

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 a month; 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, the increase in the number of persons or entities desiring to rent their single-family residential properties has led to the proliferation of transient and vacation rental uses within neighborhoods previously planned, approved and constructed for use as single-family residences; and

WHEREAS, the use of single-family residences by individuals for short periods of time may negatively affect the character of many neighborhoods by reducing communication and accountability between permanent residents and transient visitors; and

WHEREAS, the prohibition of the use and operations of such “short-term rental” property will prevent the further erosion of pre-existing and stable neighborhoods, and further accomplish the City Council’s objective of championing great neighborhoods; and

WHEREAS, the rise of substitute land uses for residential property contributes to the shortage of affordable housing, both ownership and long-term rental; and

WHEREAS, the Unified Development Code does not allow the use of property zoned single-family residential to be used for transient, short-term stays for less than 30 days; and

WHEREAS, the enforcement of land use regulations in residential property poses unique enforcement difficulties and merits a stand-alone ordinance to provide clear rules for such rentals; and

WHEREAS, City Council finds that prohibiting the short-term rental of residential property is necessary for the health, safety and welfare of the general public, the promotion of consistent land uses and development, and the protection of landowners and residents of the City of Arlington; 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 Chapter is to safeguard the life, health, safety, welfare, and property of the occupants of residential dwelling units, the neighbors of said occupants, and the general public, through the prohibition of short-term rental residential property. The intent of this Chapter is to preserve the neighborhood character of residential subdivisions within the City of Arlington and to minimize adverse impacts to the housing supply caused by the conversion of residential units to tourist or transient use.

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.

Booking Service means any reservation and/or payment service provided by a person or entity that facilitates a short-term rental transaction between an Owner and a prospective Occupant, and for which the person or entity collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment services provided for the short-term rental transaction.

Hosting Platform means a person or entity that participates in the short-term rental business by providing, and collecting or receiving a fee for, Booking Services through which an Owner may offer premises for an occupant on a short-term basis. Hosting Platforms usually, though not necessarily, provide Booking Services through an online platform that allows an Owner to advertise the premises through a website provided by the Hosting Platform and the Hosting Platform conducts a transaction by which potential occupants arrange their use and their payment, whether the would-be occupant pays rent directly to the Owner or to the Hosting Platform.

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 Short-term rentals prohibited

It shall be unlawful for any owner or person to rent, lease, advertise, or otherwise permit or allow any residential premises to be operated or used as a Short-term Rental.

Section 3.02 Requirements for Hosting Platforms; Notice to Owners

- A. All Hosting Platforms shall provide the following information in a notice to any owner listing a Short-term Rental located within the City of Arlington through the Hosting Platform's service. The notice shall be provided prior to the owner listing the premises and shall include the following information: THE "SHORT-TERM RENTAL" CHAPTER OF THE ARLINGTON CITY CODE PROHIBITS THE SHORT-TERM RENTAL OF RESIDENTIAL PREMISES WITHIN THE CITY OF ARLINGTON.

- B. Notwithstanding any other provision of this Chapter, nothing shall relieve any owner, person, occupant, or Hosting Platform 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.

Section 3.03 Physical conversion of premises prohibited

- A. It shall be unlawful for an owner or person to remodel, renovate, enlarge or otherwise modify premises to add additional bedrooms for use as a Short-term Rental.
- B. It shall be unlawful for an owner or person to pave or otherwise cover pervious soil to create additional on-premise parking for use by a Short-term Rental.

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 January 1, 2019.

PRESENTED AND GIVEN FIRST READING on the 16th day of October, 2018, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 30th day of October, 2018, 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