

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO’S CODE OF ORDINANCES, ORDINANCE NO. 06-03-31, CHAPTER 18 (BUILDINGS AND BUILDING REGULATIONS) BY ADDING ARTICLE VIII (REQUIREMENTS FOR OWNERS OF RESIDENTIAL PROPERTIES USED AS SHORT-TERM RENTALS); ESTABLISHING REQUIREMENTS AND REGULATIONS FOR USE OF A RESIDENTIAL PROPERTY AS A SHORT-TERM RENTAL; DEFINING TERMS; PROVIDING FOR A PENALTY CLAUSE, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas (“City Council”) has investigated and determined that it would be advantageous, beneficial and in the best interest of the citizens of the City of Frisco, Texas (“Frisco” or “City”) to amend the Frisco Code of Ordinances, Ordinance No. 06-03-31, as amended (“Code of Ordinances”), Chapter 18 (Buildings and Building Regulations), by adding Article VIII (Requirements for Owners of Residential Properties Used as Short-Term Rentals); and

WHEREAS, the City Council finds that there are certain owners of residential short-term rental properties within Frisco who do not provide adequate information on how to contact them; and

WHEREAS, the City Council finds that there are owners of residential short-term rental properties who do not reside locally or who reside out of state; and

WHEREAS, the City Council finds that some owners of residential short-term rental properties do not have firsthand knowledge of the condition of their properties or the individuals who are renting the structure for short-term rental; and

WHEREAS, the City Council finds that there are owners of certain residential short-term rental properties that do not pay the required hotel/motel occupancy tax; and

WHEREAS, the City Council desires to preserve and enhance residential neighborhoods and property values; and

WHEREAS, pursuant to the laws of the State of Texas, including Section 51.001 of the Texas Local Government Code, the City Council has the authority to adopt, publish, amend or repeal an ordinance that, among other things, is for the good government, peace or order of Frisco; and

WHEREAS, Section 92.208 of the Texas Property Code allows a municipality to adopt an ordinance that conforms to the provisions of Texas Property Code, Chapter 92, Subchapter E, related to the disclosure of ownership and management of a dwelling; and

WHEREAS, Frisco has additional power to adopt ordinances within its home-rule authority.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to the Code of Ordinances, Chapter 18 (Buildings and Building Regulations). The Code of Ordinances, Chapter 18 (Buildings and Building Regulations) is hereby amended to add Article VIII (Requirements for Owners of Residential Properties Used as Short-Term Rentals) as follows:

“ARTICLE VIII. REQUIREMENTS FOR OWNERS OF RESIDENTIAL PROPERTIES USED AS SHORT-TERM RENTALS

Sec. 18-460 Purpose

This Article is adopted to promote the public health, safety and general welfare within the City by providing neighborhood sustainability and preserving property values. Having current and reliable information about the owners of Short-Term Rentals will allow the City to provide those owners with timely information on the condition of their properties and emergency contact information, to ensure collection of hotel occupancy taxes, to protect the health and safety of guests of Short-Term Rentals and to aid in enforcement of applicable ordinances and laws. By requiring the registration of Short-Term Rental properties, the City Council seeks to protect property values and to prevent property damage within the City limits.

Sec. 18-461 Definitions

As used in this Article, the following terms, phrases, words and their derivation shall have the following meaning:

City – The City of Frisco, Texas, and all areas within its corporate limits.

City Council – The City Council of the City of Frisco, Texas.

Director or Designee – The department(s) or division(s) of the City designated by the City Manager to administer and/or enforce the provisions of this Ordinance and any person or persons designated by such a department or division to represent the department or division for said purpose.

Guest – A person contracting with a Short-Term Rental for use of a residential dwelling or premises as a Short-Term Rental and the person’s invitees at the Short-Term Rental.

Hotel – A building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, housekeeping service and telephone are provided. Hotel room units are accessed through doorways into an internal hallway, courtyard or lobby. Financial consideration for Hotel room units is generally calculated on a nightly basis.

Hotel Occupancy Tax – Hotel occupancy tax as provided for in Sec 86-72 of the City Code of Ordinances and Chapter 351 of the Texas Tax Code, as they exist or may be amended and any successor ordinances or laws.

Owner – Any person having a legal or equitable interest in real property or identified in the official records of the county as holding title to real property or otherwise having control of real property, including the guardian of the estate of such person and the executor of the estate of such person. The term “owner” does not include the holder of a non-possessory security interest in real property.

