

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 14, “BUSINESSES” OF THE CODE OF ORDINANCES OF THE CITY OF BURLESON, TEXAS (2005), AS AMENDED, BY ADDING ARTICLE XII, ENTITLED “REGISTRATION OF SHORT TERM RENTALS” AND ESTABLISHING GENERAL STANDARDS AND A REGISTRATION PROCESS FOR SHORT-TERM RENTALS, ESTABLISHING FEES, AND PROVIDING DEFINITIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson (“City”) 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 Texas Local Government Code; and

WHEREAS, the increase in the number of persons or entities desiring to rent their residential properties has led to the increase of transient and vacation rental uses within neighborhoods; and

WHEREAS, the use of residential premises 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 City has investigated the nature and extent of short-term rentals in the City and has obtained public input at public meetings regarding the impact of short-term rentals on neighborhoods in the City; and

WHEREAS, the City has received complaints about short-term rentals from citizens who have contacted code enforcement, police, and City councilmembers about short-term rentals; and

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

WHEREAS, the City Council desires to ensure the health and safety of guests and residents, but also support tourism in a balanced way; and

WHEREAS, the City Council reviewed a variety of possible regulations for short-term rentals and determined that enacting a registration program for short-term rentals will serve to balance the rights of all stakeholders through a fair and balanced regulatory framework and ensure that the short-term rentals do not become a nuisance; and

WHEREAS, the City wishes to adopt regulations requiring the registration of short-term rentals in Burleson, which will allow the City to properly identify the location of short-term rentals and to provide contact information for owners and agents of short-term rentals to aid in responding to complaints and emergencies; and

WHEREAS, City Council finds and determines that regulating the short-term rental property is necessary for the health, safety and welfare of the general public, the promotion of consistent land uses and development, and the protection of landowners and residents of the City of Burleson;

WHEREAS, the City Council finds and determines that the adoption of this ordinance is necessary and proper and in the best interests of the public health, safety, and general welfare.

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

SECTION 1.

The Code of Ordinances of Burleson, Texas (2005) is hereby amended by adding a new article, entitled Article XII “Short-Term Rental Registration” to Chapter 14 “Businesses”, comprised of Sections 14-570 through 14-582 which read as follows:

“ARTICLE XIII: SHORT-TERM RENTAL REGISTRATION

Sec. 14-571. Purpose.

This Article is intended to provide a procedure to allow the rental of residential premises to visitors on a short-term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to nuisances. Additionally, this Article is intended to ensure that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

Sec. 14-572. Definitions.

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 social media and mobile application.

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.

City means the City of Burleson, Texas.

City Manager means the city manager of the City.

Director means the director of the department designated by the City Manager to enforce and administer this Article, including the Director's designees.

Fire Code means the fire code adopted by the City.

Local Contact Person means the person designated by the Owner or 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 (1) 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 or Operator may be listed as the Local Contact Person.

Municipal Court means the City of Burleson, Texas Municipal Court of Record.

Operator means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit who is the proprietor of a Short-Term Rental with authority to act in that capacity, whether in the capacity of Owner, lessee, sub-lessee, mortgagee in possession, licensee, or any capacity. Where the Operator performs his or her functions through a managing agent of any type or character, other than an employee, or where the Operator performs his or her functions through a rental agent, the managing agent or the rental agent shall have the same duties as his or her principal.

Owner means any person, agent, operator, firm, trust, corporation, partnership, or any other legal entity who has a legal or equitable interest in the property; or who is recorded in the official records of the county as holding title to the property; or who otherwise has control of the property, including the guardian of the estate of any such person, and the executor of the estate of such person if ordered to take possession of real property by a court.

Occupant means any individual person living in, sleeping in, 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.

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

Short-Term Rental means a residential premise, or portion thereof, used for lodging accommodations to Occupants for a period of not less than one or more than thirty (30) consecutive days, other than an ongoing month-to-month tenancy granted to the same renter for the same premises. The definition of Short-Term Rental does not include a hotel, motel, bed and breakfast, executive suite, or other non-residential use.

