

ORDINANCE NO. 1377-2023

AN ORDINANCE AMENDING CHAPTER 4, “BUSINESS REGULATIONS” OF THE CODE OF ORDINANCES, CITY OF RIVER OAKS, TEXAS, DEFINING SHORT-TERM RENTAL AND PROVIDING FOR THE STANDARDS AND REVIEW PROCESS FOR SHORT-TERM RENTALS; AMENDING APPENDIX A, “FEE SCHEDULE” PROVIDING FOR ADMINISTRATIVE FEES ASSOCIATED WITH PERMITTING AND INSPECTION OF SHORT-TERM RENTAL PROPERTIES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of River Oaks, Texas, (“City”) is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of River Oaks, Texas (“City Council”) recognizes the City’s proximity to tourist destinations in the Dallas-Fort Worth Metroplex; and

WHEREAS, in River Oaks and elsewhere the increase in the number of persons or entities desiring to rent their 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 impact the original residential character of many neighborhoods, due, in part, to substituting permanent residents with transient visitors and thereby reducing or eliminating common goals, cohesiveness, communication and accountability between permanent residents by partially substituting permanent residents with transient visitors; and

WHEREAS, the regulation of the use and operation of such “short-term rental” property is intended to prevent the further erosion of pre-existing and stable single-family neighborhoods, and further advance the City Council's objective of championing great neighborhoods, and preserving the residential nature of its 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 proliferation of unregulated short-term rentals presents fire and structural safety concerns that are not applicable to structures used for permanent occupancy but are deemed necessary to accommodate guests who, as visitors to the City, will rely on City emergency services in the event of a crisis; and

WHEREAS, the City has received numerous complaints from neighbors seeking to resolve issues with parking, noise, and other adverse effects related to the operation of short-term rentals in residential areas; and

WHEREAS, the City Council finds and determines that regulations related to short-term rental uses should be adopted to define short-term rentals, establish standards for operation and appropriate review processes applicable to such uses, and establish commensurate permitting and inspection fees; and

WHEREAS, the purpose of the regulations set forth herein is to provide a procedure to allow the rental of private residences to visitors on a short term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic and noise, and, additionally, to ensure that the number of occupants within such rental units do not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions; and

WHEREAS, the City Council finds that these regulations are necessary to prevent the imminent destruction of property and injury to persons; and

WHEREAS, the City Council has reviewed data and information from other cities' experiences with short-term rentals and used this data and information to develop a regulatory structure suitable for the circumstances within the City; and

WHEREAS, the City Council finds and determines that regulations related to short-term rental uses should be adopted to define short-term rentals, establish standards for operation and appropriate review processes applicable to short-term rentals, and establish commensurate permitting and inspection fees; and

WHEREAS, the City Council finds that regulating the short-term rental of residential property is necessary for promoting the health, safety, and welfare of the general public, ensuring consistency in land uses and development, and protecting the rights of property owners, residents, and visitors in the City.

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

SECTION 1.

Chapter 4 "Business Regulations" of the Code of Ordinances, City of River Oaks, Texas (the "Code of Ordinances"), is hereby amended by adding a new article to read as follows:

“ARTICLE 4.10 SHORT-TERM RENTAL

Sec. 4.10.001 Purpose of article

The purpose of the regulations set forth herein is to provide a procedure to allow the rental of private residences to visitors on a short term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density and, additionally, to ensure that the number of occupants within such rental units do not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

Sec. 4.10.002 Definitions

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

Bathroom shall mean an enclosed space containing one or more bathtubs, showers, or both, as well as one or more toilets, lavatories or fixtures serving similar purposes.

Bedroom shall mean a room used or intended to be used for sleeping purposes and not as a kitchen, bathroom, living room, closet, hallway, utility space, entry way, garage, patio or breezeway.

Block shall mean a tract of land bounded by streets, or a combination of streets, public parks, railroad rights-of-way, shorelines of waterways or corporate limits.

Code or city code shall mean the Code of Ordinances, River Oaks, Texas.

Director shall mean the zoning administrator of the city or their designated representative.

