

ORDINANCE NO. 2024-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 34, ARTICLE 7, RENTAL PROPERTY STANDARDS, OF THE SAN MARCOS CITY CODE BY UPDATING THE REGULATIONS GOVERNING SHORT-TERM RENTALS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Chapter 34, Article 7, Rental Property Standards, Sections 34.801-34.840 of the San Marcos City Code are hereby amended as set forth below. Added text is indicated by underlining. Deleted text is indicated by strikethroughs.

SECTION 2. Section 34.801 is hereby amended to read as follows:

Sec. 34.801. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated. Where terms are not defined, they shall have their ordinary accepted meanings.

Advertise means the act of drawing the public's attention to a rental unit in order to promote the availability of the rental unit.

Agent means a person designated by the short term rental operator in lieu of themselves as the 24-hour emergency contact for a lawfully operating short term rental.

Bed and breakfast shall be as defined in City Code of San Marcos, Texas, Section 5.1.5.6.

Bedroom means an area of a dwelling intended primarily as sleeping quarters. The term does not include a kitchen, dining room, bathroom, living room, utility room, or closet or storage area of a dwelling.

Block means the distance along a street from where one road crosses or intersects it to the place where the next road crosses it or intersects it.

City housing incentive means any monetary payment or concession provided by the City of San Marcos which has the expressed purpose of spurring or encouraging the development of housing, whether affordable or not, or redevelopment in the City of San Marcos.

Code official means ~~city marshal or~~ designated official who is charged with the enforcement of this Code.

Complex. See "multi-family unit (MFU)".

Director means the department(s) or division(s) of the City designated by the City Manager to administer and/or enforce the provisions of this Ordinance and any person or persons designated by such a department or division to represent the department or division for said purpose.

Duplex unit (DU)—(two-family dwelling). As defined by the International Building and/or Residential Code.

Good cause for the purposes of denial, suspension, revocation, imposition of conditions, renewal, and reinstatement of a Short Term Rental Permit, means

(1) the Applicant, Owner, the Owner's Agent, or the Local Contact Person has failed to comply with any of the terms, conditions, or provisions of this Chapter or any relevant provision of this Code, State law, or any rule or regulation promulgated thereunder;

(2) the Applicant, Owner, Owner's Agent, or Local Contact Person has failed to comply with any special conditions that were placed upon the Short Term Rental by the Enforcement Official; or

(3) the Short Term Rental has been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the Vacation Rental is located.

Hosting platform means a person who, for a fee or other charge, provides on an internet website an online platform that facilitates the rental of a short-term residential rental residential unit on behalf of an operator, including, without limitation, through advertising, matchmaking or other means.

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. *Landlord* means the owner, landlord, operator, and lessor, management company, managing agent or on-site manager of a rental unit or multi-family dwelling unit.

Local responsible party means ~~an individual~~ the Owner, Operator, or person designated by the Owner or the Operator, who shall be available 24 hours per day for the purpose of responding to concerns or requests for assistance related to the Owner's Short Term Rental located in the City of San Marcos while a rental unit is

~~being rented and~~ who has access to the premises and is authorized to make decisions regarding the premises.

Long term rental means any rental unit with a lease term for a period of 30 consecutive days or more. A long term rental does not include a hotel or motel as defined in the city's Development Code, subpart B of the city's Code of Ordinances.

Multi-family unit (MFU) means any building or portion thereof which is designed, built, rented, leased, or let to be occupied as three or more dwelling units or apartments. The term shall not include hotels, motels, nursing facilities, or assisted living units as defined in the city's Development Code, subpart B of the city's Code of Ordinances.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building. This includes, but is not limited to, persons that reside at a residence the majority of 21 calendar days, regardless if that person pays rent or provides in-kind services. The person is not required to have a lease, contract or other legal document to be considered an occupant.

Operator means any person who operates a short term rental, as defined in this article. For purposes of this article, a lessee of a unit, when expressly permitted in writing by owner, may serve as operator of a short term rental.

Owner means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or code official of the estate of such person if ordered to take possession of real property by a court.

Owner-occupied rental unit means a dwelling unit in which at least one owner of record of the property resides as his/her primary dwelling.

