

ORDINANCE NO. 3414

AN ORDINANCE AUTHORIZING A TEXTUAL AMENDMENT TO THE CITY ZONING ORDINANCE, ORDINANCE NO. 3020, TO CREATE SHORT-TERM RENTAL DEFINITIONS, USE REGULATIONS, AND REGISTRATION FEE, SECTION 3.27, SECTION 4.03 USE CHARTS RELATED TO SHORT-TERM RENTAL USES, PROVIDING FOR SAVINGS, SEVERABILITY, AND REPEALING CLAUSES; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Waxahachie ("**City Council**") has adopted a comprehensive zoning ordinance ("**Zoning Ordinance**"), which Zoning Ordinance is codified as Appendix A to the Waxahachie City Code; and

WHEREAS, a public hearing was held by the Planning and Zoning Commission of the City on August 15, 2023, and a public hearing was held by the City Council on October 16, 2023, with respect to the proposed textual changes ZTA-92-2023 to the Zoning Ordinance; and

WHEREAS, all requirements of law for publication and all procedural requirements have been complied with, in accordance with Chapter 211 of the Local Government Code.

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

Section 1. The City Council finds that the recitals set forth above are true and correct, and said recitals are incorporated into this ordinance as if set forth in full.

Section 2. Article III (Zoning Districts) is hereby amended to add the following section 3.27 as set forth in Exhibit A attached hereto.

Section 3. That if any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any person or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect. All ordinances of the City in conflict with the provisions of this ordinance are repealed to the extent of that conflict.

Section 4. That a public emergency is found to exist which affects health, safety, property or the general welfare, in that standards and regulations for the use and development of property must be brought up to date and made effective so that suitable rules for us and the development of property maybe known and in place. An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage. This ordinance shall become effective from and after the date of its passage.

PASSED, APPROVED, AND ADOPTED on this 16th day of October, 2023.



David Hill
MAYOR

ATTEST:

Amber Villarreal
City Secretary

EXHIBIT A

Sec. 3.27. Short-Term Rentals

(a) *General purpose and description:*

- (i) The purpose of this section is to establish regulations for the registration, inspections, and use of short-term rentals within the residential and non-residential zoning districts within the City of Waxahachie. The requirements of this section apply only to short-term rentals, as defined in this section. Nothing in this section, 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 thirty (30) consecutive days, or any other applicable provision of the City of Waxahachie ordinances.

(b) *Definitions:*

- (i) For the purpose of this Section, the following definitions apply:

- 1) *Administrator* means the City Manager and/or the City Manager's designee.
- 2) *Advertise* means the written, audio, oral, or other methods of drawing the public's attention, whether by brochure, written literature, signage or any type, or online posting to a short-term rental website in order to promote the availability of the short-term rental.
- 3) *Bedroom* means the living area(s) of the dwelling unit designated and furnished for primarily sleeping only, with proper egress as required by the International Residential Code.
- 4) *City Official* means an employee, officer, or any person whose salary is payable, in whole or in part, from the City treasury or otherwise appointed by the City of Waxahachie as its representative authorized to act on its behalf.
- 5) *Hotel occupancy tax* means the hotel occupancy tax as defined in Chapter 30 of the Waxahachie Code of Ordinances and Chapter 156 of the Texas Tax Code.
- 6) *Local emergency contact* means an individual other than the applicant, who resides within twenty (20) miles of the short-term rental property, and who is designated by the owner/applicant to act as the owner's authorized agent with unrestricted legal authority to act on the owner's behalf 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.
- 7) *Occupant* means any individual person living, sleeping or possessing the short-term rental property or portion thereof.
- 8) *Owner* means any person, agent, operator, firm, trust, corporation, limited liability company, partnership or business organization having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or code official of the estate of such person if ordered to take possession of real property by a court. The term "owner" does not include the holder of a non-possessory security interest in the property.

- 9) *Party* means a social gathering of people or special event, including those who have not rented the residence, for the primary purpose of eating, drinking, socializing or entertaining in any form or fashion in a manner that is disruptive to the surrounding properties.
- 10) *Premise* means property, a lot, plot or parcel or land, including any structures or portions of structures thereon.
- 11) *Short-term rental* means the rental of any residence or a portion of a residence or a residential structure for a period of less than thirty (30) consecutive days. The definition of a short-term rental does not include the following:
 - a) A unit that is used for a non-residential purpose, including an educational, health care, retail, restaurant, banquet space, or event space purpose or another similar use;
 - b) A residential structure or portion of a residence that is not designed or intended for habitation purposes;
 - c) A bed and breakfast as defined in Article IV of Appendix A of the City of Waxahachie Zoning Ordinance; or
 - d) A hotel/residence hotel.
- 12) *Short-term rental operator* means the person, agent, operator, firm, trust, corporation, limited liability company, partnership or business organization who receives payment for operating a dwelling unit, or portion thereof, as a short-term rental unit. Short-term rental operator must be the property owner of the short-term rental.

