

ORDINANCE NO. _____

AN ORDINANCE REGULATING SHORT-TERM RENTALS, PROVIDING FOR REGULATIONS FOR THE OPERATION AND USE OF SHORT-TERM RENTALS; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000 FOR THE VIOLATION THEREOF; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council has determined that the regulation of Short-Term Rental properties is in the best interest of the public; and

WHEREAS, the City Council has determined that such regulation include registration and permitting of Short-Term Rental properties; and

WHEREAS, the City Council has determined that the ability to enforce the provisions of such regulations will promote the public health, safety and welfare of its citizens;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS;

Section 1. Title.

These regulations shall be known as the "Short-Term Rental Ordinance " of the City of Boerne, Texas, hereinafter referred to as "Ordinance", "Code" or "Chapter".

Section 2. Applicability.

The provisions of this Ordinance shall apply to all existing and future residential rental properties, units, and accessory structures.

Section 3. Purpose.

The purpose of this Ordinance is to preserve the life, health, safety, and property of the occupants of residential dwelling units, the neighbors of said occupants, and the general public by establishing minimum standards and registration requirements for Short-Term Rentals as defined herein that can be regulated by the city. Additionally, this Ordinance is intended to preserve the neighborhood character of residential subdivisions within the City of Boerne and to minimize adverse impacts to the housing supply caused by the conversion of residential units to tourist or transient use. This Ordinance will also clarify authorized enforcement action against repeated or multiple violations under this Ordinance.

Section 4. Generally.

Short-Term Rental registration/permitting shall be required before renting or advertising for rent any residential single-family homes, accessory dwellings, manufactured/mobile homes, or duplexes located inside the area regulated by the City of Boerne for a period of less than 30 consecutive days.

Section 5. Short-Term Rental Application Requirements

- A. Prior to using a dwelling unit as a Short-Term Rental or advertising in any manner the

availability of the dwelling unit, the owner or operator must submit an application on a form and in the manner prescribed by the City of Boerne. The application shall be reviewed and must meet the criteria set forth by this Ordinance prior to being approved by the City of Boerne. 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 Registration and Permit issued under this ordinance.

B. The following information is required for all applications, and missing items or information shall constitute an invalid application. Additional information may be required based on individual circumstances.

1. Registrant's information as follows:

- a. If an individual property owner: owner's name, business address, home address, telephone number, electronic mail address; or
- b. If a management company; name of property manager and property owner; management company business address, management company and property owner phone number and electronic mail address; or
- c. If the owner is a limited partnership: the general partner's business address, telephone number and electronic mail address; or
- d. If the owner is a corporation: the person registering must state whether it is organized under the laws of the State of Texas or is a foreign corporation and must provide the mailing address, business location, telephone number, electronic mail address, contact information, and name of the primary individual in charge of the local office of such corporation, if any, and the names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation;
- e. If different from the Registrant information: provide the name(s), address, electronic mail address, and phone number (24-hour contact number) of designated employee(s) or authorized representative(s) who shall be assigned to respond to emergency conditions; emergency conditions shall include but not be limited to: fire, natural disaster, flood, burst pipes, collapse hazard, emergency repairs, and violent crime; and
- f. The Registrant shall provide a signature or electronic signature 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.

2. Street address of the rental unit;
3. Plot plan showing parking spaces;
4. Number of bedrooms in the rental unit;
5. Proof of liability insurance coverage (min. \$500,000 per occurrence);
6. A copy of the safety inspection in a form approved by the City of Boerne to be performed by an inspector registered for that purpose with the City.
7. Confirm that the Short-Term Rental is an allowed use under the HOA regulations and that the HOA has been notified (if applicable); and
8. If the home is on well and/or septic, provide letters of confirmation from the applicable approval authorities that the well and septic are sufficient for the number of ultimate occupants.

Section 6. Short-Term Rental Criteria.