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

Primary residence means the usual dwelling place of the owner or tenant of a residential dwelling and is documented as such by at least two of the following: motor vehicle registration, driver's license, Texas State Identification card, voter registration, tax documents, or utility bill(s). For purposes of this chapter, a person may have only one primary residence.

Property. See "premises".

Registrant means owner, manager or representative of a property. For short term rentals only, it also includes a lessee of property under a lease for a period of at least 30 days.

Rental property means any property upon which a rental unit is located.

Rental unit means a structure, property, or portion thereof that is rented or offered for rent as a residence; including but not limited to, single-family unit, duplex unit, tri-plex, quad-plex unit, multi-family unit, manufactured or mobile home unit, town home or condominium.

Short term rental means a **primary** residence having fewer than five bedrooms, or portion thereof, used for lodging accommodations to guests with a lease term for a period of less than 30 consecutive days. A short term rental does not include a bed and breakfast inn as defined in the city's Development Code, ~~subpart B of the city's Code of Ordinances.~~

- (1) Type 1 Short term rental is defined as located in residential only zoning districts classified as single family, or other districts where a majority of the use is used as single family residential, established under the city's Development Code. May only have one operating short term rental operating on a block or 660 linear feet on the same street, or whichever is more limiting.
- (2) Type 2 Short term rental is defined as located in anon-residential zoning district where a majority of the use is not used as single family residential established under the city's Development Code. There are restrictions to the number of rooms that may be rented, neighborhood notification requirement, or limits on the number of operating short term rentals operating on a block in the same zoning district.
- (3) The following shall be used for the purpose of determining majority for single family residential use.
 - (a) The area to be included shall be 1/8 square mile with the property requesting a short term rental permit being as close to center as possible.
 - (b) A measurement of 6600 linear feet will be measured from the property requesting a permit.
 - (c) If the percentage of properties within this area is greater than 50%, then the area shall be identified as a type 1 short term rental. If the percentage of properties within this area is less than 50%, then the area shall be identified as type 2 short term rental.

Short term rental permit means the permit issued by the city that identifies the subject property as a lawful short term rental, the short term rental permit number, the names and contact information of the owner, operator, and agent if applicable, and 24-hour emergency contact phone for at least one of the preceding.

Single family unit (SFU) as defined by the International Residential Code.

Unit. See "rental unit".

SECTION 3. Sections 34.802-34.819 are hereby amended to read as follows:

Sec. 34.802. Purpose and applicability.

(a) The purpose of this article is to establish regulations for the protection of the health and safety of occupant(s) of short term rental properties, and to protect the integrity of the neighborhoods in which short term rental properties operate.

(b) The adoption of the short term rental provisions of this article shall not be construed to create any enforceable right to the continuation of short term rentals or any right to compensation for loss, damages, costs, or expenses alleged to have been incurred in reliance upon its adoption or suffered as a result its repeal.

Sec 34.803. Authority of the Director.

The Director of Neighborhood Enhancement shall implement and enforce this chapter and may by written order establish such procedures, not inconsistent with this chapter or other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations, as the Director determines are necessary to discharge any duty under this chapter.

Sec. 34.804. Permit required.

(a) No short term rental shall operate within the City of San Marcos without a current valid short term rental permit.

(b) All individual units having cooking, sleeping, and bathing facilities, within common buildings, regardless of ownership, shall require a separate, individual permit for each unit intended to be used as a short term rental.

Sec. 34.805. Short term rental permits.

(a) Application. Application for a short term rental permit shall be made either in writing or electronically upon a form prescribed by the City of San Marcos for such purpose. Application for a short term rental permit shall be

accompanied by an application fee established by the City Council and shall include the following information, at a minimum:

