



## ORDINANCE NO. 3575

**AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE FARMERS BRANCH CODE OF ORDINANCES CHAPTER 26 “BUSINESSES,” BY ADDING ARTICLE VIII “SHORT-TERM RENTAL HOUSING” RELATING TO THE LICENSING AND REGULATION OF SHORT-TERM RENTALS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2000.00); AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Farmers Branch finds it to be in the public interest to adopt regulations relating to the use of single-family residential dwelling units as a “short-term rental” dwelling and provide for the licensing and inspection of same.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THAT:**

**SECTION 1.** Chapter 26 “Businesses” of the Code of Ordinances of the City of Farmers Branch is amended by adding Article VIII “Short-Term Rental Housing” to read as follows:

### **ARTICLE VIII. SHORT-TERM RENTAL HOUSING**

#### **Sec. 26-500. 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:

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

*Hotel/Motel Occupancy Tax* means the hotel occupancy tax as defined in Chapter 78, Article III of this Code and Chapter 3 of the Texas Tax Code.

*Local Emergency Contact* means an individual other than the applicant, who resides within 25 miles of the subject property and who is designated by the owner/applicant to act as the owner’s authorized agent if the owner has traveled outside of the immediate area or is otherwise unavailable. The local emergency contact should be reachable on a 24-hour basis, have access to the Short-Term Rental property, and be authorized by the owner to act in the owner’s absence to address any complaints, disturbances, and emergencies.

*Nonresident owner* means any person who does not live, stay or dwell in a single-family residence which the person owns.

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

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

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

*Resident owner* means any person who lives, stays, or dwells in a single-family residence which the person owns.

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

- (1) One-family dwelling (detached): A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract and having no physical connection to a building located on any other lot or tract;
- (2) One-family dwelling (attached): A dwelling which is joined to another dwelling at one or more sides by a party wall or abutting separate wall and which is designed for occupancy by one family and is located on a platted separate lot, delineated by front, side and rear lot lines;
- (3) Two-family dwelling: A single structure designed and constructed with two dwelling units under a single roof for occupancy by two families, one in each unit; and

- (4) Condominium: The separate ownership of single dwelling units in a multiple unit structures with common elements and;
- (5) Multi-family dwelling or Apartment. Any building or portion of a building, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or place of residence by three or more families living in independent dwelling units.

*Short-Term Rental* means any single-family residence as defined in this Article leased or rented for a period of thirty consecutive days or less. This term does not include Hotels, Residence Hotels, boarding houses, or rooming houses as defined in Chapter 94, Article 7.3 of this Code.

*Short-Term Rental License* means the license issued by the building official pursuant to this article.

**Sec. 26-501. License required.**

- (a) It shall be unlawful for any owner to advertise, offer to rent, or rent, lease, sublease, license or sublicense a single-family residence in the City as a Short-Term Rental without a current and valid Short-Term Rental License having been issued for such use. Any nonresident owner leasing or renting more than one single-family residence as a Short-Term Rental within the City shall obtain a Short-Time Rental License for each separate Short-Term Rental.
- (b) A nonresident owner, or the nonresident owner's authorized agent, of a Short-Term Rental shall file with the building official any and all trade names under which he operates with respect to the leasing or renting of each Short-Term Rental.

**Sec. 26-502. License application; place of business; issuance; suspension; renewal and expiration; appeals.**

- (a) Except as provided in Section 26-502(b), no owner shall lease or rent a single-family residence as a Short-Term Rental without first obtaining a Short-Term Rental License as required by this article.
- (b) Owners leasing or renting a single-family residence as a Short-Term Rental prior to October 1, 2019, shall make an application for a Short-Term Rental License not later than the tenth (10<sup>th</sup>) day after being notified by the building official of the requirement to obtain a Short-Term Rental License or not later than October 31, 2019, whichever occurs first.

- (c) An applicant for a Short-Term Rental License shall file with the building official either an electronic on-line application or a written application upon a form provided for that purpose which shall possess an electronic signature or be signed by the resident owner, nonresident owner, the nonresident owner's agent, or the property manager or resident manager, if there be such. Should an applicant own more than one single-family residence which is leased or rented as a Short-Term Rental, a separate application shall be filed for each location. The following information shall be required in the application:
  - (1) Name, address, e-mail address, and telephone number of the resident owner, nonresident owner, property manager, resident manager, local emergency contact, and mortgagee, if there is a mortgage against property;
  - (2) Trade name of resident owner or nonresident owner;
  - (3) Names and addresses of all registered agents should the parties named in this subsection be corporations;
  - (4) Zoning classification(s);
  - (5) Floor plan with dimensioned room layout; and
  - (6) Acknowledgement of receipt of a copy of this article and agreement to comply with all provisions of this article as a condition to receiving and maintaining a Short-Term Rental License.
- (d) All licenses shall expire one year from the date of issuance of the Short-Term Rental License.
- (e) A Short-Term Renewal License may be renewed for a period of one year commencing on the date after the initial license or the then current renewal license ends. An application for renewal of a Short-Term Rental License shall be submitted by the owner of the Short-Term Rental not later than 30 days prior to the last date of the current Short-Term Rental License.
- (f) Upon receipt of an application for renewal of a Short-Term Rental License, the building official may deny the renewal request if there is reasonable cause to believe that:
  - (1) the applicant has been charged with violating any ordinance of the city, or any state or federal law on the premises or has permitted such a violation on the premises by any other person; or