A. Types of Short-Term Rentals

Short-Term Rentals around the City of Boerne are classified as three different types: unoccupied, accessory to the main house (guest house), or owner occupied, as defined herein:

1. Unoccupied Short-Term Rentals: Properties where the legal owner (or the person who holds legal or equitable title to the property) provides guest lodging accommodation for compensation within a lawful structure that is not located on the same lot or property as the legal owner's principal residence (e.g., a stand-alone home that is unoccupied unless it's being rented).
2. Accessory Dwelling (Guest house) Short-Term Rentals: Properties where the legal owner (or the person who holds legal or equitable title to the property) resides on the property and provides guest lodging accommodation for compensation within a lawful guest house on the same lot or property as the legal owner's principal residence. The guest house shall comply with the other requirements for accessory dwellings. Only one dwelling on a property may be rented per the City's regulations regarding Accessory Dwellings. No recreational vehicle, tent or temporary structure of any kind shall be used as a Short-Term Rental.
3. Owner-Occupied Short-Term Rentals: Properties where the legal owner (or the person who holds legal or equitable title to the property) resides on the property, provides guest lodging accommodation for compensation, and the property is the legal owner's primary residence (as evidenced by a current residence homestead exemption filed with the Kendall County Appraisal District).

B. Short-Term Rentals shall adhere to the following criteria:

1. Separation distance: All Short-Term Rentals shall provide a minimum separation distance to any other Short-Term Rental equal to the greater of:
 - a) At least 350 feet from the perimeter of the property boundary; and
 - b) four (4) lots measured in a linear fashion along a street frontage;
2. Lot limitation: Only one Short-Term Rental is allowed per lot, property or parcel;
3. Occupancy: No more than two occupants per bedroom plus two with a maximum of 10 occupants.
4. Signage: No signs identifying the Short-Term Rental shall be permitted, except that a single nameplate, not exceeding one square foot in area, may be attached flat to the main building.
5. Building Code: All structures must be in compliance with City of Boerne building code regulations.
6. Parking: A minimum of one parking space per bedroom rented shall be provided on site. On-street parking may be counted toward the required parking spaces as long as it abuts the property, is a minimum of 25 feet in length per space and provides adequate clear space for a mailbox and trash receptacle.
7. Noise: It shall be unlawful for an owner or occupant of a Short-Term Rental to allow, permit, or make any noise that would be in violation of the City's nuisance ordinance.
8. Minimum stay: It shall be unlawful for an owner to rent or lease a Short-Term Rental for a period of less than one night.
9. Events: It shall be unlawful for an owner or occupant to advertise or promote a special event, or allow the advertising and promotion of a special event (e.g. event center, banquet, wedding, reception, reunion, party, concern or similar activity that would assemble large numbers of invitees) to be held on the premises.
10. Safety: An applicant for a Short-Term Rental Permit shall provide a copy of the safety inspection in a form approved by the City of Boerne. Such inspection needs to be performed by an inspector registered for that purpose with the City.

C. Occupant Online Notification Brochure: Each Registrant operating a Short-Term Rental

shall provide guests with an online brochure that includes the following:

1. The applicant's or property manager's contact information; specifically, a direct phone number.
2. A local responsible party's contact information if neither the applicant nor property manager are in the City limits when guests are renting the premises.
3. Pertinent neighborhood information including, but not limited to, parking restrictions, dedicated on-site parking information, restrictions on noise and amplified sound, trash collection schedule, and relevant water restrictions.
4. Information advising guests if the property is located in a flood plain.
5. 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.
6. A sketch of the floor plan, which identifies sleeping areas, the proposed maximum number of guests, evacuation route(s), location of fire extinguisher(s) and location of parking spaces (not to include the garage).

Section 7. Short-Term Rental Property Permit

- A. Applicant responsibility: It is the registrant's and/or owner's responsibility to renew the registration for each rental unit within the City as prescribed by this Ordinance.
- B. Incomplete application: Incomplete applications will not be processed, and a permit will not be issued.
- C. Fee Required: An applicant for a Short-Term Rental Permit shall pay to the City a permit fee as established in the current City of Boerne Fee Ordinance.
- D. Permit Number: Once properly registered, each Short-Term Rental shall be issued a unique permit number. The permit number must be included in all advertisements for the Short-Term Rental including internet booking sites. Permit information will be provided to the City of Boerne Police Department.
- E. Permit expiration and renewal.
 1. A Short-Term Rental Permit issued under this Ordinance shall expire January 1st of every even-number year and shall be renewed within 30 days of expiration.
 2. To renew a Short-Term Rental Permit, the Registrant and/or owner must submit an application during the renewal period as stated above with the required permit fee and accessory documentation.
 3. A Short-Term Rental permit issued within six months of the designated renewal period (January 1st to January 31st of the even-number year), a new permit is not required until the following date of renewal.
 4. Any legal owner delinquent and/or owing the City of Boerne fees and/or taxes, to include but not limited to hotel occupancy tax and utility service fees, will be prohibited from

registering a Short-Term Rental until such time as payment in full is made or other required acceptable resolution is approved by the City of Boerne finance department.

