

ORDINANCE NO. 23-003

AN ORDINANCE OF THE VILLAGE OF SAN LEANNA, TEXAS, ESTABLISHING A REGISTRATION PROGRAM FOR SHORT-TERM RENTALS IN THE VILLAGE; ESTABLISHING FEES FOR REGISTRATION; PROVIDING FOR REVIEW OF ORDINANCE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Village of San Leanna, Texas (the “Village”) is a Type B General-Law Municipality acting under Chapter 7 of the Texas Local Government Code; and

WHEREAS, the Village has received numerous complaints about short-term rentals (STRs) from citizens who have contacted the Village about STRs; and

WHEREAS, the Board of Alderman of the Village (the “Board”) has investigated and studied the issues relating to STRs; and

WHEREAS, the Board find that the increase in the number of persons or entities desiring to rent their residential properties has led to the proliferation of transient and vacation rental uses within the Village that were previously planned, approved and constructed for use as single-family residences; and

WHEREAS, the Board further finds that the use of single-family residences by individuals for short periods of time may negatively impact the residential character of the Village by reducing communication and accountability between permanent residents by partially substituting permanent residents with transient visitors; and

WHEREAS, the Board desires to balance the health and safety of occupants of the STRs and neighboring residents and tourism in the Village; and

WHEREAS, the Board reviewed a variety of possible regulations for STRs and determined that enacting a registration program serves to balance the rights of all stakeholders through a fair regulatory framework to ensure that STRs do not become a nuisance; and

WHEREAS, the Board supports the requirement of an annual short-term rental registration that can be revoked in the event the owner does not comply with this ordinance; and

WHEREAS, the Board finds that because the Village is a small community with approximately 227 homes, limiting the number of total registrations that may be approved by the City Administrator is rationally related to a legitimate and valid government objective of lessening the negative impact of STRs; and

WHEREAS, the Board finds that regulating the short-term rental of residential property is a valid exercise of police power, necessary for the health, safety and welfare of the general public, and the protects property owners and residents of the Village of San Leanna.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE VILLAGE OF SAN LEANNA, TEXAS:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Title. This ordinance shall be known and referred to as the “Short-Term Rental Registration Ordinance.”

Section 3. Purpose. The purpose of this ordinance is to establish regulations for the registration and use of short-term rentals in the Village of San Leanna to safeguard the life, health, safety, welfare, and property of occupants of short-term rentals, the neighbors of the occupants, and the general public, through the regulation of short-term rental premises.

Section 4. Definitions.

City Administrator means the City Administrator or designee of the Village of San Leanna.

Occupant means any individual person living, sleeping or possessing a building, or portion thereof. A person is not required to pay rent, provide in-kind services, or be named in any lease, contract or other legal document to be considered an occupant for purposes of this ordinance.

Short-term rental means the rental of a residential property for a period of less than 30 days.

Section 5. Short-term rental registration required; limit on registrations.

- (a) An owner who desires to use its premises as a short-term rental must have a valid, active short-term rental registration from the Village of San Leanna prior to using, allowing the use of, or advertising the use of the premises as a short-term rental. Upon application to the Village of San Leanna, a short-term rental registration may only be approved by the City Administrator or designee if the application satisfies all requirements of this ordinance and the Village of San Leanna Zoning Ordinance.
- (b) The total number of short-term rental registrations approved by the City Administrator shall not exceed five percent (5%) of the total number of single-family dwellings in the Village of San Leanna.

Section 6. Registration application. Every application for short term rental registration shall be made upon a form prescribed by the Village of San Leanna for such purpose. The following is required of all applications and missing items or information constitutes an incomplete application.

- (a) The physical/street address of the short-term rental.

- (b) The name, address, telephone number, and electronic mail address, and authenticated (notarized) signature of the owner of the premises and the corporation owner's representative as applicable.
- (c) Signature or electronic signature by the registrant requiring the applicant to self-certify that the information on the application is accurate and truthful under penalty of perjury under the laws of the State of Texas.
- (d) Payment of all fees established by this ordinance or the Board of Aldermen and, for registration renewals, proof of collection and payment of Hotel Occupancy Tax due during the preceding registration periods if applicable.
- (e) Incomplete applications will not be accepted and processed and, as a result, any premises associated with an incomplete application will not be registered in compliance with or as required by this ordinance.

Section 7. Standards specific to short-term rentals.