- (2) there are grounds for suspension, revocation, or other sanctions as provided in this article.
- (g) The building official may, at any time, require additional relevant information of the resident owner, nonresident owner, or property manager to clarify any aspect of the application.
- (h) All Short-Term Rentals and holders of a Short-Term Rental License shall be listed on a registry created by the city and updated periodically by the city. The city shall publish the registry, and a copy shall be sent electronically to any person upon request.
- (i) A Short-Term Rental License may be suspended for a period not to exceed one year due to a proven pattern of unacceptable behavior if:
  - (1) as a direct result of the operation of the Short-Term Rental, the Short-Term Rental has been charged with violation of City ordinances relating to noise, parking, solid waste, or occupancy standards at least three times during one calendar year or been charged with a violation of any other state or federal law;
  - (2) the Short-Term Rental provider is delinquent in the remittance of the required hotel/motel occupancy tax by more than 90 days despite notice from the city; or
  - (3) violating the standards enacted in this ordinance.
- (j) The owner of a Short-Term Rental whose license has been suspended or revoked according to Section 26-506 can appeal the suspension or revocation to the zoning board of adjustment by filing a written appeal with the City's building official within 30 days of the receipt of notice of the suspension or revocation. All appeals will go to the zoning board of adjustment for a hearing and final decision not later than 20 days after the appeal is filed.
  - (1) Failure of any person to file an appeal in accordance with the provisions of this article shall constitute a waiver of the right to a hearing by the zoning board of adjustment and the building official's decision shall be final.
  - (2) Orders of the building official are stayed pending resolution of the appeal by the zoning board of adjustment.
  - (3) Based on the evidence presented, the Zoning Board of Adjustment may uphold, shorten (in the case of a suspension), modify a

revocation into a suspension, or reverse the decision of the Chief Building Official to suspend or revoke the license.

- (4) Decisions of the zoning board of adjustment are final.

**Sec. 26-503. License fees.**

The annual fee for a Short-Term Rental License in the amount of \$120, including renewals, adopted by the City Council shall be paid at the time of submission of the application.

**Sec. 26-504. License display, replacement and transferability.**

- (a) A copy of each Short-Term Rental License issued pursuant to this article for a Short-Term Rental shall be conspicuously displayed at the Short-Term Rental for which such license is issued.
- (b) A replacement Short-Term Rental License may be issued for one lost, destroyed or mutilated upon application on the form provided by the building official. A replacement Short-Term Rental License shall have the word "replacement" applied across its face and shall bear the same license number as the one it replaces.
- (c) A Short-Term Rental License is not assignable or transferable.
- (d) The form of the Short-Term Rental License shall be prepared by the building official.

**Sec. 26-505. License standards.**

- (a) *Compliance with standards.* Continuous compliance with the standards contained in this section are conditions for the retention of a Short-Term Rental License and issuance of a renewal of a Short-Term Rental License.
- (b) *Limitation on number of occupants.* It shall be unlawful for any person to permit or allow overcrowding as defined by the Minimum Housing Standards in any Short-Term Rental.
- (c) *Building, electrical, plumbing, etc., standards.* The holder of a Short-Term Rental License shall at all times comply with all city building, electrical, plumbing, health, zoning, and other applicable ordinances, including but not limited to the Property Maintenance Code and Minimum Housing Standards, in the operation and maintenance of the Short-Term Rental for which the Short-Term rental License has been issued.

- (d) *Records; contents.* The holder of a Short-Term Rental License shall keep records that reflect the following information in a current manner regarding the rental of the holder's Short-Term Rental:

- (1) Names, addresses, e-mail addresses, and telephone numbers of all persons occupying the Short-Term Rental.
- (2) The dates and length of each rental period.

The records shall be available for review by the building official, or his designated representative, during regular working hours and upon receipt of reasonable notice.

- (e) *Minimum rental period.* It shall be unlawful for an owner to lease a Short-Term Rental for less than two consecutive nights.
- (f) *Minimum age requirement.* It shall be unlawful for a resident owner or nonresident owner to lease a Short-Term Rental to any person under the age of 21. Notwithstanding the foregoing to the contrary, it shall not be unlawful for a person who is 20 years of age or younger to occupy a Short-Term Rental provided, the person responsible for renting the Short-Term Rental is 21 years of age or older.
- (g) *Hotel/Motel Occupancy Tax.* It shall be unlawful for a resident owner or nonresident owner to operate a Short-Term Rental without paying the required hotel/motel occupancy taxes pursuant to Chapter 78, Art. III of this Code.