Zoning Ordinance means the zoning ordinance adopted by the City.

Sec. 14-573. Unpermitted Short-Term Rentals Prohibited.

- (a) It shall be unlawful for any Owner, Operator, or person to rent, lease, advertise, or otherwise permit or allow any residential premises to be operated or used as an unpermitted Short-Term Rental.
- (b) It shall be an affirmative defense to violation of this section that the occupant is a party to the sale of the premises and was occupying the premises pursuant to a written post-closing occupancy agreement.

Sec. 14-574. Short-Term Rental Permit Required.

- (a) An Owner or Operator who desires to use its Premises as a Short-Term Rental must have valid, active short-term rental permit from the City prior to using, allowing the use of, or advertising the use of said Premises as a Short-Term Rental. Each rentable unit must be permitted. Upon application to the City, a Short-Term Rental permit shall be approved by the Director if the application satisfies all the conditions of this Article and the Zoning Ordinance. The Director may place reasonable conditions on Short-Term Rental permits to ensure compliance with the provisions of this Article.
- (b) A copy of the Short-Term Rental permit shall be posted at a conspicuous location inside the front entrance(s) to the Short-Term Rental.
- (c) Owners and Operators of Short-Term Rental units which were registered before the effective date of this ordinance shall have ninety (90) days from the effective date of this ordinance to secure the permit required under this Article.

Sec. 14-575. Transferability.

- (a) A Short-Term Rental permit is not transferable and shall not be assigned nor transferred to another person or entity. Any attempt to transfer a permit or attempt to use another person's permit may be grounds for revocation of a permit.

Sec. 14-576. Short-Term Rental Permit Application Process.

- (a) *Application requirement.* An Owner or Operator who wishes to offer his or her residential premises as a Short-Term Rental must submit an application for a permit to the City.
- (b) *Application process.* Applications shall be in writing on a Short-Term Rental application form prescribed by the City Manager or his designee. The date of receipt of an application form shall be recorded by the City in a manner sufficient to verify the date of its submission. The Owner or Operator must submit the following information on the application form:
 - (1) The physical address of the short-term residential premises; and

- (2) The number of bedrooms and the applicable overnight and daytime occupancy limit of the proposed Short-Term Rental premises; and
 - (3) The Owner's name, address, email address, and telephone number; and
 - (4) If the Owner is not a natural person, then the name, address, and email address of a natural person who has the legal authority to act for the Owner; and
 - (5) The Operator's name, address, email address, and telephone number; and
 - (6) If the Operator is not a natural person, then the name, address, and email address of a natural person who has the legal authority to act for the Operator; and
 - (7) The name, address, email address, and twenty-four (24) hour telephone number of a Local Contact Person; and
 - (8) A statement that the Owner or Operator of the Short-Term Rental will comply with the 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 with all applicable state and local laws, and that the Owner or Operator shall be liable for any violations of applicable state and local laws; and
 - (9) When applicable, written verification from the Owner that the Operator is authorized to operate the Premises as a Short-Term Rental; and
 - (10) Such other information as the City Manager or his designee deems reasonably necessary to administer this Article.
- (c) There shall be a nonrefundable permit application fee. The application fee shall be in the amount set forth in the City's fee schedule.
 - (d) *Additional application requirements.* The Short-Term Rental application form must be accompanied by a dimensioned floor plan of the of the Short-Term Rental identifying Bedrooms, other living spaces, and emergency evacuation routes.
 - (e) If an application form is determined to be incomplete, the Director shall notify the Owner or Operator in writing of the incomplete nature of the application and the basis for that determination.

Sec. 14-577. Expiration of Permit; Renewals.