(c) *Short-term rental requirements prior to registration:*

- (i) Short-term rentals existing as of October 16, 2023 are required to obtain approval of a Specific Use Permit (SUP) by the City Council, with the exception of all short-term rentals located within the Central Area (CA) zoning district. Once the approval of a SUP for the short-term rental is obtained, the SUP and short-term rental registration requirements as indicated in section (e) of Section 3.27 must be completed by May 31, 2024.
 - 1) The notice for the public hearing for the SUP shall be sent to owners, as documented on the most recently approved ad valorem tax roll of the City, of lots that are within five-hundred feet (500') of the property for which the short-term rental SUP has been submitted.
 - 2) Short-term rentals not in existence on October 16, 2023, are required to obtain approval of a SUP by the City Council. Once the approval of a SUP for the short-term rental is obtained, the SUP and short-term rental registration requirements as indicated in section (e) of Section 3.27 must be completed to operate a short-term rental.
 - 3) The approved SUP is non-transferable. If there is a change in ownership of the property to which the SUP has been issued including to an affiliated party such as a family member or business organization that is owned partially or in its entirety by the previous owner, the new property owner shall submit a new SUP application with the Planning Department within thirty (30) calendar days of the change of ownership. The fact that the property has previously been issued an SUP has no bearing on the issuance of a new SUP.

(d) *Prohibited short-term rentals*

- (i) It shall be unlawful for any owner or person to advertise, offer to rent or rent, lease, sublease, license, or sublicense, grant any right, or allow any property to be operated or used as an unregistered short-term rental.

(ii) In the event that any existing short-term rental is deemed to be a nuisance and law enforcement has responded to complaints regarding the short-term rental being a nuisance, and the complaints have been substantiated by law enforcement or other City Official, on three (3) or more occasions within the twelve (12) calendar months preceding October 16, 2023, SUP or registration will not be considered or permitted for this use at the location determined to be a nuisance. For purposes of this Ordinance, a “nuisance” shall be defined and shall mean as follows:

- 1) Any unreasonably loud, disturbing, unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof;
- 2) Any noise of the character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities; or
- 3) Any violation of law at the short-term rental as witnessed by law enforcement or by a complaining witness that has personal knowledge of said violation and submits a sworn statement or testimony.

(e) *Short-term rental registration requirements*

(i) No person shall hereafter advertise, offer to rent or rent, lease, sublease, license or sublicense, or grant any right to access or utilize a residential property within the city as a short-term rental for which an approval of a Specific Use Permit by the City Council has not been granted and registration has not been properly made and filed with the Planning Department of the City of Waxahachie. 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 email address of the property owner of the short-term rental property;
 - a) If the property owner is not the short-term rental operator, a Property Owner Affidavit will be required at the time of registration.
- 2) If the owner is not a natural person, then the name, address, and email address of a natural person who has the legal authority to act for the owner;
- 3) Name, address, phone number, and email address of the designated local emergency contact;
- 4) A submission of a floor plan of the dwelling with a dimensional room layout;
- 5) Site plan and/or survey of the property indicating the maximum number of vehicles that can be legally parked on the property without encroaching onto the streets, sidewalks, or alleys; other public rights-of-way or public property;
- 6) A submission of the informational brochure as described in section (k)(i) below;
- 7) Receipt of payment of hotel occupancy taxes to the City of Waxahachie Finance Department as required under Chapter 30 of the City of Waxahachie Code of Ordinances and Chapter 156 of the Texas Tax Code, which for the imposition of a hotel occupancy tax under Chapters 351 or 352, or other law, "hotel" includes a short-term rental. In this subsection, "short-term rental" means the rental of all or part of a residential property to a person who is not a permanent resident under Section 156.101 of the Texas Tax Code;
- 8) Receipt of payment of short-term rental registration fee;
- 9) Any information change provided in a short-term rental registration must be reported to the city within thirty (30) days and continuously updated as changes occur;