**Sec. 26-506. Inspections; reinspections; suspension and revocation of license.**

- (a) *Inspections; access.* The resident owner, nonresident owner, resident manager and property manager, as a condition to the issuance of a Short-Term Rental License required by this article, shall consent and agree to permit and allow the city's building official to make the following inspections of the Short-Term Rental when and as needed to ensure compliance with this article:
- (1) Right and access to inspect all portions of the premises and structures located on the premises that are not dwelling units, including, but not limited to, all storage areas, detached garages, and swimming pools, upon reasonable advance notice being given to the resident owner, nonresident owner, property manager or resident manager;

- (2) Right and access to inspect all unoccupied dwelling units upon giving reasonable notice to resident owner, nonresident owner, resident manager or property manager;
  - (3) Right and access to inspect all occupied dwelling units when, upon receipt of reliable information, the building official has reason to believe that violations of the ordinances of the city or state law exist that involve serious threats to life, safety, health and property; and
  - (4) Before the Short-Term Rental License and any renewal of the Short-Term Rental License is approved, and before the rental of any single-family residence as a Short-Term Rental under this article, the resident owner, nonresident owner, resident manager or property manager shall request an inspection and make the single-family residence available for inspection by the building official. The building official and the resident owner, nonresident owner, resident manager and property manager shall agree on a reasonable date and time for the requested inspection.
- (b) *Admission to premises.* The building official and his designee may enforce the provisions of this article upon presentation of proper identification to the occupant in charge of the Short-Term Rental and may enter, with the occupant's permission, any Short-Term Rental between the hours of 8:00 a.m. and 6:00 p.m.; provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life, or severe property damage, the building official may enter the Short-Term Rental referenced in subsection (a) of this section at any time and upon presentation of identification and the occupant's permission shall not apply. Whenever the building official is denied admission to inspect any Short-Term Rental under this provision, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection.
- (c) *Reinspection.* If any of the inspections authorized by this article require a second reinspection due to noted violations, then a reinspection fee of \$50 shall be paid prior to the second reinspection.
- (d) *Suspension or Revocation of License.* Failure of an owner to comply with the provisions of this article after receipt of written notice of the violation from the building official setting out the violations and the time allowed to rectify the violations, the Short-Term Rental License authorized by this article issued to the owner may be suspended or revoked.
- (e) *Reinstatement.* Any person requesting a reinstatement or reissuance of a Short-Term Rental License that has been suspended or revoked shall be required to apply for and receive a new Short-Term Rental License issued



under this article as a condition precedent to the reissuance or reinstatement of the certificate of occupancy.

**Sec. 26-507. Presumption; presentation of documents or affidavit.**

- (a) *Presumption.* It shall be a rebuttable presumption that a single-family residence that is occupied by one or more person(s) who are not the owner is being occupied pursuant to an agreement between the owner and the occupant(s) of the single-family residence wherein the occupant(s) have agreed to lease said residence from the owner.
- (b) *Presentation of documents or affidavits.* Any resident owner or nonresident owner claiming that the owner is not required to obtain a Short-Term Rental License pursuant to this article shall, not later than five business days following receipt of a written request of the building official or, in the case of an appeal filed pursuant to section 26-507, the city manager, deliver to the building official or city manager a true and correct copy of any agreements, documents of title, letters of administration, letters testamentary, executory contracts for conveyance (also known as "contracts for deed"), affidavits, or other documents that establish to the satisfaction of the building official or the city manager that a landlord/tenant relationship does not exist between the owner and the occupant(s) of the single-family residence. Unless an extension of the time for delivery of such documents or affidavits is granted by the building official or city manager, as the case may be, the failure of the owner to present the requested documents within the time provided by this subsection (b) shall result in the presumption described in subsection (a), above, becoming irrefutable.

**Sec. 26-508. Violation and penalties.**

Any person who shall violate a provision of this article or shall fail to comply with any requirements thereof, shall be guilty of a misdemeanor, and upon conviction thereof in Municipal Court, shall be punishable by a fine not more than two thousand dollars (\$2,000.00) for each offense. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**SECTION 2.** All provisions of the ordinances of the City of Farmers Branch in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Farmers Branch not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.** Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 4.** 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 5.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 6.** This Ordinance shall take effect on October 1, 2019, and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_ 2019.**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Amy Piukana, City Secretary

\_\_\_\_\_  
Robert C. Dye, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Peter G. Smith, City Attorney  
(kbl:8/8/19:108081)