

ORDINANCE NO. 2020-806

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, PROVIDING FOR REGULATIONS AND THE REGISTRATION FOR THE OPERATION AND USE OF SHORT-TERM RENTALS AND PROVIDING FOR A PENALTY AND SEVERABILITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NASSAU BAY, STATE OF TEXAS:

Section 1. Purpose.

The purpose of this Ordinance is to establish regulations for the protection of the health and safety of occupant(s) of short-term rental properties, and to protect the integrity of the neighborhoods in which short-term rental properties operate. Additionally, this ordinance is intended to ensure that the number of occupants within such rental units does not exceed the reasonable 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.

Section 2. Definitions.

As used in this Ordinance the following words and phrases shall have the definitions ascribed to them by this Ordinance:

Adult – means an individual 18 years of age or older.

Agent – means a person designated by the short-term rental operation in lieu of themselves as the 24-hour emergency contact for a lawfully operating short-term rental.

Bedroom – means a room designated and used primarily for sleeping and rest on a bed, air mattress, cot, or couch.

Habitable space – means a space or dwelling for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage (includes areas below the base flood elevation on elevated homes) or utility spaces and similar areas are not considered habitable spaces.

Operator – means any person who operates a short-term rental, as defined in this Ordinance.

Owner – means the person or entity that holds legal and/or equitable title to the private property.

Short-term Rental – is a rental by an owner or operator of a property for periods of less than 30 consecutive days.

Short-term Rental Permit – means the permit issued by the City that identifies the subject property as a lawful short-term rental, the short-term rental permit number, the names and contact information of the owner, operator, and agent if applicable, and 24-hour emergency contact phone for at least one of the preceding.

Sleeping Area – means a habitable space within a dwelling designed or used for sleeping, including a bedroom. Tents, hammocks and recreational vehicles shall not be considered a sleeping area. Every sleeping area must have at least one operable emergency escape and rescue opening as per all applicable city-adopted codes, regulations, and ordinances.

Section 3. Authority.

The City Manager or his designee shall implement and enforce this Ordinance and may by written order establish such procedures, not inconsistent with this Ordinance 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 Ordinance.

Section 4. Permit Required.

- (a) No short-term rental shall operate within the City of Nassau Bay without a current valid short-term rental permit.
- (b) 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 short-term rental.

Section 5. Short-Term Rental Permit.

- (a) Application for a short-term rental permit shall be in writing on an application form available at the City offices and shall be accompanied by an annual fee of \$300.00, and shall include the following information at a minimum:
 - (1) A list of all owners, operators, and agents (if applicable) of the short-term rental including names, addresses, current email addresses and telephone numbers.
 - (2) A sketch and narrative describing the location of the available parking spaces on the premises.
 - (3) A sketch of the floor plan which identifies sleeping areas, proposed maximum number of guests, evacuation route(s), location of fire extinguishers.
 - (4) A Certificate of Occupancy will be issued upon completion of the inspection.
 - (5) The name, address and 24-hour telephone numbers 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 use of the short-term rental.
 - (6) Written confirmation from the City of Nassau Bay Finance Department showing proof of hotel occupancy tax compliance with V.T. C. A. Tax Code Chapter 351, and registration with the City of Nassau Bay Finance Department for Hotel Occupancy Tax collection will need to be provided before permit is granted.
 - (7) A statement that the owner of the short-term rental has met and will continue to comply with the standards and other requirements of this section.

- (8) Proof of coverage under a Commercial General Liability Insurance Policy with limits of \$500,000.00 per occurrence and 1-million-dollar aggregate. The owner must provide a copy of the certificate of insurance which shows the name insured, any additional insureds, the location address, the effective date, the coverage limit and type. The owner must notify the City within 30 days if the insurance status changes and provide the City with updated insurance information. The short-term rental permit shall be suspended until proof of updated insurance is provided.
- (b) Completeness of application. Applications shall not be considered complete until all documentation required under this Ordinance has been submitted, and until the full application/permit fee has been paid. Incomplete applications will not be accepted.
- (c) Applicants applying for a Short-Term Rental permit in calendar year 2021, from March 1, 2021 up to and not to exceed August 31, 2021, will have the \$300.00 permit fee waived. The period from January 11, 2021 up to March 1, 2021 will be a period of administrative set up. This includes permitting set up, fee notification, and notifying Short-Term Rentals currently operating within the City. The Short-Term Rental renewal fee in 2022 is not waived, nor are renewal fees thereafter.