- 10) The local emergency contact information must be provided on an 8 1/2" by 11" document, and displayed on the interior and exterior sides of the structure, no more than two-feet (2') from the front door; and
 - 11) Proof of insurance coverage of a minimum of \$1 million per occurrence.
- (ii) Registration approval will be provided with a documented registration number. This number must be displayed with the registration in a visible location directly adjacent to the primary entrance of the short-term rental.
- (f) *Right to inspect the premise*
- (i) The City of Waxahachie reserves the right, with reasonable notice to the owner, to inspect the residential premises to determine compliance with this section as well as the most recent version of the International Property Maintenance Code.
 - 1) If only a portion of the premises is offered for rent, then that portion, plus shared amenities and points of access may be inspected.
 - 2) If, upon completion of an inspection, the premises is found to violate one or more provisions of any applicable federal, state, or city regulations, codes or ordinances, the city shall provide written notice of such violation and shall set a re-inspection date for a violation to be corrected prior to its occupancy.
- (g) *Restrictions on short-term rentals*
- (i) Limit on occupants allowed. No more than two adult guests per bedroom as noted on the required floor plan required to be submitted herein, plus no more than two additional adults shall be allowed when renting a property as a short-term rental, except that:
 - 1) A maximum occupancy of ten (10) persons, including adults, children, and the owner. A visual inspection of more than ten (10) persons by a city employee at the premise is subject to the issuance of a citation to the owner and short-term rental operator for violating this section.
 - (ii) A short-term rental may include multiple bedrooms, but a short-term rental cannot rent simultaneously to more than one group under separate contacts, bookings or appointments. There shall be no overlap between rentals or partial rentals of the short-term rental property.
- (h) *Limit on number of vehicles*
- (i) There shall be one (1) off-street parking space per bedroom provided and a total of no more than five (5) off-street parking provided, not including any vehicles owned by the owner; provided, however, such off-street parking may not be on grass or other surface that is not commonly used for parking of vehicles as indicated herein.
 - 1) Golf carts, ATVs, recreational vehicles and trailers are prohibited.
- (i) *Placement, storage, and maintenance of refuse and recycling polycarts*
- (i) All refuse must be placed in sealed, leak proof plastic bags and contained in the appropriate polycarts as provided by the City and/or their representative with the lids completely closed to prevent the disbursement of trash though such means as weather events or by animals. In the event the refuse will not fit in its entirety within the polycart, such refuse shall be transported from the location by such time the occupants of the short-term rental depart the premises. Additional polycarts may be obtained for an additional fee. All refuse and recycling polycarts shall be placed at the prescribed locations at 6:45 a.m. on the day of their scheduled collection.

It shall be unlawful for any customer to place any refuse or recycling polycarts at the prescribed location prior to 7:00 p.m. the day before the scheduled collection. All polycarts shall be collected from their prescribed location no later than 9:00 p.m. on the collection day. The owner and/or local emergency contact shall be responsible for the placement, storage, and maintenance of refuse and recycling polycarts.

(j) *Other restrictions. It is unlawful:*

- (i) To promote, advertise or offer a short-term rental without first registering, by this Section, the property in which the rental is to occur; any type of documented advertisement of the subject property as a short-term rental, online or offline, shall be considered evidence of a violation of this ordinance;
 - 1) To operate a short-term rental that does not comply with all applicable city, state and federal laws and codes;
 - 2) To operate a short-term rental without paying the required hotel occupancy taxes or such other fees and charges legally collectible by a governmental entity;
 - 3) To operate a short-term rental without a Specific Use Permit (SUP) approved by the City Council;
 - 4) To operate a short-term rental without insurance coverage of a minimum of \$1 million;
 - 5) To offer or allow the use of a short-term rental for the sole or primary purpose of having a party, social or entertainment venue, or otherwise requires a permit or license pursuant to the city ordinance, state law, or rule for a retail, restaurant, banquet space or other similar use;
 - 6) To fail to include a written prohibition against the use of a short-term rental for having a party, social, or entertainment venue in every advertisement, listing, or other publication offering the premises for rent;
 - 7) To fail to provide an explanation of occupancy restrictions, parking restrictions, use restrictions and solid waste collection procedures in the lease/rental agreement, as well as, any penalties for violations;
 - 8) To permit the use of short-term rental for the purpose of temporary or transition housing for 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 otherwise using the short-term rental for any illegal activity as deemed by a governmental entity;
 - 9) For an owner or person to rent or lease for less than twenty-four (24) hours;
 - 10) To park on unimproved surfaces, driveways, sidewalks, alleys, or other public rights-of-way or public property; and/or
 - 11) To advertise, offer to rent, lease, sublease, license, or sublicense a portion of the premise. A short-term rental operator may not simultaneously rent the premise to two or more parties.

