

ORDINANCE

AN ORDINANCE OF THE CITY OF DESOTO, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 4 TITLED "BUSINESS REGULATIONS" BY ADDING A NEW ARTICLE 4.2000 TITLED "SHORT-TERM RENTALS" FOR THE PURPOSE OF ESTABLISHING REGULATIONS TO MONITOR THE USE OF RESIDENTIAL DWELLING UNITS AS SHORT-TERM RENTALS; BY AMENDING CHAPTER 11 TITLED "TAXATION" BY AMENDING ARTICLE 11.200 TITLED "HOTEL/MOTEL OCCUPANCY TAX" BY AMENDING SECTION 11.202 TITLED "DEFINITIONS" AND BY AMENDING SECTION 11.203 TITLED "COLLECTION" TO INCLUDE SHORT-TERM RENTALS; BY AMENDING APPENDIX A TITLED "FEE SCHEDULE" BY ADDING A NEW ARTICLE 34 TITLED "SHORT-TERM RENTAL REGISTRATION FEE" TO SET FORTH THE FEE FOR THE REGISTRATION OF A SHORT-TERM RENTAL AND THE FEE FOR RENEWAL OF THE REGISTRATION; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF JANUARY 1, 2020.

WHEREAS, the City Council has determined that the establishment of regulations to monitor the use of residential dwelling units as short-term rentals is in the best interest of the public; and

WHEREAS, the City Council has determined that such regulation shall include registration and permitting of short-term rental properties; and

WHEREAS, the City Council has determined that the city shall impose the city's hotel/motel occupancy tax on short-term rentals pursuant to Section 352.003 of the Texas Tax Code;

WHEREAS, the City Council has determined that the establishment of regulations and imposing the city's hotel/motel occupancy tax on short-term rentals will promote the public health, safety and welfare of its citizens; and

WHEREAS, the City Council has determined that an annual registration fee will assist the City in covering the cost to administer the short-term rental program;

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

SECTION 1. The Code of Ordinances of the City of DeSoto, Texas, be, and the same is, hereby amended by amending Chapter 4, titled "Business Regulations" by adding Article 4.2000 titled "Short-Term Rentals", to read as follows:

"CHAPTER 4

BUSINESS REGULATIONS

ARTICLE 4.2000 SHORT-TERM RENTALS

Sec. 4.2001 Short title and purpose

- (a) This article may be known and cited as "Short-Term Rentals."
- (b) The purpose of this article is to establish regulations for the use of residential dwelling units as short-term rentals in order to ensure the protection of the health and safety of the occupant(s) of short-term rental properties and to protect the integrity of the neighborhoods in which these properties are located.

Sec. 4.2002 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Administrator. The city manager or designee.

Advertise. 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.

Agent. A local contact person designated by the short-term rental operator in lieu of the operator who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding in person within one (1) hour to complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit; and taking immediate remedial action to resolve any such complaints. Such agent must reside within the Dallas County area.

Estate home. A single-family dwelling unit with five or more bedrooms located on property zoned SF-CE or SF-E.

Hotel/motel occupancy tax. The hotel/motel occupancy tax as defined in Article 11.200 of the DeSoto Code of Ordinances and Chapter 3 of the Texas Tax Code.

Occupant. - The person(s) who have lawfully obtained the exclusive use and possession of the short-term rental property or portion thereof from its operator, and the guest(s) of such person(s).

Operator. Any person who operates a short-term rental, as defined in this article.

Owner. The person or entity that holds legal and/or equitable title to the residential property.

Property. The residential legal lot on which a short-term rental is located.

Short-term rental ("STR"). A property that rents out all or a portion of a one-family or two-family dwelling for the purpose of overnight lodging for between one (1) and twenty-nine (29) days, where the property is owner-occupied, and does not provide food or beverage for consumption.

Short-term rental permit. The permit issued by the city that identifies the 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.

Sleeping room. Any enclosed habitable space within a dwelling unit which complies with the minimum room dimension requirements of the adopted International Residential Code, and consisting of four walls to the ceiling, at least one of which is located along an exterior wall with a window and contains a built-in closet. A sleeping room shall not be interpreted to include living rooms, family rooms and other similar rooms in which furniture such as fold-down beds or convertible couches are provided on a permanent basis for regular accommodation of residents, temporary or otherwise.