Fire marshal shall mean the fire marshal of the city or their designated representative.

Occupant shall mean the person(s) who have lawfully obtained the exclusive use and possession of the short-term rental premises from the owner and/or operator, and the guest(s) of such person(s).

Operator shall mean the owner or local responsible party tasked with managing a property operating as a short-term rental on behalf of the owner.

Owner shall mean the individual or entity that owns a property operating as a short-term rental.

Permit shall mean the permit issued pursuant to the terms of this article authorizing the operation of a short-term rental.

Short-term rental means the rental for compensation, of any residence or residential structure, or a portion of a residence or residential structure, located within a zoning district where the

residential use is lawful, for the purpose of overnight lodging for a period of not more than thirty (30) days. A short-term rental shall not include a hotel, motel, or boarding home.

Sec. 4.10.003 Short-term rental permit application

It shall be unlawful for any owner, operator, or other person to 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 permit application has not been properly made and filed with the city, and a permit issued. A permit application shall be made upon forms furnished by the city for such purpose, shall be accompanied by the application fee identified in Appendix A “Fee Schedule” of the code, and shall specifically require the following minimum information:

- (1) The name, address, contact information, and signature of the owner of the premises (or signed owner authorization, on a form provided by the city);
- (2) The name, address, and phone number of a 24-hour contact;
- (3) The registration number for the city hotel occupancy tax as required by section 4.10.004(l), below;
- (4) A parking plan of the premises identifying the location and quantity of parking spaces to be used in conjunction with the short-term rental, in relation to the residence;
- (5) A dimensioned floor plan of the proposed short-term rental identifying the proposed maximum number of occupants, bedrooms, other living spaces, location of safety features, and emergency evacuation routes;
- (6) The name, contact information, and rules for the applicable homeowners’ association (HOA), if any;
- (7) Proof of liability insurance, which shall meet the following minimum requirements:
 - (A) The city, its officials, employees, agents and officers shall be named as an “additional insured” on all policies;
 - (B) The policy should provide a minimum liability coverage of \$1,000,000 (one million dollars); and
 - (C) Each policy shall be endorsed to provide the city with a minimum of a 30-day notice of cancellation, non-renewal, and/or material change in policy terms or coverage; provided, however, a minimum 10-days’ notice shall be required in the event of non-payment of premium;

(8) A current tax certificate(s) indicating all taxes for the subject property have been paid to the current year (available from Tarrant Appraisal District). Tax statements printed from the Tarrant County website (pdf) are acceptable in lieu of the original certificate(s);

(9) A copy of the proposed host rules for the short-term rental, including a statement identifying the description and location of safety features described in section 4.10.004(e); and

(10) A statement that the owner of the short-term rental complies with and will continue to comply with the standards and other requirements of this article, as well as all applicable standards and other requirements of the code.

Sec. 4.10.004 Regulations

(a) Maximum stay; minimum stay. It shall be unlawful for an owner to rent or lease a short-term rental for a period of more than thirty (30) days or less than twenty-four (24) hours.

(b) Occupancy. The maximum number of persons permitted to stay in a short-term rental is limited to two (2) persons per bedroom, plus two (2) additional persons; however, no short-term rental shall permit the cumulative total number of occupants to exceed twelve (12) persons. Notwithstanding the foregoing, the maximum number of persons permitted to stay in a short-term rental operating in a multi-family dwelling complex is limited to two (2) persons per bedroom, plus one (1) additional person.

(c) Parking restrictions. Parking is restricted to the number of off-street parking spaces associated with the residential structure, either in the driveway and garage or by location or number assigned to a specific unit, and to on-street parking immediately adjacent to the property's front lot line. It shall otherwise be unlawful for an occupant or invitee of an occupant to park a motor vehicle on a residential street near or across the street from a short-term rental. Additionally, it shall be unlawful for an occupant to park a motor vehicle on an unimproved surface, or for an owner and/or operator to permit such parking. All motor vehicles are further subject to the parking requirements of section 20 of the zoning ordinance.