(k) *Brochure, safety and security features*

- (i) Informational brochure. Each registrant operating a short-term rental shall provide guests a brochure that includes the following:

- 1) The registrant's 24-hour contact information;
 - 2) A local emergency contact's 24-hour contact information if the owner is not within twenty (20) miles when guests are renting the premises;
 - 3) The overnight and daytime occupancy limits for the short-term rental premise;
 - 4) Pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, and refuse collection procedures and schedules;
 - 5) Use of the short-term rental premise for the purpose of having a party, social, or entertainment venue is prohibited;
 - 6) 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 service providers and instructions for obtaining severe weather, natural, or manmade disaster alerts and updates; and
 - 7) In the event any information contained within the informational brochure is no longer valid, the corrected information should be included therein the sooner of (i) thirty (30) days of when the information was no longer valid; or (ii) the first renting of the premises after the information is no longer valid.
- (ii) Safety features. Each short-term rental registrant shall provide, in the premises, working smoke detectors and/or carbon monoxide alarms in accordance with adopted codes, and one working fire extinguisher. The premises shall otherwise comply with applicable City of Waxahachie Code of Ordinance requirements, including but not limited, to Building and Fire Codes.
- (iii) Security features. Each short-term rental registrant shall provide functional security cameras that monitor and record, at a minimum, the primary entrances and exits of the premises. Recordings must be saved, maintained and available for viewing for a minimum of sixty (60) days.
- (l) *Registration terms, fees, and renewal*
- (i) All registrations approved under this ordinance shall be valid for a period of one (1) year from the date of issuance unless revoked or suspended.
 - (ii) The registration fee for a short-term rental shall be paid, with a late fee of one and one half (1.5) times the established fee if applicable, in addition to the registration fee.
 - (iii) The registration fee is non-refundable and non-transferable.
 - (iv) Upon receipt of an application for renewal of the registration, the Administrator or their designee may deny the renewal if there is reasonable cause to believe that:
 - 1) The registrant has plead no contest to, plead guilty to or been convicted of a violation of any ordinance of the city, state, or federal law on the premises or has permitted such a violation on the premises by any other person or failed to otherwise abide by the terms of this Ordinance including, but not limited to, paying taxes, fees or other charges legally chargeable by a governmental entity; or
 - 2) There are grounds for suspension, revocation, or other registration sanction as provided in this Section; or
 - 3) A previous violation of this ordinance within the previous 12-month time period.
- (m) *Violations and penalties*

- (i) Violation of this ordinance upon conviction shall be punished by a fine not to exceed the sum of \$2,000.00 for each offense, and each and every day such violation shall continue to be deemed to constitute a separate offense. Warnings, citations, and revocations may be issued to short-term rental premise owners, operators, lessors, agents, occupants, tenants, and/or guests, depending on the nature of the violation. Short-term rental premise owners are ultimately responsible for compliance with the requirements and restrictions imposed upon a short-term rental by this Section and for the conduct of their dwelling operators, lessors, agents, occupants, tenants, and guests, regardless of whether the owners are present at the short-term rental premise.

(n) *Suspension and revocation of short-term rental registration*

- (i) The Administrator, or their designee, may suspend and/or revoke a short-term rental registration if: it is determined the activities set forth have occurred at the short-term rental; or a short-term rental unit is listed on a hosting platform or advertised elsewhere without being registered, or is perpetuating conditions interfering with the use and enjoyment of properties within its vicinity; or is delinquent in filing or payment with the City of Waxahachie.
- (ii) Conditions interfering with use and enjoyment of properties within the vicinity of a short-term rental include, but are not limited to:
 - 1) The occurrence of any of the activities set forth in the City of Waxahachie Code of Ordinances including, but not limited to, noise disturbance, nuisance, drug offenses, or disorderly conduct;
 - 2) Occupancy by a number of short-term rental users exceeding either 1) the maximum number included in the application for the short-term rental permit or 2) the maximum occupancy permitted pursuant to this chapter;
 - 3) Parking of motor vehicles exceeding either 1) the maximum number included in the application for the short-term rental permit or 2) the maximum number of motor vehicles permitted at any short-term rental pursuant to this section;
 - 4) Uninvited entry of short-term rental occupants upon private property within 500 feet of the short-term rental;
 - 5) Knowingly or intentionally allowing the use of a short-term rental for a special event that would otherwise require a permit by city ordinance, state law, or rule for a retail, restaurant, banquet space, or other similar use; and/or
 - 6) Knowingly or intentionally housing a sex offender, allowing offenses related to adult-oriented businesses, or operating a sober living home.
- (iii) In addition to Section 3.27, a violation of any of the conditions within a twelve (12) month time period shall result in progressive enforcement:
 - 1) Upon the first violation, the owner shall receive a written notice of violation that includes a description of enforcement for future violations, and subject to a fine up to \$500.00.
 - 2) Upon the second violation, the owner shall receive a written notice of violation that includes a description of enforcement for future violations, and subject to a fine up to \$1000.00.
 - 3) Upon the third violation, the registration for the short-term rental shall be terminated, and the short-term rental host will be prohibited from re-applying for a new registration for six (6) months from the date of termination and subject to a fine up to \$2,000.00.