- (a) A Short-Term Rental permit shall expire on the last day of the month one year after the date of issuance. No Short-Term Rental permit may be renewed without a completed renewal application submitted by the Owner or Operator and payment of the application fee. If the renewal application satisfies the conditions of this Article and all other provisions of the Code of Ordinances and the Zoning

Ordinance, an application for renewal of a Short-Term Rental permit shall be approved by the Director or his designee.

- (b) An application for a Short-Term Rental renewal permit must be filed beginning thirty (30) days prior to the expiration of a current permit. Every complete application for a Short-Term Rental renewal permit shall include updates, if any to the information contained in the original permit or any subsequent renewals. The permit holder shall sign a statement affirming that there is either no change to such information, or that any updated is accurate and complete. The Director may require such certifications deemed necessary and proper to ensure continuing compliance with this Article.
- (c) An application for a Short-Term Rental renewal permit submitted after the expiration of the most recent permit for the premises shall be treated as an application for a new permit as described in Section 14-576.
- (d) If a complete application for a Short-Term Rental renewal permit is submitted less than thirty (30) days prior to the expiration of the current permit, the Director, in his sole discretion, may grant a one-time extension of the current permit not to exceed ten (10) days.
- (e) A nonrefundable permit renewal application fee shall accompany any renewal application. The application fee shall be in the amount set forth in the City's fee schedule.

Sec. 14-578. Inspection.

Prior to issuance of a Short-Term Rental permit, the Owner or Operator shall allow, within ten (10) days of receipt of notice from the City, an on-site inspection of the Short-Term Rental premises by the Director or the Director's designee to ensure compliance with minimum health and safety requirements for use and occupancy. If, upon completion of an inspection, the Premises are found to be in violation of one (1) 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 issuance of a Short-Term Rental permit.

Sec. 14-579. Change of Information.

Any change of information provided in a Short-Term Rental application form must be reported to the City within ten (10) days and be continuously updated as changes occur.

Sec. 14-580. Additional Requirements.

- (a) Smoke Alarms and Fire Extinguisher. Each Short-Term Rental Owner or Operator shall provide in the Short-Term Rental working smoke and carbon monoxide detectors, with alarms, in accordance with adopted codes, and at least one working Type A fire extinguisher. The Owner or Operator is responsible for obtaining

annual independent inspections of the fire extinguishers in compliance with the City's current Fire Code. The premises shall otherwise comply with applicable Code of Ordinance requirements, including but not limited to all building and fire codes.

- (b) Emergency Evacuation Routes. Each Short-Term Rental Owner or Operator shall provide in a conspicuous place in the Short-Term Rental a dimensioned floor plan of the Short-Term Rental identifying Bedrooms, other living spaces, and emergency evacuation routes.

Sec. 14-581. Compliance and Enforcement; Penalty Provisions.

- (a) The Owner, Operator, Local Contact Person, and Occupants shall comply with all applicable laws, rules and regulations pertaining to the operation, use, and occupancy of a Short-Term Rental, as well as all City ordinances, including those related to trash, noise, and parking. The Owner shall not be relieved from any civil or criminal liability for a violation of this Article, regardless of whether such violation is committed by the Owner, Operator, Local Contact Person, or Occupant of the Owner's Short-Term Rental.
- (b) Nothing in this Article shall be construed to relieve any person or Owner of any other applicable requirements of federal, state, or local law, rules, or regulations. Nothing in this Article shall be construed to provide any property owner with the right or privilege to violate any private conditions, covenants, and restrictions applicable to the owner's property that may prohibit the use of such owner's property as a Short-Term Rental as defined in this Article.
- (c) It shall be unlawful for any person or entity to violate any provision of this Article. Proof that a violation of this Article occurred at a Short-Term Rental shall create a rebuttable presumption that the Owner of said Short-Term Rental committed the violation.
- (d) Prosecution under this Article shall not require the pleading or proving of any culpable mental state. Any violation of this Article which does not allege a culpable mental state is a Class C misdemeanor offense, and upon conviction shall be punished by a fine in the maximum amount of five hundred dollars (\$500.00).
- (e) If a culpable mental state is alleged in the charge of the offense and the offense governs fire safety or public health, such offense shall be punishable by a fine not to exceed two thousand dollars (\$2,000.00).
- (f) Penalties provided for in this Article are in addition to any other criminal or civil remedies that the City may pursue under federal, state, or local law.

