

ORDINANCE NO. 2419

AN ORDINANCE OF THE CITY OF DUNCANVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DUNCANVILLE, BY AMENDING CHAPTER 12C 'BOARDING AND GROUP HOMES' BY ADDING NEW ARTICLE II "SHORT-TERM RENTAL REGISTRATION REGULATIONS", SECTIONS 12C-50 THROUGH 12C-64; PROVIDING FOR DEFINITIONS; PROVIDING THE POWERS AND DUTIES OF THE CITY PLANNER AS THE DESIGNATED ADMINISTRATOR; PROVIDING FOR THE ESTABLISHMENT OF A SHORT-TERM RENTAL REGISTRATION PROGRAM FEE; PROVIDING FOR RESERVE SECTIONS 12C-65 – 12C-99; PROVIDING A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Duncanville, deems it necessary for the purpose of promoting the health, safety and general welfare of the City and its residents, to adopt and enforce regulations regarding short-term rental properties which are offered for lease, barter or rent in the City,

WHEREAS, the City Council has determined that regulations are needed to be updated to address regulations for Short-Term Rentals, and

WHEREAS, permanent residents desire the option to occasionally utilize their properties for home share rentals, and

WHEREAS, the operation of Short-Term Rentals should not negatively affect property values, and

WHEREAS, the short-term rental registration program shall be implemented Citywide and shall apply to each single-family, two-family (duplex), multi-family, and townhouse, as defined, short-term rental units within the City.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. That Chapter 12C "Boarding and Group Homes" of the Duncanville Code of Ordinances is hereby amended by adding a new Article II, "Short-Term Rental Registration Program Regulations", which shall read as follows:

"CHAPTER 12C – BOARDING AND GROUP HOMES

ARTICLE I. IN GENERAL

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ARTICLE II. SHORT-TERM RENTAL REGISTRATION PROGRAM REGULATIONS

Sec. 12C-50 Purpose and Applicability

The purpose of this division is to establish regulations for the registration and use of Short-Term Rentals for single-family, two-family (duplex), and townhouse living units. The requirements of this division apply only to Short-Term Rentals, as defined herein, located in residential and certain non-residential zoning districts established under the City's Zoning Ordinance, Chapter 23 of Code of Ordinances. 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 less than 30 consecutive days, or any other applicable provision of the Duncanville Code of Ordinances.

Sec. 12C-51 Definitions

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Advertise means the written, audio, oral or other methods of drawing the public's attention whether by brochure, written literature or on-line posting to a Short-Term Rental in order to promote the availability of the Short-Term Rental.

City Manager means the person designated by the City Council and Home Rule Charter.

City Planner means the person designated by the City Manager as the City Planner or their designee.

Host means the person, firm, corporation, partnership or association, assigned the duty and responsibility by the owner to manage or rent residence for a Short-Term Rental.

Hotel Occupancy Tax means the hotel occupancy tax as defined in Chapter 18, Article II of the Duncanville Code of Ordinances and Chapter 3 of the Texas Tax Code, as may be amended.

Local Emergency Contact means an individual other than the applicant, who resides within 20 miles of the subject property, and who is designated by the owner/applicant to act as the owner's authorized agent if the owner has traveled outside of the immediate area or is otherwise unavailable. The local emergency contact should be reachable on a 24-hour basis, have access to the Short-Term Rental Property, and be authorized by the owner to

act in the owner's absence to address any complaints, disturbances, and emergencies.

Owner means the person who, in accordance with the most recently recorded deed, deed of trust, security instrument, trust instrument, affidavit of heirship, muniment of title or other similar document indicating title to real property recorded in the Official Public Records of Dallas County, Texas, is vested in, the ownership, dominion or title of real property, including, but not limited to:

1. the owner of a fee simple title;
2. the owner of a life estate or an estate for years;
3. the purchaser named in an executory contract for conveyance entered in compliance with title 2, chapter 5, subchapter D of the Texas Property Code, as amended, and recorded in the Official Public Records of Dallas County, Texas if required by V.T.C.A., Property Code § 5.076, as amended; or
4. a mortgagee, receiver, executor or trustee in control of real property.
5. a person with a long-term lease of thirty (30) days or greater.

