

**ORDINANCE NO. 1178**

**AN ORDINANCE OF THE CITY OF KEMAH, 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 KEMAH, TEXAS:

**Section 1.** Purpose.

The purpose of this Ordinance is to establish regulations for the use of privately owned dwellings as Short Term Rentals, to minimize negative ancillary impact on surrounding properties, and to ensure the collection and payment of Hotel Occupancy Tax.

**Section 2.** Definitions.

As used in this Ordinance, the following terms shall have the following meanings:

*City.* The City of Kemah, Texas.

*Guest.* The overnight occupants renting a Short Term Rental Unit for a specified period and the daytime visitors of the overnight occupants.

*Local Contact Person.* The Owner, Operator, or person designated by the Owner or the Operator for the purpose of responding to concerns or requests for assistance related to the Owner's Short Term Rental.

*Operator.* The Owner or the Owner's authorized representative who is responsible for compliance with this Ordinance while advertising and/or operating a Short Term Rental.

*Owner.* The person or entity that holds legal or equitable title to the Short Term Rental property.

*Short Term Rental.* A privately owned dwelling, including but not limited to, a single family dwelling, multiple family attached dwelling, apartment house, condominium, duplex, mobile home, or any portion of such dwellings, rented by the public for consideration, and used for dwelling, lodging or sleeping purposes for any period less than 30 consecutive days.

The following are exempt from the regulations under this Ordinance: hotel, motel, dormitory, public or private club, recreational vehicle park, hospital and medical clinic, nursing home or convalescent home, foster home, halfway house, transitional housing facility, any housing operated or used exclusively for religious, charitable or educational purposes, and any housing owned by a governmental agency and used to house its employees or for governmental purposes.

*Short Term Rental Permit.* A permit issued by the City authorizing the use of a privately owned dwelling as a Short Term Rental.

*Short Term Rental Unit.* One or more habitable rooms forming a single habitable division within a Short Term Rental, or an entire undivided Short Term Rental, which is advertised to

be occupied, is occupied, or is intended to be occupied by a single party of Guests under a single reservation and/or single rental payment.

**Section 3.** Short Term Rental Permit required.

It shall be unlawful for any person or entity to rent, or offer to rent, any Short Term Rental without a valid Short Term Rental Permit issued under this Ordinance.

**Section 4.** Short Term Rental Permit registration fee and application.

- A. An owner shall submit an application for a Short Term Rental Permit using a format and method promulgated by the City Administrator or his/her designee. The application form shall require, at a minimum, the following information from applicants:
  - (1) The name, address, email and telephone number of the Owner of the Short Term Rental;
  - (2) The name, address, email and telephone number of the Operator of the Short Term Rental;
  - (3) The name, address, email and 24 hour telephone number of the Local Contact Person;
  - (4) The name and address of the Short Term Rental;
- B. An applicant for a Short Term Rental Permit shall pay to the City a permit fee of \$150.00.
- C. A Short Term Rental Permit issued under this Ordinance shall be valid for a period of one calendar year from the date of issuance. The Short Term Rental Permit shall expire immediately upon any change in Owner of the Short Term Rental Unit.
- D. The Owner has a duty to notify the City within 20 calendar days, in writing, of any changes to information submitted as part of a Short Term Rental Permit application under this Ordinance.
- E. An application for Short Term Rental Permit may be denied if the Short Term Rental is disallowed by an applicable Homeowners Association or Deed Restriction. A deed restriction that merely states that the property shall be used only for residential purposes shall not be a basis for dis-allowance of permit because Texas law provides that a short term rental is residential use.
- F. An application for Short Term Rental Permit may be denied if the Owner has had a Short Term Rental Permit suspended or revoked during the previous 365 calendar days.
- G. The City shall make available at City Hall, a permanent display or free handout, a list of all short term rental permits including the address of the short term rental unit along with the Owner and Operator's name and phone number for each short term rental unit.

