

ORDINANCE NO. 2023-06-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, AMENDING MUNICIPAL CODE ARTICLE VI – SHORT-TERM RENTALS, SECTION 11-113 - ENFORCEMENT TO UPDATE AN ADDITIONAL VIOLATION, SECTION 11-105 – SHORT TERM RENTAL PERMIT AMENDING SUBSECTION 6 AND SECTION 11-117 – PENALTY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NASSAU BAY, STATE OF TEXAS THAT THE MUNICIPAL CODE ARTICLE VI (SHORT-TERM RENTALS) IS HEREBY AMENDED TO ADD THE FOLLOWING:

Section 11-113. Enforcement.

The below section (a-1) is in addition to the current a-j subsections of section 11-113.

(a-1) A person commits an offense under this Article if that person markets and/or advertises to the public a short term rental property within the City that the person knows lacks a valid permit from the City to operate as a short term rental.

Section 11-105. Short-Term Rental Permit.

The current language in section 11-105(6) is hereby amended as follows:

Written confirmation from the City finance department showing proof of hotel occupancy tax compliance with V.T.C.A., Tax Code Chapter 351, and registration with the City Finance Department for hotel occupancy tax collection will need to be provided before any permit is granted. As per section 156.001(b) of the Texas Tax Code, the hotel occupancy tax under Chapter 351 Texas Tax Code defined a “hotel” as including a short-term rental—the rental of all or part of a residential property to a person who is not a permanent resident under section 156.101 Texas Tax Code.

Section 11-117. Penalty.

The current language in section 11-117 is hereby replaced with:

Any person violating the terms of this Article shall, upon conviction in the Municipal Court, be fined not to exceed \$2,000.00 in that the Ordinance governs and regulates fire, safety, zoning or public health and sanitation (other than vegetation and litter violation) under section 1-6 of the Code of Ordinances and under section 54.001 Texas Local Government Code. Each day that such failure or refusal as mentioned in this section continues shall be deemed a separate offense.

The remainder of said Article VI Short Term Rental shall remain in full force and effect.

Effective date

This Amended Ordinance shall be effective immediately upon passage by two readings.

Proper Notice and Meetings

It is hereby officially found and determined that the meetings at which this Amended Ordinance was passed was open to the public, a public hearing was held and that public notice of the time, place and purpose of said hearing and meeting was given as required by the Texas Open Meetings Act.

Severability

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

Codification.

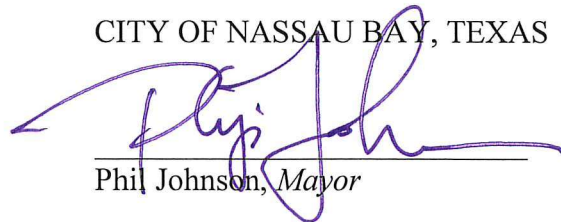
This Amended Ordinance is hereby incorporated into and made a part of the Nassau Bay City Code.

AND IT IS SO ORDERED.

INTRODUCED FOR FIRST READING THIS 10th day of June 2023.

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING THIS 10 day of July, 2023.

CITY OF NASSAU BAY, TEXAS


Phil Johnson, Mayor

ATTEST:


~~Zina Tedford, Acting City Secretary~~
Lacy Belcher, Deputy City Secretary



- **ARTICLE VI. - SHORT-TERM RENTALS^[3]**

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Footnotes:

--- (3) ---

Editor's note— Ord. No. O2020-806, §§ 1—17, adopted January 11, 2021, did not specify manner of inclusion; hence, inclusion as article VI, sections 11-101—11-117 is at the discretion of the editor.

- **Sec. 11-101. - Purpose.**

modified

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The purpose of this article 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 article 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.

(Ord. No. O2020-806, § 1, 1-11-21; Ord. No. O2021-817, § 1, 11-8-21)

- **Sec. 11-102. - Definitions.**

modified

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

Adult means an individual eighteen (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 article.

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 thirty (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.

(Ord. No. O2020-806, § 2, 1-11-21; Ord. No. O2021-817, § 2, 11-8-21)

- **Sec. 11-103. - Authority.**

modified

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The city manager or his designee shall implement and enforce this article and may by written order establish such procedures, not inconsistent with this article 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 article.

(Ord. No. O2020-806, § 3, 1-11-21; Ord. No. O2021-817, § 3, 11-8-21)

- **Sec. 11-104. - Permit required.**

modified

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(a)

No short-term rental shall operate within the city 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.

(Ord. No. O2020-806, § 4, 1-11-21; Ord. No. O2021-817, § 4, 11-8-21)

- **Sec. 11-105. - Short-term rental permit.**

modified

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(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 three hundred dollars (\$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 finance department showing proof of hotel occupancy tax compliance with V.T.C.A., Tax Code ch. 351, and registration with the city 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 five hundred thousand dollars (\$500,000.00) per occurrence and one million dollars (\$1,000,000.00) 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 thirty (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 article 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 three hundred dollar (\$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.

(Ord. No. O2020-806, § 5, 1-11-21; Ord. No. O2021-817, § 5, 11-8-21)

- **Sec. 11-106. - Expiration and annual renewal of permit.**

modified

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(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 thirty (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 article when determining whether to renew a permit.

(d)

The fee for the renewal of a permit to operate a short-term rental will be three hundred dollars (\$300.00).

(Ord. No. O2020-806, § 6, 1-11-21; Ord. No. O2021-817, § 6, 11-8-21)

- **Sec. 11-107. - Non-transferability.**

modified

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

(Ord. No. O2020-806, § 7, 1-11-21; Ord. No. O2021-817, § 7, 11-8-21)

- **Sec. 11-108. - Standards.**

modified

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

(1)

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

(2)

Bathrooms. Not less than one full bathroom shall be provided for each five (5) 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.

EXPAND

5 occupants	
6—9 occupants	1 fu
10 occupants	

11—14 occupants	
15 occupants	
And so on...	

(3)

Health and life safety. Adhere to the standards outlined in section 11-109 of this article.

(4)

Occupancy. The maximum number of occupants allowed to sleep in a short-term rental is two (2) occupants per sleeping room, plus an additional two (2) occupants.

(5)

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.

(6)

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

(Ord. No. O2020-806, § 8, 1-11-21; Ord. No. O2021-817, § 8, 11-8-21)

- **Sec. 11-109. - Health and life safety.**

modified

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SECTIONCOMPARE VERSIONS**

(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 (75) feet 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 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 this section 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.

(Ord. No. O2020-806, § 9, 1-11-21; Ord. No. O2021-817, § 9, 11-8-21)

- **Sec. 11-110. - Conduct on premises.**

modified

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(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.

(Ord. No. O2020-806, § 10, 1-11-21; Ord. No. O2021-817, § 10, 11-8-21)

- **Sec. 11-111. - Tenant indoor notification.**

modified

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

(1)

Maximum number of occupants. The maximum number of occupants allowed to sleep in a short-term rental is two (2) occupants per sleeping room, plus an additional two (2) occupants.

(2)

Location of off-street parking, other available parking and prohibition of parking on landscaped areas.

(3)

24-hour contact person and phone number.

(4)

Flooding hazards and evacuation routes.

(5)

Emergency numbers.

(6)

Restrictions of outdoor facilities.

(7)

Notice that failure to conform to the occupancy requirements is a violation of City Code and occupant or visitor can be cited.

(8)

Short-term rental permit and/or other required permits.

(9)

Hotel occupancy tax registration.

(Ord. No. O2020-806, § 11, 1-11-21; Ord. No. O2021-817, § 11, 11-8-21)

- **Sec. 11-112. - Inspections.**

modified

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

(1)

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 article.

(2)

Fire extinguishers. The owner/operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the city's fire code.

(3)

The city may perform inspections when a violation is suspected.

(4)

Annual inspection. The city's building official and fire marshal will perform annual inspections, upon renewal, for compliance.

(5)

Reinspection. A reinspection fee will be assessed at an amount of one hundred forty dollars (\$140.00) should the owner/operator fail to successfully pass the annual inspection or any reinspection needed to comply with this article. This fee will be assessed per reinspection required to be performed by the building official or fire marshal.

(Ord. No. O2020-806, § 12, 1-11-21; Ord. No. O2021-817, § 12, 11-8-21)

- **Sec. 11-113. - Enforcement.**

modified

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(a)

A person commits an offense under this article 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 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-month period, whether issued to the owner, operator, or any occupants.

(d)

Violation of any section of this article shall constitute an offense resulting in permit revocation in accordance with section 11-114, Revocation procedures.

(e)

This article 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.

(Ord. No. O2020-806, § 16, 1-11-21; Ord. No. O2021-817, § 16, 11-8-21)

- **Sec. 11-117. - Penalty.**

modified

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Any person violating the terms of this article 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.

(Ord. No. O2020-806, § 17, 1-11-21; Ord. No. O2021-817, § 17, 11-8-21)