- (1) A list of all owners, operators, and agents (if applicable) of the short term rental including names, addresses, current email address(es) of owner/operator, and telephone numbers.
- (2) Proof of possession of the premises being registered, either by warranty deed, or valid lease.
- (3) If the applicant does not own the property where the rental unit is located, the applicant must provide written documentation, signed by the property owner before a notary public, authorizing the registrant to operate a short term rental on the premises.
- (4) The zoning district classification of the property will be verified to determine the type.
- (5) A sketch or narrative describing the location of the available parking spaces as required by the Development Code.
- (6) A sketch of the floor plan, which identifies sleeping areas, proposed maximum number of guests, evacuation route(s), location of fire extinguisher(s).
- (7) The name, address and 24-hour telephone number(s) of a contact person, who is the owner, operator, or designated agent and who shall be responsible and authorized to respond to complaints concerning the use of the short term rental.
- (8) A list of all hosting sites used to advertise the short term rental.
- (9) Written confirmation from the City of San Marcos Finance Department showing proof of registration for Hotel Occupancy Tax.
- (10) A sworn, self-certification that the owner of the short term rental has met and will continue to comply with the standards and other requirements of this article including, but not limited to: maintenance of insurance coverage of the unit or portions thereof in accordance with this article and obtaining annual independent inspections of required fire extinguishers in compliance with the city's current fire code that is accurate and truthful under penalty of perjury under the laws of the State of Texas.
- (11) Signature or electronic signature by the registrant requiring the applicant to self- certify that the information on the application is

accurate and truthful under penalty of perjury under the laws of the State of Texas.

(12) The applicant is responsible to verify with their Home Owners Association (HOA) to ensure that short term rentals are allowed.

(b) *Completeness of application.* Applications shall not be considered complete until all documentation required under this article has been submitted, and until the full application has been submitted. Incomplete applications will not be accepted.

(c) *Acknowledgement by applicant.* In connection with submission of the application, each applicant shall acknowledge that any permit granted by Director under this article does not supersede any property-specific restrictions against short term rentals that may exist under law, agreement, lease, covenant, or deed restriction.

(d) The fee for a permit to operate a short term rental.

Sec. 34.806. Expiration and renewal of permit.

(a) Unless revoked by Director earlier pursuant to this article, a permit to operate a short term rental expires on an annual basis from the date that it was approved.

(b) A new permit shall be required if a change in ownership, trade name or transfer occurs prior to the expiration of the current permit. The new landlord, owner, or registrant of the premises or rental unit shall have 30 days from the date the change occurred to file a new permit with the city and pay the applicable fee.

(c) The Director shall follow the procedures set forth in this article when determining whether to renew a permit.

(d) Upon receipt of an application for renewal of the permit, the Director may deny the renewal if there is reasonable cause to believe that:

- (1) The registrant has violated any ordinance of the city, or any state, or federal law on the premises or has permitted such a violation on the premises by any other person; or
- (2) There are grounds for suspension, revocation, or other permit sanction as provided in this article.

Sec. 34.807. Issuance or denial of a permit.

(a) A license shall be denied under this article if:

(1) There is good cause to deny the application.

(2) The applicant fails to provide a complete application and documentation required pursuant to section 34.805.

(3) The application fails to comply with any state or local laws, or any rules and regulations adopted pursuant thereto.

(b) A short-term rental license may be suspended or revoked for any of the grounds for denial set forth in section 34.816 and 34.817 of this article.

(c) Procedures for investigation of license violations and for suspension, revocation, or other licensing sanctions as a result of any rules and regulations promulgated by the director.

Sec. 34.808. Type.

(a) Short term rental (Type 1). See definition. A short term rental under this section:

(1) May be no closer than 660 linear feet from another short term rental on the same street;

(2) The city will notify all residential parcels within 400, of the permitted short term rental upon approval of the initial permit, feet of;

a. Address of the short term rental

b. Short Term Rental Permit Number

c. Contact information provided by the City of San Marcos where an individual may lodge a complaint.

d. Information on how to contact the designated local contact person.

(b) Short Term Rental (Type 2). See definition. Type 2 permits do not have notification and number per block limitations.

Sec. 34.809. General standards.

All short term rentals permitted pursuant to this chapter are subject to the following standard requirements:

(a) *Occupancy.* The maximum number of persons allowed to reside in a short term rental shall be determined by the International Fire Code edition adopted by the City of San Marcos. The occupancy calculations shall determine the maximum number of people allowed to sleep or congregate.

(b) *Parking.* Shall comply with the Development Code with respect to required parking. No required parking shall be permitted within public right-of-way or access easements as defined by city code and state regulations regarding parking. The yard(s) shall not be utilized to provide the necessary parking.

(c) *Insurance.* The applicants shall keep, at a minimum, an insurance policy sufficient for personal injury liability of guests.

(d) *Life safety.*

(1) Short term rentals and structures shall conform to all applicable city-adopted codes, regulations, and ordinances.