Section 6. Expiration and Annual Renewal of Permit.

- (a) A permit to operate a short-term rental expires on the last day of the calendar year, regardless of when the permit was applied for within the calendar year.
- (b) A permit holder shall apply for renewal at least thirty (30) calendar days before the expiration of the permit on a form provided by the City. The permit holder shall update the information contained in the original permit application 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 less than 30 days prior to expiration of a current permit shall be treated as applications for a new permit.
- (c) The City shall follow the procedures set forth in this Ordinance when determining whether to renew a permit.
- (d) The fee for the renewal of a permit to operate a short-term rental will be \$300.00.

Section 7. Non-transferability.

A permit to operate a short-term rental is not transferable to another owner, operator, or location.

Section 8. Standards.

All short-term rentals permitted pursuant to this Ordinance are subject to the following standard requirements:

Advertising. The short-term rental permit number, maximum occupancy as permitted, and health & life-safety inspection expiration date must be listed in all advertising for the short-term rental.

Bathrooms. Not less than one full bathroom shall be provided for each five occupants for the short-term rental, according to the chart provided below. This full bathroom must meet the minimum International Residential Code standards and include a washbasin, toilet and tub or shower. Half bathrooms must contain, at a minimum, a washbasin and toilet for the purposes of this section; a full bathroom may be used in lieu of a half bath.

5 occupants	1 full bath (hereafter referred to as 1)
6 – 9 occupants	1 full bath & 1 half bath (half baths hereafter referred to as .5)
10 occupants	2 baths
11 – 14 occupants	2.5 baths
15 occupants	3 baths
And so on...	

Health & Life Safety. Adhere to the standards outlined in Section 9 of this ordinance.

Occupancy. The maximum number of occupants allowed to sleep in a short-term rental is two occupants per sleeping room, plus an additional two occupants.

Permit Display. The City issued short-term rental permit shall be posted at all times in a prominent location inside the property for which it is issued.

Signage. Signage shall be in compliance with the City's current sign code.

Section 9. Health & Life Safety.

- (a) Short-term rentals and structures where they are located shall conform to all applicable City-adopted Codes, Regulations and Ordinances.
- (b) A 2A:10B: C type fire extinguisher (a standard five-pound extinguisher) shall be properly placed, in a conspicuous place, within seventy-five feet (75') of all portions of the short-term rental on each floor.
- (c) Smoke and CO2 detectors shall be installed and conform to all applicable City-adopted Codes, Regulations and Ordinances.
- (d) Every sleeping area shall have at least one (1) operable emergency escape and rescue opening per all applicable City-adopted Codes, Regulations and Ordinances.
- (e) An evacuation plan shall be posted conspicuously in each sleeping area.
- (f) Every bedroom/sleeping area in a short-term rental that does not comply with Section 9 - Life Safety, shall not be used as a sleeping area and where equipped with a door, shall remain locked at all times when the dwelling is being used as a short-term rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation for the short-term rental. The owner/operator shall notify every occupant in writing that the non-compliant sleeping area may not be used for sleeping.

Section 10. Conduct on Premises.

- (a) Short-term rental owner/operators shall be responsible for informing their occupants of all relevant City Codes and Ordinances and occupants' liability for violations of the same.
- (b) Excessive noise or other disturbances outside of the short-term rental is prohibited. This includes but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.
- (c) There shall be no overnight sleeping outdoors or outdoor sleeping spaces available for rent.

Section 11. Tenant Indoor Notification.

The operator shall post in a conspicuous location of the dwelling the following minimum information:

- (a) Maximum number of occupants. The maximum number of occupants allowed to sleep in a short-term rental is two occupants per sleeping room, plus an additional two occupants.
- (b) Location of off-street parking, other available parking and prohibition of parking on landscaped areas.
- (c) 24-hour contact person and phone number.
- (d) Flooding hazards and evacuation routes.
- (e) Emergency numbers.
- (f) Restrictions of outdoor facilities.
- (g) Notice that failure to conform to the occupancy requirements is a violation of City Code and occupant or visitor can be cited.
- (h) Short-term Rental Permit and/or other required permits.
- (i) Hotel Occupancy Tax registration.

Section 12. Inspections.

To ensure continued compliance with the requirements of this Ordinance a short-term rental shall be inspected in the following methods:

- (a) Initial Inspection: As part of the issuance of a new short-term rental permit the City's Building Official and Fire Marshal shall conduct an inspection to verify compliance with this Ordinance.
- (b) Fire Extinguishers: The owner/operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the City's fire code.
- (c) The City may perform inspections when a violation is suspected.
- (d) Annual Inspection: The City's Building Official and Fire Marshal will perform annual inspections, upon renewal, for compliance.