Sec. 4.2003 Registration and permit required

- (a) The operation of a short-term rental without a permit is prohibited.
- (b) Prior to using a dwelling unit as a short-term rental or advertising in any manner the availability of the dwelling unit for short-term rental, the operator must submit the following information on a form and in the manner prescribed by the administrator:
 - (1) The name, address, email and telephone number of the owner and operator of the subject short-term rental unit;
 - (2) The name, address, email and 24-hour contact telephone number of the designated agent. If there is no designated agent, the operator must provide a 24-hour contact telephone number for the operator;
 - (3) The name, mailing and physical address of the proposed short-term rental unit;
 - (4) The number of sleeping rooms and applicable occupancy limit of the proposed short-term rental unit;

- (5) Maximum occupancy is two (2) persons per sleeping room within each short-term rental unit and a maximum of no more than eight (8) persons total within the short-term rental unit, except that operator may allow up to two (2) minor children, age 12 or under, to occupy the short-term rental unit in addition to the maximum number of occupants otherwise provided for in this subsection. The maximum occupancy of a short-term rental shall be determined at the time the short-term rental permit is issued or renewed. That capacity shall not be increased by subsequent construction of any addition to the structure covered by the permit or by construction of any other structure located on the property without the submission of an amended registration form;
- (6) The owner of an estate home shall be exempt from the limitations of subsection (5) of this section for up to two (2) additional bedrooms for housing to accommodate no more than two (2) persons for each additional bedroom approved pursuant to the exemption up to a maximum of twelve (12) guests and up to two (2) minors age twelve (12) and under;
- (7) Where one owner or operator manages or owns multiple short-term rental units within a condominium or townhome complex, a single consolidated permit application may be submitted. Each residential short-term rental unit will still be assigned a unique permit number and be subject to the registration fee. If units are managed by different agents, despite being in the same complex, separate applications are required;
- (8) A submission of a sketch floor plan of the dwelling with dimensional room layout;
- (9) A site plan/survey of the property indicating the maximum number of vehicles that can be legally parked on the property, without encroaching onto the street, sidewalks, alleys or other public rights-of-way or public property; and
- (10) Any additional information the administrator determines necessary for the administration of this section.

(c) Any existing short-term rental shall have sixty (60) days from adoption of this ordinance to complete the required registration and obtain their short-term rental permit.

(d) Non-Transferability. A short-term rental permit is not transferable to a new property owner. A new owner must apply for a short-term rental permit within sixty (60) days from the closing date of the purchase or any other conveyance of ownership. Failure of a new property owner to apply for permit within sixty (60) days from the closing date may result in the revocation or non-renewal of an existing short-term rental permit or the denial of a new short-term rental registration.

(e) Any property owner delinquent and/or owing the city fees, including but not limited to occupancy tax, sanitation or gas service fees, will be prohibited from registering a short-term rental until such time as payment or acceptable resolution is approved by the city financial services department.

(f) Registration Fee – Renewal Fee:

- (1) The short-term rental registration form shall be accompanied by an initial non-refundable per unit registration fee as established by city council resolution.
- (2) The initial registration of the short-term rental is valid for twenty-four (24) months from the date the completed registration is filed with the city and payment of the registration fee has been made, unless ownership of the short-term rental changes at which time a new registration will be required and new permit issued. Subsequent renewal of a short-term rental will be on an annual calendar year basis.

Sec. 4.2004 Minimum standards of conduct

Any owner or operator may be cited or fined by the city for failure to abide by the minimum standards of conduct provided for in this article:

(a) Hotel/Motel Occupancy Taxes. It shall be unlawful to operate a short-term rental without paying the required hotel/motel occupancy taxes.