Person means an individual, corporation, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or community entity.

Primary Residence means the usual dwelling place of the applicant's 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, property tax documents, or utility bill. For purpose of this chapter, a person may have only one primary residence.

Short-Term Rental, as defined by the City's Zoning Ordinance, shall mean "a residential unit offered for rental to guests for residential purposes for a period of one (1) to thirty (30) nights. Examples include, but are not limited to, Airbnb, Vacation Rentals by Owner, HomeAway, other brokers or persons. Such rentals may include a shared room, a single room, or the entire dwelling unit. These uses are conducted by the homeowner or tenant, not by a hotel or other business." The term does not include;

1. a dwelling, or a part thereof, unit that is used for a nonresidential purpose, including an educational, health care, retail, restaurant, banquet or event space, or another similar use as determined by the City Planner;
2. a bed and breakfast; or
3. a hotel/residence hotel.

Group home or assisted living defined by the Comprehensive Zoning Ordinance.

Single-family residence means a single-family residence as referred to in this article which includes the following:

1. One-family dwelling (detached): A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract and having no physical connection to a building located on any other lot or tract;
2. One-family dwelling (attached): A dwelling which is joined to another dwelling at one or more sides by a party wall or abutting separate wall and which is designed for occupancy by one family and is located on a platted separate lot, delineated by front, side and rear lot lines;
3. Two-family dwelling: A single structure designed and constructed with two dwelling units under a single roof for occupancy by two families, one in each unit; and
4. Condominium: The separate ownership of single dwelling units in a multiple unit structures with common elements and;
5. Multi-family dwelling or apartment: Any building or portion of a building, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or place of residence by three or more families living in independent dwelling units.

Residential districts: Includes the following districts: SF-43 Estate Single-Family Residential District, SF-13 Single-Family Residential District, SF-10 Single-Family Residential District, SF-7 Single-Family Residential District, TF-7 Duplex Residential District, MF-21 Multi-Family Residential District, MF-14 Multi-Family Residential District as defined in Chapter 23 of the Code of Ordinances.

Short-term rental permit means the permit issued by the City Planner or their designee pursuant to this article.

Sec. 12C-52 City Manager / City Planner, Power and Duties.

The City Manager, City Planner or designee is hereby designated as the administrator of the provisions of this Article. In addition to the powers and duties otherwise prescribed for the city planner, as administrator of this Article, the city planner shall have the authority to:

- 1) Administer and enforce all provisions of this ordinance along with related standards for Short-Term Rentals contained in Chapter 23 (Zoning Ordinance) within the Duncanville's Code of Ordinances.
- 2) Keep records of all registrations issued in the program.
- 3) Adopt reasonable rules and regulations, not inconsistent with the provisions of

this Article, with respect to the form and content of application for registration, the investigation of applicants, and other matters incidental or appropriate to his powers and duties as may be necessary for the proper administration and enforcement of the provisions of this Article.

- 4) Conduct periodic inspections of residential rental properties throughout the City to ensure compliance with this Article and all other applicable City ordinances and State laws, and applicable adopted codes including but not limited to the adopted Building Codes in Chapter ____ of the Code of Ordinances as amended, 2015 related to the purpose and/or enforcement of this Article.

Sec. 12C-53 Short-Term Rental Registration Requirements

A. No person shall hereafter advertise, offer to rent or rent, lease, sublease, license or sublicense a residential property within the City as a Short-Term Rental for which a registration has not been properly made and filed with the development services department of the city. Registration shall be made upon forms furnished by the city for such purpose and shall specifically require the following minimum information:

- 1) Name, address, phone number and e-mail address of the property owner(s) of the Short-Term Rental property.
- 2) Verification of ownership and authorization by the owner's Residence regarding primary residence.
- 3) Name, address, phone number and e-mail address of the designated Local Emergency Contact.
- 4) The maximum number of occupants permitted for the dwelling unit or sleeping room in accordance with the Code of Ordinances.
- 5) A submission of a detailed floor plan of the dwelling with dimensioned room layout.
- 6) Site Plan/Survey of the property indicating maximum number of vehicles that can be legally parked on the property, without encroaching onto street, sidewalks or alleys; other public rights-of-way or public property.
- 7) Property owner must submit complete list of all rentals whether or not located withing the City advertised on all hosting sites.
- 8) Name, address, e-mail address, and telephone number of the resident owner, nonresident owner, property manager, resident manager, local emergency contact, and mortgagee, if there is a mortgage against property.
- 9) Trade name of resident owner or nonresident owner.

- 10) Names and addresses of all registered agents should the parties named in this subsection be corporations.
- 11) Zoning classification(s).
- 12) Acknowledgement of receipt of a copy of this article and agreement to comply with all provisions of this article as a condition to receiving and maintaining a short-term rental license.

Sec. 12C-54 Inspection Required

A. Upon registration and renewal, and prior to the first rental occupant of a Short-Term rental property, after such registration and renewal, the owner is required to schedule an Inspection of the residential structure with the City development services department to determine compliance with the minimum property standards contained in the Code of Ordinances in this Article and other applicable codes.

- 1) If only a portion of the premises is offered for rent, then that portion plus shared amenities and points of access shall be inspected.
- 2) If, upon completion of the inspection, the premises are found to be in violation of one or more provisions of applicable City codes and ordinances, the City shall provide written notice of such violation and shall set a re-inspection date for violation to be corrected prior to its rental or occupancy.

Sec. 12C-55 Restrictions on Short-Term Rentals

A. *External Signage.* There shall be no external on-site or off-site advertising signs or displays indicating the property is a Short Term Rental).

B. *Limit on occupants allowed.* No more than two adult guests per bedroom, plus no more than two additional adults shall be allowed when renting a property as a home share rental, except that:

- 1) There shall be a maximum occupancy of ten (10) persons, including adult and children.
- 2) Bedrooms under 120 square feet shall be limited to only adult one occupant.

C. *Limits on number of vehicles.* There shall be a maximum of one motor vehicle per bedroom, or maximum number of motor vehicle that can be accommodated within the garage and driveway, without extending over the public rights of way (alleys and sidewalks) whichever is less.

D. *Advertisement and contracts.* Any advertisement of the property as a short-term rental and all rental contracts must contain language that specifies the allowed maximum number of occupants and maximum number of vehicles.

E. *Other Restrictions.* It is unlawful:

- 1) To 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;
- 2) To advertise or offer a Short-Term Rental without first registering the property in which the rental is to occur with the City in accordance with this article; documented advertisement of the subject property as a Short-Term Rental, online or offline, shall be considered prima face evidence of a violation of this ordinance;
- 3) To operate a Short-Term Rental that does not comply with all applicable city and state laws and codes;
- 4) To operate a Short-Term Rental without paying the required hotel occupancy taxes;
- 5) To offer or allow the use of a Short-Term Rental for the sole or primary purpose of having an establishment that allows for an environment that produces unwanted public nuisances such as noise.;
- 6) To 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.
- 7) Permit the use of the Short-Term Rental for the purpose of housing sex offenders; operating a structured sober, recovery or other purpose living home or similar enterprise; selling illegal drugs; selling alcohol or another activity that requires a permit or license under the Alcoholic Beverage Code; or operating as a sexually oriented business.

Sec. 12C-56 Brochure and Safety Features

A. *Informational brochure.* Each registrant operating a Short-Term Rental shall provide to guests a brochure and file the same with the City that includes:

- 1) The registrant's twenty-four (24) hour contact information;

- 2) The host's twenty-four (24) hour contact information if the property owner is not within the city limits when guests are renting the premises;
- 3) Pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, and trash collection schedules;
- 4) 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.

B. *Safety features.* Each Short-Term Rental registrant shall provide in the premises working smoke detectors in accordance with adopted codes and at least one working carbon monoxide detector and alarm, and one working fire extinguisher for each sleeping unit and kitchen. The premises shall otherwise comply with applicable standards and regulations contained in the City's Code of Ordinances, and as amended.

Sec. 12C-57 Notification of Approval of Short-Term Rental

Within ten (10) days of the approval of a Short-Term Rental registration or renewal, a notice will be sent to all property owners within two-hundred feet (200 ft.) of the property, which shall include the 24-hour complaint line..

Sec. 12C-58 Registration Term, Fees, and Renewal

A. All registrations approved under this Chapter shall be valid for a period of one year from the date of its issuance.

- 1) The fees for registration of a Short-Term Rentals shall be as established by resolution of the City Council and may include the following:
 - a. The initial registration fee,
 - b. a late fee of twice the established the fee, and
 - c. senior exemption or other exemption.

B. Upon receipt of an application for renewal of the registration, the City Planner or their designee 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. 12C-59 Inspections; Re-inspections; Suspension and Revocation of License

A. *Inspections; access.* The resident owner, nonresident owner, resident manager and property manager, as a condition to the issuance of a short-term rental license required by this article, shall consent and agree to permit and allow the city's building official or their designee to make the following inspections of the short-term rental when and as needed to ensure compliance with this article.

- 1) Right and access to inspect all portions of the premises and structures located on the premises that are not dwelling units, including, but not limited to, all storage areas, detached garages, and swimming pools, upon reasonable advance notice being given to the resident owner, nonresident owner, property manager or resident manager;
- 2) Right and access to inspect all unoccupied dwelling units upon giving reasonable notice to resident owner, nonresident owner, resident manager or property manager;
- 3) Right and access to inspect all occupied dwelling units when, upon receipt of reliable information, the building official or their designee has reason to believe that violations of the ordinances of the city or state law exist that involve serious threats to life, safety, health and property; and
- 4) Before the short-term rental license and any renewal of the short-term rental license is approved, and before the rental of any single-family residence as a short-term rental under this article, the resident owner, nonresident owner, resident manager or property manager shall request an inspection and make the single-family residence available for inspection by the building official or their designee. The building official or their designee and the resident owner, nonresident owner, resident manager and property manager shall agree on a reasonable date and time for the requested inspection.

B. *Admission to premises.* The City Planner or their designee may enforce the provisions of this article upon presentation of proper identification to the occupant in charge of the short-term rental and may enter, with the occupant's permission, any short-term rental between the hours of 8:00 a.m. and 6:00 p.m.; provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life, or severe property damage, the building official or their designee may enter the short-term rental referenced in subsection (a) of this section

at any time and upon presentation of identification and the occupant's permission shall not apply. Whenever the building official is denied admission to inspect any short-term rental under this provision, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection.

C. *Reinspection.* If any of the inspections authorized by this article require a second reinspection due to noted violations, then a reinspection fee of \$50.00 shall be paid prior to the second reinspection.

D. *Suspension or revocation of license.* Failure of an owner to comply with the provisions of this article after receipt of written notice of the violation from the building official or their designee setting out the violations and the time allowed to rectify the violations, the short-term rental license authorized by this article issued to the owner may be suspended or revoked by the community development department.

E. *Reinstatement.* Any person requesting a reinstatement or reissuance of a short-term rental license that has been suspended or revoked shall be required to apply for and receive a new short-term rental license issued under this article as a condition precedent to the reissuance or reinstatement of the certificate of occupancy.

Sec. 12C-60 Revocation/Appeal

A. Permit maybe denied and/or revoked by the City Manager or designee upon a finding by the noncompliance with any provisions of this article or violations of the Zoning Ordinance, or other applicable city codes.

B. A permit holder may be subject to revocation of their permit if there are four or more violations within a twelve-month period of this article or other safety, health and welfare ordinances of the City.

C. The Neighborhood Services Department shall issue a notice of violation of any provision of this article or violations as provided herein. Such notice shall include the date, time and synopsis of the facts surrounding such violation.

D. An applicant or permit holder who wishes to appeal the denial or revocation of a permit under this article, shall file an appeal with the Board of Adjustment for reinstatement of a denied or revoked permit.