Person – One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries and any other organization or entity of whatever character.

Premises – The property, a lot, plot or parcel of land, including any structures or portions of structures thereon.

Short-Term Rental (STR) – A dwelling that is: (a) used or designed to be used as the home of a person, family or household, including a single-family dwelling, garage apartment, guest house or a unit in a multi-unit building, including an apartment, condominium, cooperative or timeshare; and (b) rented wholly or partly for a fee and for a period of less than thirty (30) consecutive days. The term “Short-Term Rental” does not include a premises that is used for a nonresidential purpose, including an educational, health care, retail, restaurant, banquet space or event center purpose or another similar use; a bed-and-breakfast as defined in the City’s Zoning Ordinance; or a hotel.

Short-Term Rental Listing Service – A person that participates in the Short-Term Rental business by facilitating booking services through which an owner may offer Short-Term Rentals to potential guests. Short-Term Rental Listing Services 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 Short-Term Rental Listing Service and the Short-Term Rental Listing Service conducts a transaction by which potential guests arrange their use and their payment, whether the potential guest pays rent directly to the owner or to the Short-Term Rental Listing Service.

Short-Term Rental Permit – A permit issued by the City that identifies the subject property as a lawful Short-Term Rental.

Sec. 18-462 Short-Term Rental Permit Required

No Short-Term Rental shall operate within the City without a current, valid Short-Term Rental Permit. All individual units having cooking, sleeping and bathing facilities within common buildings, regardless of ownership, shall require a separate, individual permit for each unit intended to be used as a Short-Term Rental. A person commits an offense under this Article if that person owns or operates a Short-Term Rental in the City without a valid permit.

Sec. 18-463 Short-Term Rental Permit Application

- (a) Application for a Short-Term Rental Permit shall be made through the City's Online Permit Portal. Each application for a Short-Term Rental Permit shall be accompanied by a non-refundable application fee in the amount of three hundred dollars (\$300) and shall include the following information:
- (1) A list of all owners, operators and agents (if applicable) of the Short-Term Rental, including names, addresses and current email addresses and telephone numbers of each such person;
 - (2) The name, address and 24-hour telephone number of a contact person who is the owner, operator or designated agent and who shall be responsible and authorized to respond to complaints concerning the Short-Term Rental within one hour or less;
 - (3) An acknowledgement that any permit granted under this Article does not supersede any property-specific restrictions against Short-Term Rentals that may exist under law, agreement, lease, covenant or deed restriction;
 - (4) A depiction of the floor plan that identifies sleeping areas, proposed maximum number of guests, evacuation routes and location of all fire extinguishers and smoke detectors;
 - (5) The guest safety information required by Section 18-466;
 - (6) A sworn statement that the owner has met and will continue to comply with all requirements of this Article including, but not limited to, obtaining annual independent inspections of required fire extinguishers in compliance with the City's current Fire Code; and
 - (7) All other information required by the Director or designee
- (b) Applications shall be considered complete when all documentation required under this Article has been submitted and all permit fees have been paid. Incomplete applications will not be accepted.

- (c) Unless revoked by the Director earlier pursuant to this Article, a Short-Term Rental Permit expires one (1) year after the date of issuance. A permit holder shall apply for renewal prior to the expiration of the permit on a form provided by the Director or designee. The permit holder shall update the information contained in the original permit application required under this section or any subsequent renewals under this section, if any of the information has changed. The permit holder shall sign a statement affirming that there is either no change in the information contained on the original permit application and any subsequent renewal applications, or that any information that has been updated is accurate and complete. Complete applications for renewal received after the expiration of a current permit shall be treated as applications for a new permit. The amount of the non-refundable fee for renewal of a Short-Term Rental Permit is three hundred dollars (\$300).
- (d) Upon receipt of a complete application for renewal of a Short-Term Rental Permit, the Director or designee may deny the renewal of a Short-Term Rental Permit if it is determined that the permit was issued in error or on the basis of incorrect information supplied by the applicant or if:
 - (1) The permit holder has pleaded no contest to or been convicted of a violation of any ordinance of the City, or any state or federal law, related to operation of a Short-Term Rental on the premises or has permitted such a violation on the premises by any other person. Such violation may include, but is not limited to, parking, noise, littering, destruction of property, disorderly conduct or failure to pay hotel occupancy taxes; or
 - (2) There are grounds for suspension, revocation or other registration sanctions as provided for in this Article.
- (e) A permit to operate a Short-Term Rental is not transferable to another owner, operator or location.