(d) Access to basic sanitation. Each bedroom of a residence or portion of a residence used as a short-term rental must provide interior access to a bathroom, such that an occupant shall have access to a bathroom without exiting the residence, regardless of whether such bathroom is private or shared.

(e) Life Safety.

(1) The short-term rental must be equipped with:

(A) Working smoke alarms, meeting the requirements of Section 92.254 of the Texas Property Code, with a minimum of one on each floor level and one in each room used as a bedroom; and

- (B) A minimum of one working carbon monoxide detector on each floor or level; and
 - (C) A minimum of one 2A:10B:C type fire extinguisher (a standard five-pound extinguisher) properly mounted within seventy-five (75) feet of all portions of the structure on each floor.
- (2) All gas appliances shall be properly ventilated outside the home.
 - (3) Emergency escape openings shall comply with the city's currently adopted International Residential Code (IRC), with at least one emergency escape opening for each bedroom opening directly to the outdoors.
 - (4) An evacuation plan shall be posted in each bedroom.
 - (5) Any room that does not comply with this subsection (e) shall not be used as a bedroom, and where equipped with a door, shall remain locked at all times when the dwelling is being used as a short-term rental. Any non-compliant bedroom shall not be included in the maximum occupancy calculation for the short-term rental, nor be advertised as a bedroom.
- (f) Conduct on premises. Each short-term rental owner, operator, and occupant shall comply with all requirements of the city code. Owners and/or operators shall be responsible for informing occupants of all relevant city codes and occupants' liability for violations of same. In addition, the following shall be unlawful:
- (1) Conduct involving the use of amplified sound, excessive noise or other disturbances outside the short-term rental structure between the hours of 8:00 p.m. and 7:00 a.m. including, but not limited to, the following outside areas: decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas, in addition to applicable requirements found in article 8.03 of the code;
 - (2) Sleeping outdoors;
 - (3) Placing, or allowing to be placed, waste or recycling receptacles at the designated pickup location prior to 6:00 p.m. on the day prior to the scheduled pickup or failing to remove waste and recycling receptacles within 24 hours after 7:00 a.m. of the scheduled collection days for that location (pursuant to section 13.02.113 of the code);
 - (4) Advertising, promoting, or operating a special event, or permitting the advertising, promotion, or operation of a special event (including, but not limited to, a banquet, wedding, reception, reunion, bachelor or bachelorette party, concert, or similar activity that would assemble large numbers of invitees) to be held on the premises; and
 - (5) Using or permitting 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.

(g) Signage. On-premise signage advertising or identifying the short-term rental shall not be permitted.

(h) Advertising. The owner shall not advertise or promote, or allow another to advertise or promote, the short-term rental without including the occupancy limits, parking standards, and city permit number for the listing.

(i) Local Contact. An owner must designate the name and contact information of an operator, who shall be a local responsible party who can be contacted regarding immediate concerns and complaints from the public. Said individual must be available in person or by phone at all times while occupants are on the premises of the short-term rental. If called, the operator must be able to, and shall be present at the premises, within one (1) hour of receiving a call from the director. An operator must be authorized to make decisions regarding the premises and its occupants.

(j) Occupant Notification Packet. The owner and/or operator shall post in a conspicuous location of the short-term rental premises a packet containing, at a minimum, the following information:

- (1) Maximum number of occupants;
- (2) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas or on the street;
- (3) Quiet hours and noise restrictions;
- (4) List of HOA rules, if applicable;
- (5) 24-hour local contact person and phone number;
- (6) Property cleanliness requirements;
- (7) Waste pick-up requirements, including location of waste and recycling receptacles;
- (8) Flooding hazards and evacuation routes, as well as information on the emergency siren system and other safety features;
- (9) Emergency and non-emergency numbers; and
- (10) Notice that failure to conform to the occupancy and parking requirements constitutes a violation of the code and an occupant or visitor may be cited.

(k) Rental agreement notification. The rental agreement between the owner and/or operator of the short-term rental and the occupant shall include, by attachment, all of the information provided in the occupant notification packet.