E. The Board of Adjustment shall conduct an evidentiary hearing, take testimony and receive any documented evidence to determine whether the decision of City Manager or designee should be upheld or overturned.

F. At the hearing, the Board of Adjustment shall receive a testimony and evidence to contest the decision to deny or revoke a permit.

G. The Board of Adjustment upon completion of a hearing, shall upon a majority vote of four-fifths of the Board may overturn the decision of the City Manager or designee.

H. After a permit under this article has been revoked an owner may not reapply until after six (6) months of any revocation or appeal from a final decision of the Board of Adjustment or court of competent jurisdiction.

I. All decision of the Board of Adjustment under this article shall be deemed final.

Sec. 12C-61 Fees

All fees for registration, inspection or renewal, including any late fees or exemptions, as provided in this article, shall be as established by resolution of the City Council.

Sec. 12C-62 Presumption; Presentation of Documents or Affidavit

A. *Presumption.* Its shall be a rebuttable presumption that a single-family residence that is occupied by one or more person(s) who are not the owner is being occupied pursuant to an agreement between the owner and the occupant(s) of the single-family residence wherein the occupant(s) have agreed to rent said residence from the owner as Short-Term Rental.

B. *Presentation of documents or affidavits.* Any resident owner or nonresident owner claiming that the owner is not required to obtain a short-term rental license pursuant to this article shall, not later than five business days following receipt of a written request of the administrator of this Ordinance or their designee or, in the case of an appeal filed pursuant to Section 9-29-10 of this article deliver to the community development department a true and correct copy of any agreements, documents of title, letters of administration, letters testamentary, executory contracts for conveyance (also known as "contracts for deed"), affidavits, or other documents that establish to the satisfaction of the community development department that a landlord/tenant relationship does not exist between the owner and the occupant(s) of the single-family residence. Unless an extension of the time for delivery of such documents or affidavits is granted by the building official or their designee or city manager, as the case may be, the failure of the owner to present the requested documents within the time provided by this subsection (b) shall result in the presumption described in subsection (a) above, becoming irrefutable.

Sec. 12C-63 Violations and Penalties

Violation of this ordinance upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

Reserve 12C-64 – 12C-99"

SECTION 2. That all provisions of the Ordinances of the City of Duncanville, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

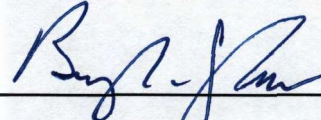
SECTION 3. If any article, paragraph or subdivision, clause or provision of this shall be judged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so decided to be valid or unconstitutional.

SECTION 4. Any person, firm, corporation or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Duncanville, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2000.00) for each offense. Every day that a violation occurs shall constitute a separate offence.

SECTION 5. This ordinance shall take effect immediately from and after the publication of its caption, as the law in such cases provides.

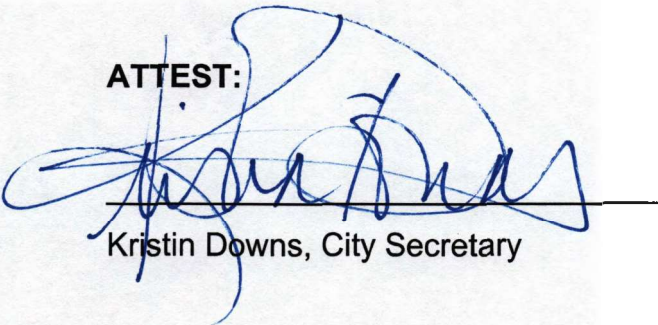
DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of December 2021.

APPROVED:



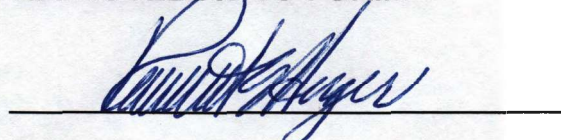
Barry L. Gordon, Mayor

ATTEST:



Kristin Downs, City Secretary

APPROVED AS TO FORM:



Robert E. Hager, City Attorney