(iv) During the time period that a short-term rental registration is suspended or revoked, it shall be unlawful to advertise, offer to rent or rent, lease, sublease, license or sublicense the residential property, within the city as a short-term rental.

(o) Physical conversion of premises prohibited.

(i) It shall be unlawful for an owner or operator or any person to convert a garage to a living space, remodel, renovate, enlarge or otherwise modify premises to add additional bedrooms for use as a short-term rental.

(ii) It shall be unlawful for an owner, operator or any person to pave or otherwise cover previous soil to create additional on-premises parking without the prior approval of the City of Waxahachie.

(p) Appeal of denial, suspension or revocation of registration.

(i) In the event, an applicant has been denied registration, or if a registration has been suspended or revoked, the party affected shall have the right to appeal to the City Council from such denial, revocation, or suspension within ten (10) business days. Notice of appeal shall be filed with the Administrator. The Administrator shall provide for a hearing with the City Council on the appeal in accordance with the provisions of this Section. The burden of proof in such an appeal shall be upon the appellant to show the denial or revocation was arbitrary or unreasonable.

(q) Enforcement

(i) The owner of an existing short-term rental, as of October 16, 2023, must receive an approved Specific Use Permit (SUP) and complete the registration process no later than May 31, 2024, to continue to operate the short-term rental.

1) The SUP for a short-term rental is non-transferrable. If a SUP was previously approved for a property and there has been a change in ownership, the new owner(s) shall not operate the residence as a short-term rental until a new SUP has been approved and registration is completed. The SUP is attached to the property owner and not the land.

2) All properties located within the Central Area (CA) zoning district are exempt from seeking a SUP approval as the short-term rental use is allowed by right; however, must complete the registration process no later than May 31, 2024.

(ii) The owner of an existing short-term rental, as of October 16, 2023, who have not received an approved SUP and have not completed the registration process by the end of business day, May 31, 2024, shall cease all operations immediately.

(iii) The owner of a new short-term rental, as of or after October 16, 2023, shall adhere to Section 3.27.

(r) Use Charts (Exhibit B)

EXHIBIT “B”

| LEGEND • - Permitted Use S - Use may be approved via SUP □ - Prohibited Use See Appendix A-3 for use definitions | Zoning Districts | | | | | | | | | | | | | | | | | | | | | |
|--|--------------------|-------------------|--------------------------|--------------------------|--------------------------|---------------------|----------------------------|----------------------------|-------------|-----------------------|-----------------------|---------------------------|--------|----------------------|----------------|--------------|------------|--------------------|--------------------|------------------|------------------|---------------------------------------|
| | Future Development | Rural Residential | Single-Family Dwelling-1 | Single-Family Dwelling-2 | Single-Family Dwelling-3 | Two-Family Dwelling | Multiple-Family Dwelling-1 | Multiple-Family Dwelling-2 | Mobile Home | Mixed Use Residential | Downtown Neighborhood | Mixed Use Non-Residential | Office | Neighborhood Service | General Retail | Central Area | Commercial | Light Industrial-1 | Light Industrial-2 | Heavy Industrial | Airport District | Parking Requirement |
| | FD | RR | SF1 | SF2 | SF3 | 2F | MF1 | MF2 | MH | MUR | DN | MUNR | O | NS | GR | CA | C | LI1 | LI2 | HI | AP | |
| 4.03a – Residential Type Uses | | | | | | | | | | | | | | | | | | | | | | |
| Short-Term Rentals | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | • | S | S | S | S | S | 1 space per bedroom; 5 spaces maximum |