Sec. 14-582. Revocation of Permit.

- (a) A permit may be denied or revoked by the Director for any of the following reasons:
 - (1) Providing false or misleading information on a Short-Term Rental application form.
 - (2) Information required to be provided as part of this Article has changed or is no longer accurate and the permit holder has failed to notify the City.
 - (3) Found guilty in the Municipal Court of two or more violations of the City of Burleson Code of Ordinances, this Article, or any other City ordinance within the preceding twelve-month time period.
 - (4) Failure to timely provide any information, or any corrected information, required under this Article.
- (b) Prior to denying or revoking a permit, the Director shall provide a written warning to the Owner or Operator, explaining the deficiencies in the application or permit, and provide for a deadline by which the applicant can voluntarily remedy the deficiencies.
- (c) Notice that a permit has been denied or revoked shall be given in writing to the Owner or Operator who completed the Short-Term Rental application form. The notice shall state the reason(s) for the denial or revocation, and it shall be served either by personal service or by certified United States mail to the address provided in the Short-Term Rental application form. The denial or revocation shall become effective on the date of service if served by personal service, or three (3) days from the date of mailing if served by United States mail.
- (d) To contest the denial or revocation of a permit, the applicant shall file a notice of appeal with the Director within ten (10) days following the effective date of the denial or revocation. If no notice of appeal is filed within ten (10) days, the denial or revocation is sustained.
- (e) The Director shall forward the notice of appeal to the board office of the City Zoning Board of Adjustment within three (3) business days of receipt of the notice of appeal.
- (f) The Zoning Board of Adjustment shall hold a hearing within a reasonable time, but no later than sixty (60) days of the appeal being received in the board office, and shall render a decision at the conclusion of the hearing.
- (g) An appeal shall not stay the denial or revocation of a permit unless otherwise directed by the Director.

- (h) If a Short-Term Rental permit is revoked by the Director, then for one year after the date of revocation, no second or additional permit shall be issued for a Short-Term Rental on the same Premises which are the location of the revoked permit.”

SECTION 2. CUMULATIVE

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Burleson, Texas, as amended, except where 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. This ordinance is consistent with and is not intended to repeal any provision in the zoning ordinance.

SECTION 3. SEVERABILITY

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

SECTION 4. SAVINGS PROVISION

All rights and remedies of the City of Burleson are expressly saved as to any and all violations of the provisions of any ordinances concerning outdoor gatherings or Public Events 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 5. PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense; however, if a culpable mental state is alleged in the charge of the offense and the offense governs fire safety or public health, such offense shall be punishable by a fine not to exceed two thousand dollars (\$2,000.00). Each day that a violation is permitted to exist shall constitute a separate offense. Penalties provided for in this ordinance are in addition to any other criminal or civil remedies that the City may pursue under federal, state, or local law.

SECTION 6.
PUBLICATION

Pursuant to Section 36 of the Charter of the City of Burleson, that this ordinance shall take effect after its passage and publication, and that the City Secretary is hereby directed to give notice of the passage of this ordinance by causing the caption or title and the penalty clause of this ordinance to be published once in a newspaper of general circulation in the city and on the city's website.

SECTION 7.
EFFECTIVE DATE

This ordinance shall be in full force and effect on and after June 1, 2023. The City Secretary shall provide for the publication of this ordinance after its passage as required by law. And it is so ordained.

First Reading: the _____ day of _____, 20_____.

Final Reading: the _____ day of _____, 20_____.

PASSED AND APPROVED this the _____ day of _____, 20_____.

Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney