

**ORDINANCE NO. 2022-02**

**AN ORDINANCE OF THE PORT ARANSAS CITY COUNCIL AMENDING CHAPTER 12 “LICENSES AND BUSINESS REGULATIONS”, ARTICLE VIII. “SHORT-TERM RENTALS”; AMENDING SEC. 12-252 “REGISTRATION AND PERMIT”; AND PROVIDING FOR SEVERANCE, READING, AND EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARANSAS, TEXAS:**

**SECTION 1. AMENDMENT**

That Chapter 12 “Licenses and Business Regulations”, Article VIII. “Short-Term Rentals”, Sec. 12-252 “Registration and Permit” is hereby amended to wit:

**ARTICLE VIII. – SHORT TERM RENTALS**

Sec. 12-250. - 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:

*Accessory short term rental* shall mean a property containing a Primary dwelling being used for long term or permanent occupancy and a legal Accessory Dwelling Unit that is being used for Short Term Rental.

*Administrator* shall mean the city manager or his designee.

*City.* For the purpose of this article, the City of Port Aransas.

*Occupant(s)* shall mean the person or persons who have rented the short term rental and their guest(s).

*Owner* shall mean the person or entity that holds legal and/or equitable title to the private property.

*Operator* shall mean every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit who is the proprietor of a short term rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, license or any capacity. Where the operator performs his or her functions through a managing agent of any type of character, other than an employee, or where the operator performs his or her functions through a rental agent, the managing agent or the rental agent shall have the same duties as his or her principal.

*Permit* shall mean a short term rental permit.

*Short term rental (transient)—(STR)*, is the use for compensation of all or part of a dwelling unit or accessory dwelling unit which includes but is not limited to a hotel, motel, single-family residence, apartment, residential condominium units, townhouses and any and all other residential real estate improvements, in which the public may obtain sleeping accommodations for a period less than thirty (30) consecutive days. The term applies regardless of whether the dwelling was originally constructed or zoned as a residential dwelling. The term short term rental does not include:

- (1) A dormitory or other housing facility owned or leased and operated by a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution; or
- (2) Rental of a property pending closing of a bonafide real estate purchase contract.

Sec. 12-251. – Short term rentals.

- (a) The purpose of this article is to establish regulations for the registration and use of short term rentals and to ensure among other things that habitation of such units is safe, occupancy taxes are paid in timely fashion and to provide for the general welfare of residents and visitors.
- (b) The property owner shall designate themselves or an agent to comply with the requirements of this Article on behalf of the owner. The owner or designated agent is sometimes referred to as "operator" herein.
- (c) The owner shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the residential dwelling unit as a short term rental unit, regardless of whether such noncompliance was committed by the owner, operator, authorized agent or representative or the occupants or guests of the occupants.
- (d) This article is not intended to provide any owner/operator of residential property with the right or privilege to violate any city zoning (Chapter 25; Port Aransas City Code), private conditions, covenants or restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short term rental purposes as defined in this section or to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.
- (e) Abrogation and greater restrictions. Where this article, and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail unless otherwise indicated.
- (f) An advertisement promoting the availability of any dwelling unit for short term rental in violation of any provision of this, or any ordinance is prima facie evidence of a violation.
- (g) Prima facie proof of violation of this Article is established when a visual inspection of a Short Term Rental dwelling by a code enforcement officer, building inspector, fire inspector or police officer reveals a greater occupancy load than was indicated on the Short Term Rental registration or where it is determined on inspection the occupancy load would be

greater than allowed by this ordinance (subsection 12-252 a.6). Establishment of a prima facie level of proof of violation under this article does not preclude a showing of illegal "occupancy" of a dwelling by a person in any other manner.

Sec. 12-252. – Registration and permit.

- (a) Prior to using a dwelling unit as a short term rental or advertising in any manner the availability of the dwelling unit for short term rental, the operator must submit the following information on a form and in the manner prescribed by the administrator:
- (1) The name, address, email and telephone number of the Operator of the subject short term rental unit;
  - (2) The name, address, email and twenty-four-hour contact telephone number of a designated local contact person;
  - (3) The local contact person is the Operator or person designated by the operator who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of:
    - i. Responding in person within one (1) hour to complaints regarding the condition, operation, or conduct of occupants of the short term rental unit; and
    - ii. Taking immediate remedial action to resolve any such complaints;
  - (4) The name, mailing and physical address of the proposed short term rental unit.
  - (5) The number of sleeping rooms and applicable occupancy limit of the proposed short term rental unit. For purposes of this section a sleeping room is any enclosed habitable space within a dwelling unit which complies with applicable adopted Codes of the City. This shall not be interpreted to include living rooms, family rooms and other similar rooms in which furniture such as fold-down beds or convertible couches are provided on a permanent basis for regular accommodation of residents, temporary or otherwise;
  - (6) Maximum occupancy is two (2) persons per sleeping room, plus an additional four (4) per dwelling. For residential properties with more than 3250 square feet of conditioned living space, the maximum occupancy shall be two (2) persons per sleeping room plus an additional six (6). This section shall, apply if in conflict with any other code or occupancy regulation adopted by the City. The maximum occupancy of a short term rental shall be determined at the time a short term rental permit is issued or renewed. That capacity shall not be increased by subsequent construction of any addition to the structure covered by the permit or by construction of any other structure located on the property without an inspection and approval by building official and submission of an amended registration form;
  - (7) Required trash toters: During the period of March 1<sup>st</sup> to September 8<sup>th</sup> of each year, each STR shall have the following minimum toters in service at each STR dwelling.

A dwelling unit with:

1-2 legal sleeping rooms: shall have a minimum of 1 (one) toter

3-5 legal sleeping rooms: shall have a minimum of 2 (two) toters

6 legal sleeping rooms and over: shall have a minimum of 3 (three) toters

Toters shall automatically be delivered to each STR (as close as possible to the March 1<sup>st</sup> date) based on the number of legal sleeping rooms indicated on each STR's registration. Billing for required additional toters will automatically be adjusted on each STR's trash service account. Each STR owner or registered agent is required to cancel said additional toter service at the September date, otherwise the additional toter(s) shall remain at the STR dwelling and additional solid waste fees shall remain in effect.

During the off-season (September 9<sup>th</sup> to February 28<sup>th</sup>), toter service may be reduced to a single toter at each STR dwelling TBD by the STR owner or registered agent.

- (8) Each residential short term rental unit will be assigned a unique permit number and be subject to the registration fee. For the purpose of this article, hotels and motels will register as a single unit and pay a single fee regardless of the number of rooms; and
  - (9) Any additional information the administrator determines necessary for the administration of this section.
- (b) Transferability. A short term rental permit is not transferable.
- (c) Any property owner delinquent and/or owing city fees to include but not limited to occupancy tax, sanitation or gas service fees will be prohibited from registering a short term rental until such time as payment or acceptable resolution is approved by the city finance department.
- (d) Registration fee; renewal fee.
- (1) The short term rental registration form shall be accompanied by a non-refundable per unit registration fee as established by city council.
  - (2) Registration of a short term rental is valid for twelve (12) months based on the calendar year. Registration fees will not be pro-rated.
- (e) Each short term rental, once properly registered shall be issued a permit with a unique registration number. The registration number must be included in any and all advertisement for the short term rental including internet booking sites.

Sec. 12-253. - Minimum standards of conduct.

- (a) The owner, operator or their agent shall post a tenant information sheet in a visible, prominent interior location at or near the primary entrance. This tenant information sheet shall provide basic, minimum standards of conduct for occupants during their stay in the City of Port Aransas. At a minimum the following items must be included on the information sheet or displayed as required:
- (1) The name of property's designated contact person including a 24/7 phone number;
  - (2) Occupancy limit as established at the time of registration and permitting;
  - (3) Location of off-street parking, other available parking and location of any adjacent no-parking fire lanes;

- (4) Notice that failure to conform to the occupancy and parking requirements is a violation of City Code and may subject occupants to citation;
  - (5) Noise and lighting restrictions (see Chapter 10 Article IV; Noise and Chapter 25 Division III; Lighting);
  - (6) Trash collection information to include proper timing and placement of receptacles; and
  - (7) Location of all required Fire Extinguishers.
  - (8) Other information as required by administrator.
- (b) Health and life safety: Owner or operator shall ensure all building and fire related construction conforms to the city's adopted building code.
  - (c) All floors with an enclosed space of any kind must have a minimum of one (1) Class 2A:10B:C type fire extinguisher (standard 5lb. fire extinguisher) mounted so as to be conspicuous and convenient for the occupants.
  - (d) A golf cart made available anytime as part of a short-term rental shall be subject to all requirements of the City of Port Aransas Code of Ordinances, Chapter 23 "Traffic and Motor Vehicles."
  - (e) Non-compliant sleeping rooms shall not be included in the maximum occupancy calculation and notification shall be provided in the tenant information sheet that the noncompliant Sleeping Room may not be used for sleeping.
  - (f) Inspection: To ensure continued compliance with the requirements of this Section, Short Term Rental properties will be subject to an inspection at registration and on subsequent renewal unless an immediate inspection is required to address a specific concern or suspected violation. Missing a scheduled inspection will be subject to a re-inspection fee as shown in the COPA Fee schedule.
  - (g) Mandatory evacuation: All vacation rental units will be immediately evacuated upon notice.
  - (h) A sign no smaller than 8" X 18" outside the dwelling, at or near the primary entrance or in a "street facing" window is required displaying at minimum, the registration number, maximum occupancy, name of designated contact and their 24/7 contact phone number in legible type no less than 1 1/2" in height. For multi-family properties of more than 4 attached units connected horizontally and/or vertically, a smaller sign no less than 3" by 5" similarly placed may be used.
  - (i) Any other standards deemed necessary by the administrator to achieve the objectives of this section.

Sec. 12-254. - Enforcement—Penalty provisions.

- (a) A violation under this section is a Class C misdemeanor offense punishable upon conviction by a fine not to exceed five hundred dollars (\$500.00) per offense. Each day a violation continues shall constitute a separate offense. Pursuant to state law and the City Code of Port Aransas, the maximum penalty for offenses arising under such code or ordinance governing fire safety, zoning, public health and sanitation, shall not exceed the sum of two thousand dollars (\$2,000.00).
- (b) In addition to any other penalty provided, the City Manager or designee may direct the city attorney to institute an action in any court having complete jurisdiction to enjoin any violation of the provision of any subsection of this article.
- (c) Establishment of a prima facie level of proof under this article does not preclude a showing of illegal "occupancy" of a dwelling by a person in any other manner.
- (d) If such maximum penalty provided for by this Code or any such offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the state, then the maximum penalty for violation as provided by state statute shall be the maximum penalty under this Code.
- (e) The owner/operator shall comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short term rental unit, including, but not limited to, Chapter 10 "Health and Sanitation" and Chapter 22, "Taxation" of the City Code of Port Aransas.
- (f) A permit may be denied, suspended or revoked for any of the following reasons:
  - (1) Three (3) or more notices of violation issued within a twelve-month period for any conduct or condition at the short term rental that constitutes a violation of this section or federal, state or local law;
  - (2) Providing false or misleading information on a permit application;
  - (3) Representing a property available or otherwise making a residence available for occupancy or rent as a short term rental where the property does not hold a valid short term Rental permit;
  - (4) The permit holder is overdue in payment to the city of taxes, fees, fines, or penalties or fails to provide documentation when requested showing all occupancy taxes have been paid for the property.
  - (5) The short term rental is sold or otherwise transferred.
  - (6) Information provided with the permit application has changed or is no longer accurate and the permit holder has failed to notify the city.
- (g) Appeal: If an application for a short term rental permit or renewal is denied or the permit subsequently revoked, the owner or operator may appeal ("appellant") to the administrator by written notice delivered within ten (10) business days of denial or revocation.

- (1) The administrator shall have twenty (20) business days from the date on which the appeal was received in which to give a written decision affirming, modifying, or reversing the denial, suspension, or revocation as applicable.
- (2) If the permit is denied, suspended, or revoked pursuant to this section, appellant may within ten (10) business days of the service of notice of such determination submit to the administrator a written request for a hearing to show cause as to why the permit should not be denied, suspended, or revoked, as applicable. A hearing shall be scheduled within thirty (30) business days of receipt of applicant's request and notice of the hearing shall be given to applicant ten (10) business days before the hearing. At the hearing, the appellant and city may present such evidence as may be relevant.
- (3) Any notice or decision served to appellant shall be deemed served upon the appellant when it is personally delivered or on the date it is mailed by United States mail, with proper postage prepaid, to the name and address set forth on the application for Permit, whichever occurs first.
- (4) Any appeal filed pursuant to this chapter shall state succinctly the grounds upon which it is asserted that the determination should be modified or reversed and shall be accompanied by copies of the application for permit, the written notice of the determination of the city, and any other information material to the determination.
- (5) Judicial review of any such final decision of the city may be obtained through the filing of an appropriate action in the appropriate district court within thirty (30) calendar days after service on appellant of the decision. The applicant shall bear the burden of proof in court. The substantial evidence standard of review shall apply to such appeal.

**SECTION 2. EFFECTIVE DATE.**

As provided by Article III, Section 12.C. and by Article XII, Section 2 of the Charter of the City of Port Aransas, this ordinance shall be effective upon adoption upon adoption on third and final reading.

**SECTION 3. READING.**

As provided by Article III, Section 13 and Article III, Section 12.b. of the Charter of the City of Port Aransas, this ordinance or the caption of it shall be read at three city council meetings with at least one week elapsing between each reading.

**SECTION 4. SEVERANCE.**

If any part of this ordinance is invalid or void or is declared to be so, then said part shall be severed from the balance of this ordinance and said invalidity shall not affect the balance of this ordinance, the balance of the ordinance to be read as if said invalid or void portion thereof were not included.

**PASSED, ORDAINED, APPROVED and ADOPTED** this 27<sup>th</sup> day of JANUARY, 2022.



**CITY OF PORT ARANSAS, TEXAS**

*Joan Holt*

Joan Holt, Mayor Pro-Tem

**ATTEST:**

*Francisca Nixon*

Francisca Nixon, City Secretary

First Reading: November 18, 2021

Second Reading: December 16, 2021

Third Reading: January 27, 2022