(l) Changes in ownership. The purchaser of a short-term rental shall provide the director with current application materials required by section 4.10.003, revised to include any new information associated with the change in ownership, within thirty (30) days of the closing date for the purchase of the short-term rental. Since a permit is non-transferable pursuant to section 4.10.005(c), the purchaser shall also remit a permit renewal fee as described in the fee schedule.

(m) Hotel occupancy taxes. The owner and/or operator of the short-term rental property shall register with the city to pay hotel occupancy taxes prior to the date that the short-term rental permit application is submitted, and the owner and/or operator must remit all applicable hotel occupancy taxes in a timely manner pursuant to applicable laws.

(n) Request for occupancy history. Upon request of the director, the owner of a premises used as a short-term rental shall remit, within thirty (30) days, an accounting of all rental activity and the hotel occupancy taxes paid therefor.

(o) Right to inspect premises.

(1) Inspections. The fire marshal shall perform periodic inspections of each short-term rental property to ensure compliance with this article and other applicable laws. For the purpose of performing inspections, the fire marshal may enter, examine, and survey, at all reasonable times, all buildings, dwelling units, guest rooms, and the premises used as a short-term rental property. An owner and/or operator may refuse to consent to an inspection conducted by the fire marshal. If consent is refused, the fire marshal may seek an administrative search warrant authorized by Article 18 of the Texas Code of Criminal Procedure and the city code. No permit for operating a short-term rental shall be issued until the premises successfully passes such inspection.

(2) Types of inspections. The city may perform the following inspections:

(A) Initial and annual fire inspection. The fire marshal may perform an initial inspection of the short-term rental property upon application for a permit, as well as annual fire inspections of the short-term rental property.

(B) Repeat inspections. If, upon completion of an inspection, the premises are found to be in violation of one or more provisions of this section, the city shall provide written notice of such violation and shall set a re-inspection date. If a property fails to pass an inspection, a re-inspection fee will be charged after the third re-inspection of the premises. A property cannot be occupied as a short-term rental while its status with the fire marshal's office is noted as being in violation.

(C) Fire extinguishers. The owner and/or operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the city regulations.

(D) Change in ownership inspection. As part of the change in ownership process for a short-term rental the fire marshal shall conduct an inspection to verify compliance with this article.

(p) Density limitations for short-term rental properties.

(1) Limitation. Short term rentals shall be limited to no more than one-eighth (12.5 percent) of the total number of residential units on the block or in a multi-unit building. Notwithstanding the foregoing, at least one short-term rental shall be permitted per block or multi-unit building, regardless of density.

(2) Special exception available. In order to obtain a permit for a short-term rental that would exceed the density limitation of this section, a property owner may apply to the zoning board of adjustment for a special exception in accordance with section 30 of the River Oaks Zoning Ordinance. The board may consider factors such as the following:

(A) Whether operation as a short-term rental in excess of the density limitation will not adversely impact the residential quality of the neighborhood in which the property is located;

(B) Whether such operation is likely to disrupt adjacent owners' right to the quiet enjoyment of their property (for example, by considering whether lot sizes are small enough that noise is likely to affect neighboring property owners);

(C) Whether such operation will substantially impact nearby streets, including whether the property provides only limited off-street parking;

(D) Whether the applicant seeks to operate an entire residence as a short-term rental or whether the short-term rental use is limited to a portion of the residence;

(E) Whether the applicant occupies the premises as their primary residence or uses it as an investment property; and

(F) Whether other short-term rentals in excess of the density limitation are already operating on that block.

(3) Nonconforming uses. A short-term rental that was lawfully in existence on the effective date of this article shall be considered a nonconforming use and shall not be subject to the density limitations set forth in this subsection. A short-term rental shall be considered lawfully in existence on the effective date of this article if the owner provides written confirmation from the city indicating that, prior to the effective date of this article,

the property was registered for payment of hotel occupancy tax and that the tax account was not in arrears.