Sec. 18-464 Right to Inspect Short-Term Rental Premises

To ensure compliance with the requirements of this Article, a Short-Term Rental may be inspected in the following methods:

- (a) *Initial inspection.* As part of the issuance of a new Short-Term Rental Permit and any renewals thereof, the City may conduct an inspection to verify compliance with this Article.
- (b) *Fire extinguishers.* The owner is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the City's current Fire Code.

- (c) *Inspections upon report or suspicion of a violation.* The City may perform inspections when a violation of this Article or other law is reported or suspected.

Sec. 18-465 General Standards

All Short-Term Rentals permitted pursuant to this Article are subject to the following standard requirements:

- (a) *Parking.* Parking shall comply with the Zoning Ordinance. No required parking shall be permitted within public right-of-way or access easements as defined by City Code or state regulations regarding parking. Yards shall not be used to provide the necessary parking.
- (b) *Updated information.* The owner shall provide timely updates to the City of any changes to the name, address and 24-hour telephone number of the contact person who is the owner, operator or designated agent responsible and authorized to respond to complaints concerning the Short-Term Rental within one hour or less. Should a law enforcement officer respond to the Short-Term Rental and issue a citation for any violation of City ordinances or other law, such responsible person may be contacted by the officer or designee. The responsible person shall attempt to contact the occupants within one (1) hour of any contact from the City to address the occupants about the complaints. Should a second complaint be filed and citation issued to the occupants or guests, the owner and responsible party must take appropriate steps to assure future complaints do not occur. Failure to provide updated information to the City regarding the 24-hour contact person shall be a violation of this section.
- (c) *Other standards.* It is unlawful:
 - (1) To advertise on a Short-Term Rental Listing Service or offer a Short-Term Rental without first obtaining a Short-Term Rental Permit in accordance with this Article;
 - (2) To operate a Short-Term Rental in a manner that does not comply with all applicable City and state laws and codes;
 - (3) To operate a Short-Term Rental without paying the required hotel occupancy taxes;
 - (4) To operate a Short-Term Rental with an active alarm system that has not been registered with the Frisco Police Department;
 - (5) To operate a Short-Term Rental with an active alarm system that is registered with the Frisco Police Department but is not listed on the permit as a Short-Term Rental;

- (6) To rent to a guest who is under the age of twenty-one (21);
- (7) To post or allow external signage on or off the premises of the Short-Term Rental that indicates the property is a Short-Term Rental;
- (8) To fail to include the City permit number for the Short-Term Rental in all advertisements, including online, for the Short-Term Rental within the description or body for public reference;
- (9) To permit the use of a Short-Term Rental to promote activities that are illegal or for the purpose of temporary or transition housing for registered 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 Texas Alcoholic Beverage Code; operating as a sexually oriented business, or for rental periods of less than 24 hours; and
- (10) To permit the use of tents, hammocks, recreational/camper vehicles or other vehicles and outdoor areas that are not residential dwellings as Short-Term Rentals.

Sec. 18-466 Guest safety notification and minimum requirements

- (a) Each owner of a Short-Term Rental shall provide to guests a brochure and post in a conspicuous location of the Short-Term Rental the following minimum information:
 - (1) The owner, operator or designated agent's name and twenty-four (24) hour contact telephone number;
 - (2) Pertinent neighborhood information including, but not limited to, parking restrictions, trash collection schedules and location of required off-street parking, other available parking and prohibition of parking on landscaped areas;
 - (3) Quiet hours and noise restrictions as specified under Chapter 54, Article IV of the Code of Ordinances;
 - (4) Information to assist guests in the case of an emergency posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire and emergency medical services and instructions for obtaining severe weather, natural or manmade disaster alerts and updates; and
 - (5) Depiction of floor plan identifying evacuation routes, including the dwelling's exits, primary evacuation routes and secondary evacuation routes near the front door of the dwelling.

- (b) Each Short-Term Rental owner shall provide in the Short-Term Rental working smoke detectors in accordance with adopted codes, and at least one working type A fire extinguisher. The premises shall otherwise comply with applicable Code of Ordinance requirements, including but not limited to all building and fire codes.

