

Ordinance No. _____

An ordinance creating the “Short Term Rental” Chapter of the Code of the City of Arlington, Texas, 1987; providing regulations for residential property rented for time periods of less than thirty (30) consecutive days; providing for a fine of up to \$2,000.00 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date.

WHEREAS, clusters of residents in various neighborhoods in Arlington have expressed a strong desire to not have short term rentals in their neighborhoods;

WHEREAS, the City of Arlington Planning and Development Office has found that the 428 unique Short Term Rental properties in the city represent approximately 1/3 of 1% of total housing inventory, yet are widely distributed across the city with more than 90% of Arlington census tracts having at least one STR;

WHEREAS, a study by the firm Host Compliance, commissioned by the City of Arlington, found 80% of short term rental operators in Arlington have only one property, 92% have two or fewer properties, and 29% of short term rental operations are of owner occupied homes;

WHEREAS, City of Arlington Code Compliance has found just 3.7% of short term rental properties in Arlington had 10 or more calls for service between Oct 2016 and Oct 2018 of which none included owner occupied short term rentals;

WHEREAS, STR opt out provisions in other Texas cities (e.g. Galveston) have been demonstrated to be effective at excluding short term rentals from neighborhoods where an overwhelming majority of residents prefer not to have them;

WHEREAS, the City of Arlington is a home rule city with the power to enact ordinances to protect the health, safety and welfare of its citizens, tourists, and visitors; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “**Short Term Rental**” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby established and shall read as follows:

ARTICLE I

GENERAL PROVISIONS

Section 1.01 Title

This Chapter of the Code of the City of Arlington is hereby designated and shall be known and referred to as the “Short Term Rental” Chapter of the City Code of Ordinances.

Section 1.02 Purpose

The purpose of this Article is to establish regulations for the use of residential single family dwelling units as short term rentals and to ensure the collection and payment of hotel/motel occupancy taxes.

Section 1.03 Applicability

The provisions of this Chapter shall apply to all existing and future residential properties, both primary and accessory structures, and any portions thereof.

ARTICLE II

DEFINITIONS

Section 2.01 Definitions

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

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 mobile application.

Non-Owner Occupied Short Term Rental means a short term rental for which the dwelling is not the primary residence of the owner/operator.

Occupant means any individual person living, sleeping 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.

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.

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

Short Term Rental (STR) means residential premises, or portions thereof, used for lodging accommodations to occupants for a period of less than thirty (30) consecutive days. The definition of Short Term Rental does not include a Bed and Breakfast as defined in the Unified Development Code.

ARTICLE III

GENERAL REGULATIONS

Section 3.01 Notice to Owners

- A. An Owner shall designate the Owner, or an Agent or a Representative to comply with the requirements of this section on behalf of the Owner. The Owner or designated agent or representative is referred to as "Operator" herein.
- B. The Owner shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the residential dwelling unit as a short term rental unit, regardless of whether such noncompliance was committed by the Owner's authorized agent or representative or the occupants of the Owner's short term rental unit or their guests.
- C. This Article is not intended to provide any owner of residential property 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 residential property for short term rental purposes as defined in this section.

Section 3.02 Requirements

- A. Permit Required. No person shall sponsor, own, keep, advertise, maintain, rent or otherwise make available for occupancy or use a short term rental without first obtaining a permit from the Administrator as described herein.
- B. Permit Application and Fee.
 - 1. The City of Arlington Office of Planning and Development shall be the Administrator for the registration of short term rentals and collection of rental registration fees.
 - 2. To obtain a permit, the owner of a short term rental must submit a completed application on a form provided by the Administrator.
 - 3. The Administrator shall prescribe procedures for obtaining permits. The following is required for a short term rental and shall be included in the permit application:
 - i. Complete legal description, street address, and location of the short term rental unit;
 - ii. The name, address, email and telephone number of the Owner/Operator of the subject short term rental unit;