(2) A 2A:10B:C type fire extinguisher (a standard five-pound extinguisher) shall be properly mounted within seventy-five (75) feet of all portions of the short term rental on each floor.

(3) Smoke and carbon monoxide detectors shall be installed and conform to all applicable city-adopted codes, regulations, and ordinances.

(4) Every sleeping area shall have at least one operable emergency escape and rescue opening per all applicable city-adopted codes, regulations, and ordinances.

(5) An evacuation plan shall be posted conspicuously in each unit or permitted sleeping area.

(6) Every bedroom/sleeping area in a short term rental that does not comply with this section shall not be used as a sleeping area and where equipped with a door, shall remain locked at all times when the dwelling is being used as a short term rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation as defined by the San Marcos Property Maintenance Code for the short term rental. The owner/operator shall notify every occupant, in writing, that the non-compliant sleeping area may not be used for sleeping.

(e) *Conduct on premises.*

(1) Short term rental operators shall be responsible for informing their occupants of all relevant city codes and occupants' liability for violations of same.

(2) Excessive noise or other disturbance outside the short term rental is prohibited per Section 7.4.2.1 of the San Marcos Development Code. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas, or spas.

(3) No overnight sleeping outdoors or outdoor sleeping spaces for rent.

(4) Any use of the short-term rental unit is limited to activities that are incidental to its use for dwelling, lodging, or sleeping purposes

(f) Signage.

(1) Signage shall be in compliance with the city's current sign code as well as any design, design review, and/or approval requirements for the zoning district in which the property is located.

(2) All advertisements, including online or proprietary (website, app, or other technology) will include the short term rental permit number within the description or body for public reference.

(g) Tenant indoor notification. The operator shall post in a conspicuous location of the dwelling the following minimum information:

(1) Maximum number of occupants as determined by the International Fire Code adopted by the City;

(2) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas;

(3) Quiet hours and noise restrictions as defined in Section 7.4.2.1 of the San Marcos Development Code;

(4) Restrictions of outdoor facilities;

(5) The property owner's contact information if the registrant is not the property owner. A local responsible party's 24 hour contact information if neither the registrant nor the property owner are in the city limits when guests are renting the premises;

(6) Property cleanliness requirements;

(7) Trash pick-up requirements, including location of trash cans;

(8) 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, and relevant water restrictions;

(9) Notice that failure to conform to the occupancy and parking requirements is a violation of the City Code and occupant or visitor can be cited;

(10) Short term rental permit, health department permit, and/or any other required permits, if applicable; and

(h) *Hotel occupancy tax.* Owner or operator must remit all applicable state, county, and city hotel occupancy taxes in a timely manner, pursuant to applicable laws and this article.

(i) Short term rental is not permitted for any property that has not been registered under this article or where the registrant's permission to operate a short term rental has been suspended or revoked under this article.

(j) An approved short term rental permit shall not be assigned or transferred to any person or entity. Any attempt to transfer a permit shall render the permit subject to suspension or revocation as provided in this article.

(k) It shall be the sole responsibility of the registrant, owner, and/or landlord to review the permit for each short term rental unit in accordance with the terms outlined within this article.

(l) Recreational vehicles and trailers may not be utilized for short term rental.

(m) During any period when a Short Term Rental is occupied or intended to be occupied by Guests, the Local Contact Person shall be available 24 hours per day for the purpose of responding to concerns or requests for assistance related to the condition, operation, or conduct of Guests of the Short Term Rental. The Local Contact Person shall respond within 60 minutes of being notified of concerns or requests for assistance regarding the condition, operation, or conduct of Guests of the Short Term Rental, and shall take immediate remedial action as needed to resolve such concerns or requests for assistance.

(n) No registrant shall be allowed to operate or register more than one short term rental in the city, and no registration for a new short term rental shall be authorized, while another registration in the registrant's name is still active or under suspension. When an owner of property registered or operated as a short term rental is a business organization, trust or other entity, no person or entity affiliated with such business organization, trust or other entity as an organizer, officer, member, manager, shareholder, trustee, beneficiary, partner, equity owner or investor shall

be allowed to register or operate an additional short term rental at a different property address in the city.

Sec. 34.810. Inspections.