(b) The owner, operator or designated agent shall provide a tenant information sheet to renters of short-term vacation rentals, with information providing basic, minimum standards of conduct during their stay in the city. At a minimum, the following items must be included on the information sheet:

- (1) The name of property's designated agent, including a 24/7 phone number;
- (2) Occupancy limit as established at the time of registration and permitting;
- (3) Location of off-street parking, other available parking and location of any adjacent no-parking fire lanes;
- (4) Notice that failure to conform to the occupancy and parking requirements is a violation of city code and may subject occupants to citation;
- (5) Noise and lighting restrictions;
- (6) Assembly restrictions;

- (7) Trash collection information to include proper timing and placement of receptacles; and
 - (8) Other information as may be required by the administrator from time-to-time.
- (c) Parking. The maximum number of vehicles allowed shall be one car per bedroom, or maximum number of cars 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. 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) Prohibition of Using Short-term Rental as a Party Venue. A short-term rental may not be used for the sole or primary purpose of having a party venue. The owner must include a written prohibition against the use of the short-term rental as a party venue in every advertisement, listing or other publication offering the property for rent.
- (f) An occupant or guest shall not use or allow another to use a short-term rental for an assembly between 10:00 p.m. and 7:00 a.m.
- (g) An occupant or guest shall not use or allow another to use a short-term rental for an outside assembly of more than six (6) persons between 7:00 a.m. and 10:00 p.m. For purposes of this article, an assembly includes a wedding, bachelor or bachelorette party, concert, sponsored event, or any similar group activity other than sleeping.
- (h) Any radio receiver, musical instrument, phonograph, loud-speakers, sound amplifier or device for the producing or reproduction of any sound shall be conducted within a fully enclosed short-term rental unit and shall not be audible at the property line of the short-term rental unit.
- (i) Functions such as meetings, receptions, weddings, and other social events provided for compensation shall not be permitted unless the short-term rental is located in a commercial zoning district.
- (j) Health and Life Safety. Owner or operator shall ensure all building and fire related construction conforms to the city's adopted building code.
- (k) All floors with an enclosed space of any kind must have a minimum of one (1) Class 2A:10B:C type fire extinguisher (standard 5-pound fire extinguisher) mounted so as to be conspicuous and convenient for the occupants.
- (l) Non-compliant sleeping rooms shall not be included in the maximum occupancy calculation and notification shall be provided in the tenant information sheet that the non-compliant sleeping rooms are not included in the maximum occupancy calculation.

(m) Use of a short-term rental for the purpose of housing sex offenders; operating a 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 is strictly prohibited.

Sec. 4.2005 Agent

(a) An operator of a short-term rental who does not reside within Dallas County must designate an agent(s) to serve as local contact(s) who are available to respond to emergency situations within one (1) hour.

(b) If there is a change related to the agent's contact, the operator must provide updated or new information to the administrator in writing within three (3) business days.

(c) An operator shall be required to designate a local contact person who resides within Dallas County to act as an agent in lieu of the operator. The agent shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding in person within one (1) hour to complaints regarding condition, operation, or conduct of occupants of the short-term rental unit; and taking immediate remedial action to resolve any such complaints.

Sec. 4.2006 Enforcement; provisions

(a) The owner/operator shall comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental unit, including, but not limited to, Chapter 6 "Health and Sanitation" and Chapter 11, "Taxation" of the city's code of ordinances.

(b) A permit may be denied, suspended or revoked for any of the following reasons:

- (1) three (3) or more notices of violation issued within a twelve (12) month period for any conduct or condition at the short-term rental that constitutes a violation of this article or federal, state or local law;
- (2) providing false or misleading information on a Permit application;
- (3) representing a property available or otherwise making a residence available for occupancy or rent as a short-term rental where the property does not hold a valid short-term rental permit;
- (4) the permit holder is overdue in payment to the city of taxes, fees, fines, or penalties or fails to provide documentation when requested showing all occupancy taxes have been paid for the property;
- (5) the owner fails to timely pay all applicable hotel/motel taxes as required by city ordinance and state law;

- (6) the short-term rental is sold or otherwise transferred; or
- (7) information provided with the permit application has changed or is no longer accurate and the permit holder has failed to notify the city.

Sec. 4.2007 Penalty

(a) A violation under this article is a Class C misdemeanor offense punishable upon conviction by a fine not to exceed five hundred dollars (\$500.00) per offense. Each day shall constitute a separate offense.

(b) Pursuant to state law and the Code of Ordinances, the maximum penalty for offenses arising under such code or ordinance of the city governing, fire safety, zoning, public health and sanitation, shall not exceed the sum of two thousand dollars (\$2,000.00).

Sec. 4.2008 Appeal

(a) If an application for a short-term rental permit or renewal is denied or the permit subsequently revoked, the owner or operator may appeal ("appellant") to the Administrator by written notice delivered within ten (10) business days of denial or revocation.