**Section 5.** Short Term Rental operational requirements.

- A. The Operator shall post the following information in a prominent location within the

Short Term Rental Unit, using a form promulgated by the City:

- (1) Operator name and number;
  - (2) Local Contact Person name and number;
  - (3) The location of any on-site and off-site parking spaces available for Guests;
  - (4) The overnight and daytime occupancy limits as set by the Fire Marshal by the permitting process.
  - (5) Instructions to Guests concerning disposal of garbage and handling of garbage containers;
  - (6) Notification that the Guests are responsible for compliance with all applicable laws, rules and regulations pertaining to the use and occupancy of the Short Term Rental, and that Guests may be fined by the City for violations of this Ordinance.
- B. The Operator shall operate a Short Term Rental in compliance with the following:
- (1) City of Kemah Hotel Occupancy Tax Ordinance set forth in the Code of Ordinances;
  - (2) During any period when a Short Term Rental is occupied or intended to be occupied by Guests, the Local Contact Person shall make reasonable efforts to be available 24 hours per day for the purpose of responding to concerns or requests for assistance related to the condition, operation, or conduct of Guests of the Short Term Rental. If contacted by the City for assistance regarding the condition, operation, or conduct of Guests of the Short Term Rental, the Local Contact Person shall make reasonable efforts to resolve such concerns or request for assistance.

#### **Section 6.** Notification of complaints.

Complaints related to the operation of a Short Term Rental, including but not limited to complaints concerning noise, garbage, parking, and disorderly conduct by Guests, shall be reported to the City Administrator.

#### **Section 7.**

The Owner, Operator, Local Contact Person, and Guests shall comply with all applicable laws, rules and regulations pertaining to the operation, use, and occupancy of a Short Term Rental. No Owner shall be responsible for violations of this ordinance by persons other than the Owner.

Nothing in this Ordinance shall be construed to relieve any person or Owner of any other applicable requirements of federal, state, or local law, rules, or regulations. Nothing in this Ordinance shall be construed to provide any property owner with the right or privilege to violate any private conditions, covenants, and restrictions applicable to the Owner's property that may prohibit the use of such Owner's property as a Short Term Rental as defined in this Ordinance.

#### **Section 8.** Compliance and Penalty provision.

- A. Any violation of this Ordinance shall be a Class C misdemeanor and shall be punished by a fine not to exceed the maximum permitted by law.
- B. Prosecution under this Ordinance shall not require the pleading or proving of any culpable mental state.
- C. Penalties provided for in this Ordinance are in addition to any other criminal or civil remedies that the City may pursue under federal, state, or local law.

#### **Section 9.** Permit suspension or revocation; appeal.

Upon conviction for any 2 or more violations of this Ordinance in a 12 month period or if it

is discovered after issuance of the Short Term Rental Permit that the Short Term Rental is disallowed by an applicable Homeowners Association or Deed Restriction, the City Administrator may suspend or revoke any Short Term Rental Permit issued for the Short Term Rental, however see Section 4E. The City Administrator shall notify an Owner of a suspension or revocation under this Section in writing, delivered by Certified Mail, Return Receipt Requested, and mailed to the address of the Owner as set forth on the most recent Short Term Rental Permit application submitted to the City.

An Owner may appeal a notice of suspension or revocation under this Section by filing a written appeal with the City Administrator within ten business days following the date said notice was deposited in the U.S. Mail. Following a timely filing of an appeal hereunder, the Owner may present evidence to the City Administrator related to the suspension or revocation under this Section. Following the City Administrator's final decision on appeal, the Owner may appeal an adverse decision of the City Administrator by filing a written appeal with the City Council within five business days following the date of the City Administrator's final decision.

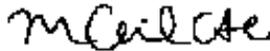
**Duly Passed and Approved on First Reading this the 17th day of June, 2020**

**Duly Passed and Approved on Second and Final Reading this the 15th day of July, 2020.**



Terri Gale, Mayor  
City of Kemah, Texas

ATTEST:



Melissa Chilcote, City Secretary

APPROVED AS TO FORM AND CONTENT:



Dick Gregg Jr., City Attorney