Sec. 18-467 Other restrictions on use of premises

This Article does not create any right to operate a Short-Term Rental in violation of any lease, license, deed restriction, covenant, easement or other legal encumbrance. Unless expressly authorized by the City, any premises which has received a City housing incentive is ineligible to receive a permit to operate a Short-Term Rental during the period of time that the owner (or third party beneficiary, as the case may be) is eligible to receive a City housing incentive.

Sec. 18-468 Authority of the Director

The Director shall implement and enforce this Article and may by written order establish such procedures, not inconsistent with this Article or other City ordinances, rules, or regulations, or any county, state, or federal laws or regulations, as the Director determines are necessary to discharge any duty under this Article.

Sec. 18-469 Revocation of Permit; Appeal; Administrative Process

- (a) *Revocation of Permit.* After providing an opportunity for a hearing, the Director is entitled to revoke a permit required by this Article for serious or repeated violations of any of the requirements of this Article, for violations of other applicable law relating to public health, safety or welfare and/or for interference with law enforcement officers in the performance of their duties. Prior to revocation, the Director or designee shall notify the permit holder, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the tenth (10th) calendar day following service of such notice unless a written request for a hearing is submitted to the Director by the permit holder within such ten (10) calendar day period referred to in the notice. If a written request for a hearing is received by the Director within the required time period, (1) the revocation shall not take effect unless and until the Director determines to do so in his ruling at the conclusion of the hearing; and (2) the Director shall hold a hearing and either enact or reject the revocation. At least two (2) business days before the hearing occurs, the Director or designee shall provide the permit holder with notice of the time and place of the hearing. The permit holder shall be permitted to attend and be heard at the hearing. If no request for a hearing is filed within the ten (10) calendar day period referred to in the notice, the revocation of the permit becomes final.
- (b) *Appeals.* An administrative decision issued in connection with the requirements of this Article, including denial of issuance or renewal or revocation or suspension of a permit required by this Article, is final unless

the permit holder submits a written request for an appeal to the City Manager. The appeal shall be filed in writing within ten (10) calendar days of the date of notice of the administrative decision. At least two (2) business days before the appeal hearing occurs, the City shall provide the permit holder with notice of the time and place of the hearing. The permit holder shall be permitted to attend and be heard at the hearing. The City Manager or designee shall hear and rule on the appeal within thirty (30) calendar days after notice of the appeal. The City Manager or designee shall have the power to reverse a decision of the Director or designee where he finds that the basis for such decision was not meritorious and that such a reversal will not adversely affect the public health, safety or welfare. The decision of the City Manager or designee is final. The City Manager's or designee's failure to take action on any such appeal shall constitute approval of the decision by the Director or designee.

- (c) *Administrative process.* A notice required by this Section is properly served when it is delivered to the permit holder via hand-delivery, or when it is sent by registered or certified mail, return receipt requested, or when it is sent via Federal Express or any courier service that provides a return receipt showing the date of actual delivery to the last known address of the permit holder. The hearings provided for in this Section shall be conducted by the applicable regulatory authority at a time and place designated by it. The applicable regulatory authority shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the applicable regulatory authority.

Secs. 18-470 – 18-471 Reserved”

SECTION 3: Penalty. Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding Two Thousand Dollars (\$2,000.00) if the violation relates to zoning, the public health, sanitation or dumping of refuse; otherwise, the fine shall be in an amount not exceeding Five Hundred Dollars (\$500.00). Frisco also may recover a civil penalty of not more than One Thousand Dollars (\$1,000.00) for each violation of any provision of this Ordinance if Frisco proves that: (a) the person, firm, corporation or business entity was actually notified of the provisions of this Ordinance; and (b) after the person, firm, corporation or business entity received notice of the provisions of this Ordinance, the person, firm, corporation or business entity committed acts in violation of the provisions of this Ordinance or failed to take action necessary for compliance with the provisions of this Ordinance. Each calendar day any violation of this Ordinance continues shall constitute a separate offense. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 4: Savings/Repealing. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 5: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remaining in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional and/or invalid.

SECTION 6: Effective Date. This Ordinance shall become effective on the ninetieth (90th) calendar day after the date of its adoption.


DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, on this _____ day of _____, 2021.

Jeff Cheney, Mayor

**ATTESTED AND CORRECTLY
RECORDED:**

Kristi Morrow, City Secretary

APPROVED AS TO FORM:



Abernathy, Roeder, Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys

Dates of Publication: _____, *Frisco Enterprise*