Section 13. Enforcement.

- (a) A person commits an offense under this Ordinance if that person owns or operates a short-term rental in the City without a valid permit.
- (b) Emergency contact. The owner/operator of the short-term rental shall provide the City with a 24-hour contact number for the owner, operator or

- a designated agent. Should a law enforcement officer respond to the short-term rental and issue a citation for any violation of City Ordinances, the operator or their agent shall be called by the officer. The operator or their agent shall attempt to contact the occupants within one (1) hour of the call to address the occupants about the complaints. Should a second complaint be filed, and citation issued to any part of the occupants or guests, the owner/operator must take appropriate steps, in accordance with the individual rental agreement, to assure future complaints do not occur.
- (c) Short-term Rental Permits shall be revoked if three (3) or more citations, with guilty verdicts or convictions, are issued at a permitted property within any six (6) month period, whether issued to the owner, operator, or any occupants.
 - (d) Violation of any section of this Ordinance shall constitute an offense resulting in permit revocation in accordance with Section 14, Revocation Procedures.
 - (e) Failure to pay hotel occupancy tax timely is considered a violation of this Ordinance and shall result in revocation of the short-term rental permit in accordance with Section 14, Revocation Procedures. Failure to timely pay any applicable Hotel Occupancy Tax is a violation of this Ordinance and shall result in permit revocation if arrearage is not paid within (30) days of the issuance of a delinquency notice in accordance with Section 14, Revocation Procedures.
 - (f) Failure to successfully complete the renewal process of a short-term rental permit is considered a violation of this Ordinance.
 - (g) The provisions of this subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by City Ordinances or county or state law.
 - (h) Prima facie proof of occupancy of a dwelling is established in any prosecution for violation of the Ordinance if it is shown that overnight occupants, other than the listed occupants, as agreed upon by the owner or agent, have resided at location during that time. Establishment of a Prima facie level of proof in this subsection does not preclude a showing of illegal "occupancy" of a dwelling by a person in any other manner.
 - (i) Offense. It is an offense for the property owner, any agent of the property owner, or the occupant(s) to directly occupy or indirectly allow, permit, cause, or fail to prohibit an occupancy in violation of this
 - (j) Each day of violation of said standards and provisions of this section constitutes a separate offense and is separately punishable but may be joined in a single prosecution.

Section 14. Revocation Procedures.

The Building Official is authorized to suspend or revoke a short-term rental permit issued under the provisions of this Ordinance wherever the permit is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building structure, unit or portion thereof is in violation of any Ordinance or regulation or any of the provisions of this Ordinance. In addition, if any violations stated in this Ordinance have been committed and not corrected with the time specified, the Building Official shall begin the procedures to revoke the short-term rental permit in accordance with the following:

- (a) The City shall give 30-day written notice to the owner/operator regarding revocation.
- (b) The City shall provide written notice to property owners within 200 feet of the subject property at least 15 days prior to the public hearings.
- (c) If a short-term rental permit is revoked, the owner/operator may not reapply for the same property for a period of twelve (12) months.

Section 15. Appeals.

If the Building Official denies issuance or renewal of a permit or suspends or revokes a permit issued under this Ordinance, the action is final unless the permit holder files a written appeal within ten (10) business days to the Building Official. Appeals regarding technical matters will be reviewed by the Zoning Board of Adjustment.

Section 16. Other Restrictions on Use of Premises.

This Ordinance 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.

Section 17. Penalty.

Any person violating the terms of this Ordinance shall, upon conviction in the municipal court be fined as provided in section 1-6, and each day that such failure or refusal as mentioned in this section continues, shall be deemed a separate offense.

Section 18. Severability.

If any section, subsection, or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

AND IT IS SO ORDERED.

INTRODUCED FOR FIRST READING THIS 14TH DAY OF DECEMBER 2020.

PASSED, APPROVED, AND ADOPTED ON SECOND AND FINAL READING THIS 11th day of January 2021.



CITY OF NASSAU BAY, TEXAS

A handwritten signature in black ink that reads "Robert L. Warters".

Robert L. Warters
Mayor

ATTEST:

A handwritten signature in blue ink that reads "Sandra V. Ham".

Sandra V. Ham
City Secretary
(ord2020shorttermrentals)