Sec. 4.10.005 Permit term, fees

- (a) All permits issued under this article shall be valid for a period of one year from the date of its issuance.
- (b) A nonrefundable fee for administration of the application shall be charged. Such fee shall be paid at the time the application is made and shall not be returned to the applicant, regardless of whether a permit is issued. The fee for permitting of a short-term rental shall be as established in Appendix A “Fee Schedule” of the code.
- (c) A permit to operate a short-term rental is not transferable to another owner, operator, or location.
- (d) All permits issued under this article constitute public information, subject to the terms of the Public Information Act. A database of permitted short-term rentals shall be maintained on the city’s website and shall identify the property address, permit number and permit date of each short-term rental permitted to operate in the city.

Sec. 4.10.006 Repeat offenses

- (a) If the director finds that the owner, operator or person in control of a short-term rental failed to comply with any requirement of this article, at least twice within a 12-month period, the director may revoke an existing permit; or may deny an application to renew a permit. No new permit may be sought for the subject property, for a period of twelve (12) months, following a denial or revocation pursuant to this section.
- (b) If a property is the subject of three or more violations of city code, state or federal law within the previous 24-month period, the director may: revoke an existing permit; deny an application for an original permit; or, deny an application to renew a permit, based on: (1) the frequency of any repeated violations; (2) whether a violation was committed intentionally or knowingly; and (3) any other information that demonstrates the degree to which the owner or occupant has endangered public health, safety, or welfare. No new permit may be sought for the subject property, for a period of twelve (12) months following the denial or revocation pursuant to this section.
- (c) A permit applicant may appeal the director's decision to revoke an existing permit or deny an application, in accordance with the process set forth in section 4.10.007 of this article.

Sec. 4.10.007 Appeals

- (a) The revocation of a permit or the denial of an application for a permit to operate a short-term rental, by the director, may be appealed to the city manager in accordance with the provisions of this section.

(b) An appeal filed under this section must be filed with the director no later than the 20th day following the date on which the permit was revoked or denied. The appeal must identify each alleged point of error, facts and evidence supporting the appeal, reasons why the action of the director should be modified or reversed, and must be sworn.

(c) The city manager or a designee shall, not later than the 10th day after the date the notice of appeal is filed, hear the appeal, and may affirm, modify or reverse a permit revocation or application denial.

(d) The city manager or a designee shall give written notice of a decision on an appeal to the appellant.

(e) An appellant who seeks judicial review of the city manager's review on appeal must file a petition with a court of competent jurisdiction not later than the 30th day after receipt of the notice of the decision.

Sec. 4.10.008 Enforcement

(a) If the owner of the short-term rental property fails or refuses to comply with the standards contained herein, the city may initiate enforcement action against the property owner including, but not limited to, the immediate issuance of a citation.

(b) Prima Facie evidence of a Short-term rental use. Any advertisement, whether it be online or in print, promoting the availability of a property within the city for rent for a period of thirty days (30) or less, shall constitute prima facie evidence of the property's use as a short-term rental."

SECTION 2.

Subsection (c) "Fire Permit Fees," of Section A.02.004 "Fire Permits Generally," of Article A.02 "Schedule of Fees and Charges," of Appendix A "Fee Schedule," of the Code of Ordinances is hereby amended by adding a new subsection to read as follows:

“(9) Short-term rental fees.

(A) Inspection fee: \$100.00.

(B) Short-Term Rental Permit: \$200.00.”

SECTION 3.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 4.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 5.

Any person, firm, or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1.01.009 of the Code of Ordinances. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 6.

All rights and remedies of the City of River Oaks are expressly saved as to any and all violations of the provisions of the Code of Ordinances as amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.

The City Secretary is directed to publish in the official newspaper of the City, the caption, and penalty clause of this ordinance one time as authorized by Section 5.02(c) of the Charter of the City of River Oaks.

SECTION 8.

This ordinance shall be in full force and effect 30-days after its passage and publication as required by law and it is so ordained.

PASSED AND APPROVED ON THIS 13th DAY OF JUNE 2023.

BY: Darren Houk, Mayor

ATTEST: Paula Luck, City Secretary

APPROVED AS TO FORM: Bradley Anderle, City Attorney