(b) The administrator shall have twenty (20) business days from the date on which the appeal was received in which to give a written decision affirming, modifying, or reversing the denial, suspension, or revocation as applicable.

(c) If the permit is denied, suspended, or revoked pursuant to this article, appellant may within ten (10) business days of the service of notice of such determination submit to the administrator a written request for a hearing to show cause as to why the permit should not be denied, suspended, or revoked, as applicable. A hearing shall be scheduled within thirty (30) business days of receipt of applicant's request and notice of the hearing shall be given to applicant ten (10) business days before the hearing. At the hearing, the appellant and city may present such evidence as may be relevant.

(d) Any notice or decision served to appellant shall be deemed served upon the appellant when it is personally delivered or on the date it is mailed by United States mail, with proper postage prepaid, to the name and address set forth on the application for permit, whichever occurs first.

(e) Any appeal filed pursuant to this chapter shall state succinctly the grounds upon which it is asserted that the determination should be modified or reversed and shall be accompanied by copies of the application for permit, the written notice of the determination of the city, and any other information material to the determination.

(f) Judicial review of any such final decision of the city may be obtained through the filing of an appropriate action in the appropriate district court within thirty (30) calendar

days after service on appellant of the decision. The appellant shall bear the burden of proof in court. The substantial evidence standard of review shall apply to such appeal.”

SECTION 2. The Code of Ordinances of the City of DeSoto, Texas, be, and the same is, hereby amended by amending Chapter 11 titled “Taxation” by amending Article 11.200 titled “Hotel/Motel Occupancy Tax” by amending Section 11.202 titled “Definition” and by amending Section 11.203 titled “Collection”, to read as follows:

“CHAPTER 11

TAXATION

ARTICLE 11.200 HOTEL/MOTEL OCCUPANCY TAX

AMEND “HOTEL” DEFINITION TO READ AS FOLLOWS:

Sec. 11.202 Definitions

The following terms are defined as follows:

Hotel. Shall mean any building or buildings in which the public may obtain sleeping accommodations for consideration. The term shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, bed and breakfasts, short-term rentals, or other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums, nursing homes, or a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, used by the institution for the purpose of providing sleep accommodations for persons engaged in an educational program or activity at the institution.

AMEND TO READ AS FOLLOWS:

Sec. 11.203 Collection

Every person owning, operating, managing or controlling any hotel or short-term rental in the city shall collect the tax imposed by this article for the city.

...”

SECTION 3. The Code of Ordinances of the City of DeSoto, Texas, be, and the same is, hereby amended by amending Appendix A titled “Fee Schedule” by adding Article 34.000 titled “Short-Term Rental Registration Fee”, to read as follows:

“APPENDIX A

FEE SCHEDULE

ADD A NEW ARTICLE 34.00 TO READ AS FOLLOWS:

ARTICLE 34.000 SHORT-TERM RENTAL REGISTRATION FEE

A non-refundable registration fee in the amount of One Hundred Twenty-Five Dollars (\$125.00) must be submitted with the Registration form for a newly established Short-Term Rental at the time of applying for the Registration and Permit or when submitting an application for renewal of the Registration and Permit.”

SECTION 4. All provisions of the ordinances of the City of DeSoto, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and that 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 5. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION 6. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 7. A violation under this article is a Class C misdemeanor offense punishable upon conviction by a fine not to exceed five hundred dollars (\$500.00) per offense. Each day shall constitute a separate offense.

SECTION 8. Pursuant to state law and the Code of Ordinances, the maximum penalty for offenses arising under such code or ordinance of the city governing, fire safety, zoning, public health and sanitation, shall not exceed the sum of two thousand dollars (\$2,000.00).

SECTION 9. This ordinance shall take effect January 1, 2020.

IT IS ACCORDINGLY SO ORDAINED.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DESOTO, TEXAS ON THIS THE 15TH DAY OF OCTOBER, 2019.

APPROVED:

Curtistene S. McCowan
Curtistene S. McCowan, Mayor

ATTEST:

Kisha R. Morris-Perkins
Kisha R. Morris-Perkins, City Secretary

APPROVED AS TO FORM:

Joseph J. Gorfica, Jr.
Joseph J. Gorfica, Jr., City Attorney