- F. Changes to the permit: The owner has a duty to notify the city within 20 calendar days, in writing, of any changes to information submitted as part of a Short-Term Rental Permit application under this Chapter.
- G. Transferability: A Short-Term Rental Permit is not transferable to a new property owner. If the new owner wishes to continue such use, the new owner must apply for a new Short-Term Rental Permit and comply with the regulations in place for such use at the time of the new application.
 - 1. Prior to transferring the property ownership, the current owner shall provide to the new owner a Certificate of Paid Hotel Taxes obtained from the City of Boerne Finance Department. If the new owner has not obtained the Certificate, the new owner becomes responsible for any and all unfilled reports due and unpaid taxes, penalties, interest, and fines.
- H. Temporary Short-Term Rentals: Any Short-Term Rental issued a temporary permit prior to the date of adoption of this ordinance shall be required to come into conformance with the requirements as stated for Short-Term Rentals within 6 months of the date of adoption. If a Short-Term Rental cannot comply herein, the temporary permit will no longer be valid and the Short-Term Rental shall cease operating.

Section 8. Offenses and Enforcement

- A. Offenses: An applicant commits an offense if such applicant:
 - 1. Allows operation of a Short-Term Rental that is not registered with the City;
 - 2. Fails to renew registration but continues to operate a Short-Term Rental unit in the City of Boerne; or
 - 3. Omits or provides false or incorrect information on an application for a Short-Term Rental permit.
- B. Failure to comply with requirements of this Ordinance: A violation of this Ordinance is a Class C misdemeanor offense. Any persons, firm, entity, or any others acting on behalf of said persons, firm, or entity violating or failing to comply with any of the provisions of this Ordinance 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 Ordinance authorizes cumulative enforcement action against repeated or multiple violations under this Ordinance.
- C. Electronic communication notice: Electronically transmitting a copy of the notice, acknowledgment of receipt requested, to the last known electronic address of the registrant or owner shall serve as an accepted legal standard of contact and notice under this Ordinance.
- D. Existing Short-Term Rentals.
 - 1. Any Short-Term Rental existing as of the adoption of this ordinance shall have six (6) months from the date of adoption to come into compliance with the requirements of

this Ordinance to be eligible for the permit renewal.

2. An additional Five Hundred Dollar (\$500.00) penalty fee shall be assessed to any Short-Term Rental permit application that is eligible for renewal in accordance with this Ordinance but did not meet the deadline for permit renewal.

E. Revocation.

1. The City of Boerne may revoke a Short-Term Rental permit for a property if it is determined that:
 - a. All applicable taxes are not paid within sixty (60) days of the date due;
 - b. The permit is not renewed within thirty (30) days of the required renewal date;
 - c. A permit has been suspended or revoked during the previous 365 calendar days and such is not in compliance with the requirement of this Ordinance at the time;
 - d. Any criminal conduct or violations to the City of Boerne regulations (noise, lighting, nuisances, etc.) have occurred with respect to such Short-Term Rental in the previous 365 calendar days;
 - e. The property does not comply with all Building Code requirements;
 - f. The property is declared a hazard by the Building Official of the City of Boerne;
 - g. The Registrant fails to comply with all applicable requirements of this Ordinance.
2. For purposes of this section, the City of Boerne must serve notice of intent to revoke the permit by mail, electronic notification, or posting on the subject property. The revocation is effective immediately. If a permit is revoked, no new permit with respect to such Short-Term Rental shall be issued for a period of at least one year.

SECTION 9. If any word, phrase, clause, sentence, paragraph, section or other part of this ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this ordinance and the application of such word, phrase, clause, sentence, paragraph, section or other part of the is ordinance to any other persons or circumstances shall not be affected thereby.

SECTION 10. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this ordinance was discussed, considered or acted upon was given in the manner required by the Open meetings Law, TEX. REV.CIV. STAT. ANN. Art 6552-17, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

PASSED and APPROVED on first reading this ____ day of _____, 2023.

PASSED and APPROVED and ADOPTED on second reading this ____ day of _____, 2023.

APPROVED

Mayor

ATTEST:

City Secretary

DRAFT