

COPY

ORDINANCE NO. 28-001

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, CREATING ARTICLE V. - SHORT TERM RENTALS, OF CHAPTER 23 - PLANNING - OF THE CODE OF ORDINANCES, ESTABLISHING REGULATIONS AND A PERMITTING REQUIREMENT FOR OPERATION OF A SHORT TERM RENTAL, AND PROVIDING A PENALTY CLAUSE FOR VIOLATIONS.

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

Section 1. That, ARTICLE V. - SHORT TERM RENTALS, of Chapter 23 - PLANNING, of the Code of Ordinances, is hereby created and adopted as follows:

Chapter 23 – Planning
Article V. SHORT TERM RENTALS

Sec. 23-100. Purpose.

The purpose of this Article is to establish regulations for the use of privately owned dwellings as Short Term Rentals, to minimize negative ancillary impact on surrounding properties, and to ensure the collection and payment of Hotel Occupancy Tax.

Sec. 23-101. Definitions.

As used in this Article, the following terms shall have the following meanings:

- A. City - The City of Fredericksburg, Texas.
- B. Guest - The overnight occupants renting a Short Term Rental Unit for a specified period and the daytime visitors of the overnight occupants.
- C. Local Contact Person - The Owner, Operator, or person designated by the Owner or the Operator, who shall be available twenty-four (24) hours per day for the purpose of responding to concerns or requests for assistance related to the Owner's Short Term Rental.
- D. Operator - The Owner or the Owner's authorized representative who is responsible for compliance with this Article while advertising and/or operating a Short Term Rental.
- E. Owner - The person or entity that holds legal or equitable title to the Short Term Rental property.
- F. Short Term Rental - A privately owned dwelling, including but not limited to, a single family dwelling, multiple family attached dwelling, apartment house, condominium,

duplex, mobile home, or any portion of such dwellings, rented by the public for consideration, and used for dwelling, lodging or sleeping purposes for any period less than thirty (30) consecutive days.

The following are exempt from the regulations under this Article: hotel, motel, dormitory, public or private club, recreational vehicle park, hospital and medical clinic, nursing home or convalescent home, foster home, halfway house, transitional housing facility, any housing operated or used exclusively for religious, charitable or educational purposes, and any housing owned by a governmental agency and used to house its employees or for governmental purposes.

- G. Short Term Rental Permit - A permit issued by the City authorizing the use of a privately owned dwelling as a Short Term Rental.
- H. Short Term Rental Unit - One or more habitable rooms forming a single habitable division within a Short Term Rental, or an entire undivided Short Term Rental, which is advertised to be occupied, is occupied, or is intended to be occupied by a single party of Guests under a single reservation and/or single rental payment.

Sec. 23-102. Short Term Rental Permit required.

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.

Sec. 23-103. Short Term Rental Permit registration fee and application.

- A. An applicant shall submit an application for a Short Term Rental Permit using a format and method promulgated by the City Manager or his/her designee. The application form shall require, at a minimum, the following information from applicants:
 - 1. The name, address, email and telephone number of the Owner of the Short Term Rental.
 - 2. The name, address, email and telephone number of the Operator of the Short Term Rental.
 - 3. The name, address, email and twenty-four (24) hour telephone number of the Local Contact Person.
 - 4. The name and address of the Short Term Rental.
 - 5. The number of bedrooms and the proposed overnight and daytime occupancy limit of the Short Term Rental.
 - 6. A diagram showing the proposed layout of the property use and any on-site parking available for the Short Term Rental.

7. A general description of any food service to be offered to Guests of the Short Term Rental.
- B. An applicant for a Short Term Rental Permit shall pay to the City a permit fee of one hundred fifty dollars (\$150.00).
- C. A separate Short Term Rental Permit application and permit fee must be submitted for each individual Short Term Rental Unit. Each individual Short Term Rental Unit shall be assigned a unique permit number upon permit issuance by the City.
- D. Prior to issuance of a Short Term Rental Permit, the Operator shall allow an on-site inspection of the Short Term Rental Unit by a City Code Enforcement officer, to ensure compliance with the following:
 1. The requirements set forth in Section 23-104(A) of this Article; and
 2. The requirements set forth in Sections 23-104(B)1 through 23-104(B)3 of this Article.
- E. A Short Term Rental Permit issued under this Article shall be valid for a period of one calendar year from the date of issuance. The Short Term Rental Permit shall expire immediately upon any change in Owner of the Short Term Rental Unit.
- F. The Owner has a duty to notify the City within twenty (20) calendar days, in writing, of any changes to information submitted as part of a Short Term Rental Permit application under this Article.
- G. An application for Short Term Rental Permit may be denied if the Owner has had a Short Term Rental Permit suspended or revoked during the previous 365 calendar days.