To ensure continued compliance with the requirements of this section a short term rental may be inspected in the following methods:

(a) Inspection upon application for initial and renewal permit.

(b) Inspections upon complaint or suspicion of a violation. The city may perform inspections when a violation is reported or suspected in accordance with established code enforcement procedures.

Sec. 34.811. Enforcement, violations, penalty.

(a) A violation of this division is a class C misdemeanor offense. Any persons, firm, corporation or any others acting on behalf of said person, persons, firm or corporation violating or failing to comply with any of the provisions of this division is subject to payment of a fine not to exceed \$2,000.00 plus court costs. Each act of violation and each day upon which such violation occurs constitutes a separate offense. Additionally, this division authorizes cumulative enforcement action against repeated or multiple violations under this division.

(b) Violations of this division shall additionally be enforced in accordance with and subject to the remedies in division 4 of this article.

(c) It is unlawful, and shall be considered a violation of this article, to:

(1) Rent, lease, or otherwise permit or allow any rental unit or premises to operate, or be operated as a short term rental without first registering the property in which the rental is to occur and unless all requirements of this code and State laws and codes are met;

(2) Operate a short term rental without paying the required hotel occupancy taxes;

(3) Operate or allow to be operated a short term rental without first registering the property in which the rental is to occur with the city in accordance with this article;

(4) Operate a short term rental that does not comply with all applicable city and state laws and codes;

(5) Operate or allow the operation of more than one short term rental within the city limits;

(6) It shall be unlawful to advertise a short term rental without the license number clearly displayed on the face of the advertisement. For the purpose of this section, the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a short term rental.

(7) Any use of the short-term residential rental unit is limited to activities that are incidental to its use for dwelling, lodging or sleeping purposes;

(8) Notwithstanding the provisions of Chapter 34, Division 3 of San Marcos Code of Ordinances or, the use of any radio receiver, stereo, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound shall take place only within an enclosed short-term residential rental unit. The property owner or operator of a short-term residential rental unit shall use reasonably prudent business practices to ensure that the occupants or guests of the rental unit do not create unreasonable noise or disturbances.

(9) Fail to renew required permit (may result in double fees);

(10) It shall be unlawful for any person or entity to fail to comply with section 34.809.

(11) Failure of a local contact to respond to an issue occurring at the property within sixty (60) minutes.

(d) Emergency contact. During any period when a Short Term Rental is occupied or intended to be occupied by Guests, the Local Contact Person shall be available 24 hours per day for the purpose of responding to concerns or requests for assistance related to the condition, operation, or conduct of Guests of the Short Term Rental. The Local Contact Person shall respond within 60 minutes of being notified of concerns or requests for assistance regarding the condition, operation, or conduct of Guests of the Short Term Rental, and shall take immediate remedial action as needed to resolve such concerns or requests for assistance.

(e) Violation of any section of this article shall constitute an offense resulting in permit revocation in accordance with subsection 34.812, revocation procedures.

(f) Failure to timely pay any applicable hotel occupancy tax is a violation of this section and shall result in permit revocation if arrearage is not paid within ninety (90) days of the issuance of a delinquency notice, in accordance with subsection 34.812, revocation procedures.

(g) Failure to successfully complete the renewal process of a short term rental permit is considered a violation of this section.

(h) The provisions of this subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by city ordinances, county, or state law. For each day any violation of this section occurs it shall constitute a separate offense and is separately punishable but may be joined in a single prosecution.

Sec. 34.812. Records/Reports.

(a) Each operator must submit to the Director a report as requested from the Director that includes the information set forth in Subsection (b) of this Section.

(b) Each report required by Subsections (a) of this Section must state, for the quarter being reported and with respect to short-term residential rentals within the City:

(1) The number of bookings, listings;

(2) The average number of bookings per listing;

(3) Current year-to-date booking value;

(4) Current year-to-date revenue collected from all short-term residential rentals; and

(5) The average length of a short-term residential rental.

(c) The department shall maintain and make publicly available a list of all licensed short-term rentals within the city. The designated local contact information will be included.

Sec. 34.813. Existing permitted short term rentals.

Short term rentals (Type 1) in existence as of date of ordinance closer than 660 linear feet of another permitted short term rental on the same street shall be allowed to operate. A Short term rental where operations have ceased operations for a period of six (6) months, to include the renewal of a valid permit, shall be deemed to be permanently abandoned.

