding the condition, operation, or conduct of occupants of the short term rental unit; and (B) taking remedial action to resolve such complaints. The owner may be listed as the local contact.

(e) The physical address of the short term rental;

(f) A statement that the Operator of the short term rental will comply with the requirements of this article and understands that the Operator is responsible and liable for any violations on the property;

(g) Verification the applicant has no delinquent hotel occupancy taxes due on the property;

(h) Such other information as the City Manager, or designee, deems reasonably necessary to administer this article.

Sec. 103.247. Permit Requirements.

(a) Life Safety Inspection. Prior to issuance of a short term rental permit, the Operator shall allow, with reasonable notice, an on-site inspection of the short term rental unit by the City Building Official or designee to ensure compliance with minimum health and safety requirements for use and occupancy. If a premises fails to pass an inspection, a re-inspection fee may be charged for each subsequent inspection in accordance with the fee established by resolution. If, upon completion of an inspection, the premises are found to be in violation of one or more provisions of applicable city codes and ordinances, the city shall provide written notice of such violation and shall set a re-inspection date for a violation to be corrected prior to its occupancy. Life Safety inspection may be waived for a renewing permit if all the following apply:

(1) Unit is classified as Short Term Rental I;

(2) Operator self-certifies compliance with life safety standards; and

(3) Operator has not been found in violation of this article.

(b) Hotel Occupancy Tax. It is a condition of the initial and continued validity of a Short Term Rental permit that the operator has paid and remains current on the payment of all hotel occupancy taxes owed to the City under the Texas Tax Code.

(c) Fees. The Applicant shall pay a nonrefundable application fee established in Section 2-117 upon submission of a short term rental application to the City. If a dwelling unit does not pass the initial life safety inspection, the applicant shall pay a non-refundable re-inspection fee established in Section 2-117.

Sec. 103.248. Permit Denial and Revocation.

(a) Denial of Permit. The permit application shall be denied and no permit shall be issued if the City finds that:

(1) Any statement made in the application is incomplete, inaccurate, misleading, or false;

(2) The operator, its partners, officers, owners, and other principals have not paid to the City all fees due under this article; or

(3) The applicant has had a short term rental permit revoked within the preceding 18 months.

(b) Revocation of Permit. The City may revoke a permit for one or more of the following reasons:

(1) The applicant fails to comply with or is in violation of any provision of the permit, City ordinances, or any other applicable law;

(2) The application contains a false or misleading statement of material fact;

(3) The authorized City official determines that the rental poses a serious threat to the public health, safety or welfare; or

(4) Failure to remit hotel occupancy tax.

(c) Notice of denial or revocation. The City shall provide written notice within ten (10) days of the denial or revocation of a permit to operator, which shall state the reason(s) for the decision and inform the operator of its right to appeal the decision in writing including when and to whom it must be delivered.

Sec. 103.249. Renewing permit.

(a) Renewing a permit. An Operator may file an application for renewal of the permit. The Administrator may deny the renewal if there is reasonable cause to believe that:

(1) The applicant has violated any ordinance of the city, or any state, or federal law on the property or has permitted such a violation on the property by any other person; or

(2) There are grounds for revocation or other sanction as provided in this article.

Sec. 103.250. Appeal.

(a) The applicant may appeal a denial of a permit by submitting in writing a notice to appeal, delivered to the City Manager's office no later than five (5) business days after the denial or revocation decision.

(b) The notice of appeal must be in writing and state the grounds for the appeal and why the determination should be reversed or modified. If the applicant makes a timely, written request for appeal, the City Manager or designee shall hold a hearing within ten (10) business days.

(c) The applicant shall have the opportunity to be heard at the hearing.

(d) After the close of the hearing, the City Manager or designee shall make a determination concerning approval, denial, or modification of the permit within five (5) business days.

Sec. 103-251. Exemption.

(a) Previously Existing Non-Owner Occupied Short Term Rental. A Previously Existing Non-Owner Occupied Short Term Rental that was in use for the twelve (12) months preceding the effective date of this Article is allowed to continue, subject to the following:

(1) An Owner/Operator must provide a sworn affidavit and demonstrate to the satisfaction of the City Manager or his or her designee that the Short Term Rental was being used as a Short Term Rental on a continuous basis for the twelve (12) months preceding the effective date of this Article; and

(2) An Owner/Operator of a Short Term Rental provides proof in establishing that the Short Term Rental meets all requirements of this Section other than owner occupancy of the Short Term Rental; and

(3) An Owner/Operator shows proof of remitted State and Local Hotel Occupancy Taxes due for a period that covers at least 6 of the 12 months, or 12 of the last 24 months immediately preceding the effective date of this Article; and

(4) An Owner/Operator, within 60 days of the effective date of this section, applies for a Previously Existing Non-Owner Occupied Short Term Rental Exemption on an application provided for by the City; and

(5) An Owner/Operator pays the Permit Fee as required by Sec. 2-117.

(b) This Section shall apply until one of the following occurs:

(1) The property permitted as a Previously Existing Non-Owner Occupied Short Term Rental is sold or conveyed to another owner; or

(2) The property permitted as a Previously Existing Non-Owner Occupied Short Term Rental ceases to be used as a Short Term Rental for a continuous 12 month period; or

(3) The property permitted as a Previously Existing Non-Owner Occupied Short Term Rental has been found to be in violation of this ordinance or other local or state law on three or more occasions.

Sec. 103-252. Short Term Rental Operating Requirements.

Each short term rental operator shall do the following:

(a) Informational Brochure. Each operator shall provide to guests a brochure that includes:

(1) The operator's 24-hour contact information;

(2) Pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, and trash collection schedules; and

(3) 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) Life Safety Equipment. Each operator shall equip the dwelling unit with working smoke detectors in accordance with adopted codes, at least one working carbon monoxide detector and alarm if the dwelling uses natural gas or propane, and one working fire extinguisher for each floor of the dwelling.

(c) Maintain the dwelling unit in compliance with applicable building and fire codes adopted by the City.

(d) Collect and remit the hotel occupancy tax in accordance with Chapter 351 of the Texas Tax Code. The operator shall remit to the City of College Station fiscal services department, or designee, all city hotel occupancy taxes collected pursuant to state law by the last business day of the month following the month of collection.

Sec. 103.253. Violation; penalties.

It shall be unlawful for a short term rental operator to operate, maintain or conduct within the City a short term rental without first securing a permit, and/or without complying with all of the provisions of this article or any other law.

Any person, firm or corporation violating any of the provisions of this article shall be punished as provided in Section 1-7.

Failure to timely pay the hotel occupancy taxes is considered a violation of this article and may result in revocation of the permit. Owner shall have 30 days from the date the city or state issue a notice of delinquency to submit hotel occupancy tax to city and state before revocation of the short term rental permit begins.