Sec. 23-104. Short Term Rental operational requirements.

- A. The Operator shall post the following information in a prominent location within the Short Term Rental Unit, using a form promulgated by the City:
 1. The unique Short Term Rental Permit number assigned to the Short Term Rental Unit;
 2. Operator name and number;
 3. Local Contact Person name and number;
 4. The location of any on-site and off-site parking spaces available for Guests;
 5. The overnight and daytime occupancy limits;
 6. Instructions to Guests concerning disposal of garbage and handling of garbage containers;
 7. Notification that the Guests are responsible for compliance with all applicable laws, rules and regulations pertaining to the use and occupancy of the Short Term Rental, and that Guests may be fined by the City for violations of this Article; and

8. Notification that all functions such as weddings, parties or other gatherings are prohibited at the Short Term Rental, excepting Short Term Rentals located in the Commercial Zoning District.
- B. The Operator shall operate a Short Term Rental in compliance with the following:
1. Zoning regulations prescribed for the zoning district in which such Short Term Rental is located, set forth in Appendix B of the Code of Ordinances.
 2. City of Fredericksburg Sign Ordinance, as applicable, set forth in Chapter 29 of the Code of Ordinances.
 3. Maximum occupancy limits prescribed by the City Fire Marshall, pursuant to the International Fire Code as adopted in Chapter 17 of this Code of Ordinances.
 4. City of Fredericksburg Hotel Occupancy Tax Ordinance, set forth in Chapter 41 of this Code of Ordinances.
 5. City of Fredericksburg Noise and Sound Level Regulation Ordinance, set forth in Chapter 20 of this Code of Ordinances.
 6. City of Fredericksburg Garbage Collection Ordinance, set forth in Chapter 32 of this Code of Ordinances.
 7. During any period when a Short Term Rental is occupied or intended to be occupied by Guests, the Local Contact Person shall be available twenty-four (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 sixty (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.
- C. Any advertisement that promotes the availability of a Short Term Rental, listed in any medium, including but not limited to newspaper, magazine, brochure, website, or mobile application, shall include the current Short Term Rental Permit number assigned by the City.

Sec. 23-105. Notification of complaints.

Complaints related to the operation of a Short Term Rental, including but not limited to complaints concerning noise, garbage, parking, and disorderly conduct by Guests, shall be reported to the City Code Enforcement office.

Sec. 23-106. Compliance with other law.

The Owner, Operator, Local Contact Person, and Guests shall comply with all applicable laws, rules and regulations pertaining to the operation, use, and occupancy of a Short Term Rental. 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 Guest of the Owner's Short Term Rental.

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.

Sec. 23-107. Compliance and Penalty provision.

- A. 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.
- B. Any violation of this Article is a Class C misdemeanor offense, and upon conviction, shall be punished by a fine as set forth in Section 1-6 of this Code of Ordinances.
- C. Prosecution under this Article shall not require the pleading or proving of any culpable mental state.
- D. 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. 23-108. Permit suspension or revocation; Appeal.

Upon conviction for a violation of this Article, the City Manager may suspend or revoke any Short Term Rental Permit issued for the same Short Term Rental where the violation occurred. The City Manager shall notify an Owner of a suspension or revocation under this Section in writing, delivered by Certified Mail, Return Receipt Requested, and mailed to the address of the Owner as set forth on the most recent Short Term Rental Permit application submitted to the City.

An Owner may appeal a notice of suspension or revocation under this Section by filing a written appeal with the City Manager within ten (10) business days following the date said notice was deposited in the U.S. Mail. Following a timely filing of an appeal hereunder, the Owner may present evidence to the City Manager related to the suspension or revocation under this Section. Following the City Manager's final decision on appeal, the Owner may appeal an adverse decision of the City Manager by filing a written appeal with the City Council within five (5) business days following the date of the City Manager's final decision.

{End of code text}

Section 2. That, Section 5.402. Bed and breakfast compliance use permit - of Appendix B, ZONING ORDINANCE, of the Code of Ordinances, is hereby repealed and deleted in its entirety.

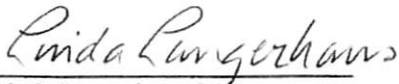
Section 3. Severability or Invalidity. If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end, the provisions of this ordinance are declared to be severable.

Section 4. Repealer. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5. Penalty. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-6 of the Code of Ordinances.

Section 6. Effective Date. This ordinance shall be effective on and after April 1, 2018.

PASSED AND APPROVED on this the 2nd day of January, 2018.


Linda Langerhans, Mayor
City of Fredericksburg, Texas

ATTEST:


Shelley Britton, City Secretary

APPROVED AS TO FORM:


Daniel Jones, City Attorney