Secs. 34.814—34.819. Reserved.

Sec. 34.810. Purpose and applicability.

~~(a) The purpose of this Division is to establish regulations for the registration and use of short term rentals. The requirements of this division apply~~

~~only to short term rentals located in residential only zoning districts established under the city's Development Code, subpart B of the city's Code of Ordinances.~~

~~(b) — Nothing in this division, however, shall be construed to be a waiver of the requirement to assess and collect hotel occupancy taxes for any residential rental for a period of less than 30 consecutive days of property that is located outside of such residential only zoning districts.~~

~~(c) — The provisions of this article pertaining to short term rentals shall be reviewed by the city council within one year of the adoption of Ordinance No. 2017-37. Those provisions are subject to amendment or repeal upon such review or at any other time. The adoption of the short term rental provisions of this article shall not be construed to create any enforceable right to the continuation of short term rentals or any right to compensation for loss, damages, costs, or expenses alleged to have been incurred in reliance upon its adoption or suffered as a result its repeal.~~

Sec. 34.811. Registration and standards.

~~(a) — Registration required. An approved registration is required before operation of short term rental. Application for short term rental registration shall be made upon a form prescribed by the City of San Marcos for such purpose. The following is required of all applications and missing items or information constitute an invalid application. Additional information may be required based on individual circumstances:~~

~~(1) — Registrant's name, home address, telephone number, and electronic mail address.~~

~~(2) — Proof of possession of the premises being registered, either by warranty deed, or valid lease.~~

~~(3) — If the applicant does not own the property where the rental unit is located, the applicant must provide written documentation, signed by the property owner before a notary public, authorizing the registrant to operate a short term rental on the premises~~

~~(4) — Proof that the premises is the primary residence of the applicant, including at least two of the following: Motor vehicle registration, driver's license, Texas State Identification card, voter registration, tax documents, or utility bill.~~

~~(5) — Signature or electronic signature by the registrant requiring the applicant to self-certify that the information on the application is accurate and truthful under penalty of perjury under the laws of the State of Texas.~~

~~(6) — Payment of all fees, established by this article or the city council and, for registration renewals, proof of collection and payment of Hotel Occupancy Tax due during the preceding registration periods.~~

~~(7) — The zoning district classification of the property, to be verified by the planning and development services department.~~

~~(8) — Incomplete applications will not be processed and, as a result, any premises associated with an incomplete application will not be registered in compliance with or as required by this division.~~

~~(b) — Standards specific to short term rentals.~~

~~(1) — Short term rental is not permitted for any property that has not been registered under this article or where the registrant's permission to operate a short term rental has been suspended or revoked under this article.~~

~~(2) — An approved short term rental registration shall not be assigned or transferred to any person or entity. Any attempt to transfer a registration shall render the registration subject to suspension or revocation as provided in this article.~~

~~(3) — No registrant shall be allowed to operate or register more than one short term rental in the city, and no registration for a new short term rental shall be authorized, while another registration in the registrant's name is still active or under suspension.~~

~~(4) — An owner of property may not have more than one short term rental unit in the city that is registered or operated as a short term rental. When an owner of property registered or operated as a short term rental is a business organization, trust or other entity, no person or entity affiliated with such business organization, trust or other entity as an organizer, officer, member, manager, shareholder, trustee, beneficiary, partner, equity owner or investor shall be allowed to register or operate an additional short term rental at a different property address in the city.~~

~~(5) — No more than two adult guests per bedroom, plus no more than two additional adults, shall be allowed when renting a property as a short term rental.~~

~~(6) — Each short term rental registrant shall provide in the premises at least at least one working smoke detector and alarm and one working carbon monoxide detector and alarm per bedroom, and one working fire extinguisher. The premises shall, otherwise be in compliance with applicable building and fire codes adopted under chapter 14 of the city's Code of Ordinances.~~

~~(7) — It shall be the sole responsibility of the registrant, owner, and/or landlord to review the registration for each short term rental unit in accordance with the terms outlined within this article.~~

~~(c) Standards for required brochure.~~

~~(1) Each registrant operating a short term rental shall provide to guests a brochure that includes:~~

~~a. The registrant's contact information;~~

~~b. The property owner's contact information if the registrant is not the property owner;~~

~~c. A local responsible party's contact information if neither the registrant nor the property owner are in the city limits when guests are renting the premises;~~

~~d. Pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, trash collection schedule, and relevant water restrictions; and~~

~~e. 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.~~

Sec. 34.812. Registration term and renewal.