- iii. The name, address, email and telephone number of the local contact person who shall be available twenty four (24) hours per day, seven (7) days per week for the purpose of responding in person within one hour to complaints regarding the condition, operation, or conduct of occupants of the short term rental unit, and taking remedial action to resolve any such complaints;
 - iv. The square footage, number of bedrooms and the applicable overnight and daytime occupancy limit of the proposed short term rental unit;
 - v. A detailed and diagrammed parking plan; and
 - vi. Proof of valid and current registration under the Hotel Occupancy Tax program administered by the State of Texas and the City, and proof of payment of hotel occupancy taxes due as of the date of the submission of the application; and
 4. Each permit shall expire one year after issuance unless revoked or suspended earlier and may be renewed by application in accordance with this Section. A permit is nontransferable and cannot be used at different locations. A permit does not convey with a sale or transfer of the short term rental. A permit is nontransferable between owners. A change of ownership of the short term rental shall require the new owner or his agent to obtain a new permit for the residence.
 5. The Administrator shall issue a permit if the short term rental complies with the provisions of this Chapter and other federal, state, and local laws and regulations.
 6. Permit applicants shall pay a fee of \$100 for initial applications and \$50 for annual renewals.
 7. If an application does not include all required information and payment of fees, the application will be considered incomplete.
- C. Permit Denial, Suspension or Revocation. A permit may be denied, suspended, or revoked for the following reasons:
 1. Providing false or misleading information on a permit application or omitting required information;
 2. Information provided with the permit application is no longer accurate or effective and the permit holder fails to inform the City with the information;
 3. Required insurance policy is cancelled or not renewed;
 4. Two (2) or more citations or violations within a twelve (12) month period for any conduct or condition at the short term rental constituting a violation of this Chapter or of other federal, state, or local law;

5. Failure to pay taxes, fees, fines, or penalties, or failure to provide documentation showing that all hotel occupancy taxes have been paid for the property;
6. Activity at the location adversely affects traffic management or public safety; or
7. The short term rental is sold or otherwise transferred.

D. Restrictions.

1. Non-owner occupied short term rentals shall not be permitted to operate in "RX", Short Term Rental Exclusion Zone, zoning as defined in the Unified Development Code Chapter of the Code of the City of Arlington, TEXAS, 1987;
 2. Any dwelling used as a short term rental must maintain appropriate liability insurance;
 3. Occupancy of a non-owner occupied short term rental unit shall be limited to the greater of:
 - i. 2 people per bedroom plus an additional two people; excluding children under age 2, or
 - ii. 1 person per 200SF based on the gross square footage of the unit;
 4. Parking for all short term rentals shall be limited to no more than:
 - i. 1 vehicle for every 2 allowable guests
 - ii. Parking shall further be limited for single family homes to no more than the maximum allowable vehicles able to legally park in:
 1. Available garage space, plus
 2. Available driveway space, plus
 3. Available on street space within extended property lines
 5. All short term rental dwellings shall abide by the noise statutes of Texas Penal Code 42.01(c)(2); as well as the traffic and Motor Vehicles Chapter, the Nuisance Chapter, and all other applicable provisions of the City of Arlington Code of Ordinances;
 6. Banquet Hall events shall be prohibited at non-owner occupied short term rentals.
- E. Notwithstanding any other provision of this Chapter, nothing shall relieve any owner, person, or occupant of the obligations imposed by the applicable provisions of state law and the Arlington City Code, including but not limited to, those obligations imposed by the Tax Code. Further, nothing in this Chapter shall be construed to limit any remedies available under the applicable provisions of state law and the Arlington City Code.

ARTICLE IV

ENFORCEMENT

Section 5.01 Penalties

- A. A person who violates any provision of this Chapter by performing an act prohibited or by failing to perform an act required is guilty of a misdemeanor. Each day on which a violation exists or continues to exist shall be a separate offense.
- B. If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required. Such offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents (\$500.00). Although not required, if a culpable mental state is in fact alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).
- C. If the definition of an offense under this Chapter prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; 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.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective on July 1, 2019.

PRESENTED AND GIVEN FIRST READING on the ____ day of June, 2019, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the ____ day of June, 2019, by a vote of ____ ayes and ____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

W. JEFF WILLIAMS, Mayor

ATTEST:

ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY _____
GALEN GATTEN, Senior Attorney