~~(a) All registrations approved under this division shall be valid for a period of one year from the date of their issuance.~~

~~(b) A new registration shall be required if a change in ownership, trade name or transfer occurs prior to the expiration of the current registration. The new landlord, owner, or registrant of the premises or rental unit shall have 30 days from the date the change occurred to file a new registration with the city and pay the applicable fee.~~

~~(c) If the registrant has received notice of violation of any law or regulation including enforcement action under a current registration, an application for renewal shall include a copy of the notice.~~

~~(d) Upon receipt of an application for renewal of the registration, the director may deny the renewal if there is reasonable cause to believe that:~~

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

~~(2) — There are grounds for suspension, revocation, or other registration sanction as provided in this article.~~

~~Sec. 34.813. Violations.~~

~~(a) — A violation of this division is a class C misdemeanor offense. Any persons, firm, corporation or any others acting on behalf of said person, persons, firm or corporation violating or failing to comply with any of the provisions of this division is subject to payment of a fine not to exceed \$2,000.00 plus court costs. Each act of violation and each day upon which such violation occurs constitutes a separate offense. Additionally, this division authorizes cumulative enforcement action against repeated or multiple violations under this division.~~

~~(b) — Violations of this division shall additionally be enforced in accordance with and subject to the remedies in division 4 of this article.~~

~~(c) — It is unlawful, and shall be considered a violation of this article, to:~~

~~(1) — Rent, lease, or otherwise permit or allow any rental unit or premises to operate, or be operated as a short term rental without first registering the property in which the rental is to occur and unless all requirements of this code and State laws and codes are met;~~

~~(2) — Operate a short term rental in any location that is not the registrant's primary residence;~~

~~(3) — Operate a short term rental without paying the required hotel occupancy taxes;~~

~~(4) — Operate or allow to be operated a short term rental without first registering the property in which the rental is to occur with the city in accordance with this article;~~

~~(5) — Operate a short term rental in any location that is not the registrant's primary residence;~~

~~(6) — Operate a short term rental that does not comply with all applicable city and state laws and codes;~~

~~(7) — Operate or allow the operation of more than one short term rental within the city limits;~~

~~(8) — Operate a short term rental without paying the required hotel occupancy taxes;~~

~~(9) Offer or allow the use of a short term rental for having a party;~~

~~(10) Fail to include a written prohibition against the use of a short term rental for having a party in every advertisement, listing, or other publication offering the premises for rent; or~~

~~(11) Fail to renew required registration (may result in double fees).~~

SECTION 4. Sections 34.830-34.835 are hereby amended to read as follows:

Sec. 34.830. Authorization to enforce.

The Director and other authorized city personnel may enforce the provisions of this article.

Sec. 34.831. Notice of violation.

(a) For purposes of this division the Director or designated representative must serve notice of suspension of a registration by mail, electronic notification, or posting on the subject property. The suspension is effective immediately until the requirements of this chapter are met or for the duration of the suspension set forth in the notice, or if no duration is listed in the notice, until such time as the code official lifts the suspension.

(b) Electronically transmitting a copy of the notice, acknowledgment of receipt requested, to the last known electronic address of the registrant or landlord shall serve as an accepted legal standard of contact and notice under this provision.

Sec. 34.832. Suspension of permit.

(a) Suspension of permit. The Director may, without warning, advance notice or hearing, suspend any permit to operate a residential rental dwelling if the operation of the residential rental dwelling constitutes an imminent hazard to public health or safety. Pursuant to this article and with prior warning, the director may suspend a permit for violation(s) of this ordinance. Upon suspension of a permit, the owner may not continue to allow new reservations until the permit is reinstated. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing with the Director within ten (10) days of receipt of a request for a hearing. The request for a hearing must be submitted to the Director within five (5) days from the date the notice was received.

(1) Notice of suspension. Whenever a permit is suspended, the holder of the permit, or the responsible person shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Director by the holder of the permit within ten days after the service of the notice in accordance with the provisions of this Ordinance. If no written request for hearing is filed within said ten-day period, the suspension is sustained.

(2) Other remedies reserved. Suspension of a residential rental dwelling permit shall not preclude the Director from taking any other enforcement action authorized by law.

(b) A suspension may occur from violations of Sec. 34.809.

(c) Length of suspension

(1) First Offense – Suspension of three months.

(2) Second Offense – Suspension of six months.

(3) Third Offense – Suspension of one year.

Sec. 34.833. Revocation procedures.

The director is authorized to suspend or revoke a short term rental permit issued under the provisions of this chapter wherever the permit is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building, structure, unit, or portion thereof is in violation of any ordinance or regulation or any of the provisions of this article. In addition, if any violations have been committed and not corrected within the time specified, the director shall begin the procedures to revoke the short term rental permit in accordance with the following:

(a) The director shall give written notice to the owner/operator regarding the revocation.

(b) If a short term rental permit is revoked, the owner/operator may not reapply for the same property for a period of twelve (12) months.

Sec. 34.834. Appeals.

Upon denial of a permit by the director, the conditions to be imposed with the permit or the revocation of a permit by the approval authority, the applicant may appeal the decision to the neighborhood commission within five days thereafter by filing a written notice of appeal requesting a hearing by the neighborhood commission. Upon appeal, the neighborhood commission may reverse, affirm, or modify in any regard the determination of the director. The neighborhood commission's decision shall be made within five days from the date of the next regularly scheduled neighborhood commission meeting.

Sec. 34.835. Other remedies.

Nothing in this article prevents the city from seeking injunctive relief or other civil action required to enforce this chapter including suspension of utility services, placement of liens, and posting of notices prohibiting occupancy or use.

Secs. 34.836—34.840. Reserved.

~~**Sec. 34.830. Authorization to enforce.**~~

~~_____The code official (city marshal), the marshal's authorized representatives, neighborhood services and other city personnel authorized may enforce the provisions of this article.~~

~~**Sec. 34.831. Notice of violation.**~~

~~_____ (a) — For purposes of this division the code official must serve notice of suspension of a registration by mail, electronic notification, or posting on the subject property. The suspension is effective immediately until the requirements of this chapter are met or for the duration of the suspension set forth in the notice, or if no duration is listed in the notice, until such time as the code official lifts the suspension.~~

~~_____ (b) — Electronically transmitting a copy of the notice, acknowledgment of receipt requested, to the last known electronic address of the registrant or landlord shall serve as an accepted legal standard of contact and notice under this provision.~~

~~**Sec. 34.832. Suspension and revocation.**~~

~~_____ (a) — The code official may suspend a rental registration if the code official determines that:~~

~~_____ (1) — The property is declared a substandard or dangerous building by the building department, the code official, or a court of competent jurisdiction;~~

~~_____ (2) — The registrant fails to comply with a notice of violation; or~~

~~_____ (3) — The registrant fails to comply with applicable requirements of this article.~~

~~_____ (b) — A court of competent jurisdiction may revoke a rental registration that has been suspended pursuant to this article if the court determines that, during the suspension, the registrant did not comply with the requirements of this article, abate a notice of violation for which the suspension was ordered, or failed to comply with a court order. A suspension need not be in place in order to revoke a registration.~~

~~_____ (c) — Any person, landlord or registrant may not operate, lease, occupy, or otherwise allow another person to occupy a rental property without a residential rental property registration or a home share rental registration when required by this chapter or, if the property is under a suspension or revocation notice or order.~~

~~**Sec. 34.833. Other remedies.**~~

~~_____ Nothing in this article prevents the city from seeking injunctive relief or other civil action required to enforce this chapter including suspension of utility services, placement of liens, and posting of notices prohibiting occupancy or use.~~

SECTION 5. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 6. All ordinances and resolution or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 7. Municode Corporation may correct or modify any formatting and numbering conventions consistent with customary formatting of the City Code.

SECTION 8. This ordinance shall become effective upon adoption on second reading.

PASSED AND APPROVED on first reading on March 19, 2024.

PASSED, APPROVED AND ADOPTED on second reading on April 2, 2024.

Jane Hughson
Mayor

ATTEST:

APPROVED:

Elizabeth Trevino
City Clerk

Samuel J. Aguirre
City Attorney