- (a) Short term rental is not permitted for any property that has not been registered under this ordinance or where the registrant's permission to operate a short-term rental has been suspended or revoked under this ordinance.
- (b) An approved short term rental registration shall not be assigned or transferred to any person or entity. Any attempt to transfer a registration shall render the registration subject to suspension or revocation as provided in this ordinance.
- (c) Occupancy shall not exceed three (3) adults per bedroom plus two (2) additional occupants.
- (d) No change in the external appearance of the existing buildings and structures on the property that would denote use as short term rental will be permitted.
- (e) There shall be no advertising devices on the property which are visible from outside the dwelling or accessory building.
- (f) Wholesale or retail sale of goods shall not occur on the premises.
- (g) Each short-term rental registrant shall provide in the premises at least at least one working smoke detector and alarm and one working carbon monoxide detector and alarm per bedroom, as well as one working fire extinguisher for the premises. The premises shall, otherwise be in compliance with applicable building and fire codes adopted under the Village of San Leanna's Zoning Ordinance.
- (h) Short term rental use must comply with all other Village of San Leanna ordinances.
- (i) It shall be the sole responsibility of the owner to review the registration for each short-term rental to comply with this ordinance.

Section 8. Standards for required brochure. The owner or registrant shall provide to occupants staying at the premises a brochure that includes:

- (a) The registrant's contact information;
- (b) The owner's contact information if the registrant is not the property owner;
- (c) A local responsible party's contact information who can respond to the occupant within one (1) hour if neither the registrant nor the property owner are in the Village of San Leanna limits when occupants are at the premises;
- (d) Maximum occupancy limit, per septic capacity;

- (e) Pertinent information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, trash collection schedule, and relevant water restrictions; and
- (f) Information to assist occupants in the case of emergencies posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire and emergency medical services providers, and instructions for obtaining severe weather and natural or manmade disaster alerts and updates.

Section 9. Designation of local responsible party required.

An owner must designate the name and contact information of a local responsible party who can be contacted regarding immediate concerns and complaints from the public. The person designated may be the owner or another individual. The owner or individual must be available to be reached in person or by phone at all times while occupants are on the premises of a short-term rental. If called, a local responsible party must be able to and shall be present at the premises within one (1) hour of call from the City Administrator. A local responsible party must be authorized to make decisions regarding the premises and its occupants.

Section 10. Registration and renew fees.

- (a) A registration fee of \$250.00 will be charged to reimburse the Village of San Leanna for costs associated with the administration of this ordinance.
- (b) A renewal fee of \$150.00 will be charged upon filing of the renewal application.
- (c) The applicable fee shall be paid at the time the initial application is filed and at the time each renewal application is filed with the City Administrator.

Section 11. Registration term and renewal.

- (a) All registrations approved under this ordinance shall be valid for a period of one year from the date of their issuance.
- (b) A short-term rental registration is non-transferrable and shall not be assigned nor transferred to another person or entity. Any attempt to transfer a registration or attempt to use another person's registration may be grounds for revocation of the registration.
- (c) A notification of approval of a short-term rental registration will be mailed by the Village of San Leanna to all property owners within 500 feet of the premises.
- (d) If the owner or registrant has received notice of violation of any law or regulation including enforcement action under a current registration, the notice shall be included with an application for renewal.
- (e) Upon receipt of an application for renewal of the registration, the City Administrator may deny the renewal if there is reasonable cause to believe that:
 - (1) The owner or registrant has violated any ordinance of the Village of San Leanna, 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 registration sanction as provided in this ordinance.

Section 12. Revocation of registration.

- (a) *Grounds.* Any registration issued under this ordinance may be revoked by the City Administrator if the registration holder has:
 - (1) received one or more citations for violations of this ordinance or any other ordinance of the Village of San Leanna within the preceding 12- month time period; or
 - (2) knowingly made a false statement in the registration application; or
 - (3) fails to notify the City Administrator in writing of any material change in the information; or
 - (4) fails to pay hotel occupancy tax.
- (b) *Notice.* Notice of the revocation shall be given to the registration holder in writing, with the reasons for the revocation specified in the notice, served either by personal service or by certified United States mail to their last known address. If the registration holder is not an individual, then service can be made to either the agent of the owner or the local responsible party. Such service on either individual shall constitute as proper notice as required under this ordinance. The revocation shall become effective the day following personal service or if mailed, three (3) days from the date of mailing.
- (c) *Appeal; hearing.* The registration holder shall have ten (10) days from the date of such revocation in which to file notice with the City Administrator of their appeal from the order revoking said permit. The City Administrator shall provide for a hearing on the appeal in accordance with the provisions of this ordinance.
- (d) *One- Year Waiting Period.* In the event an owner' s short-term rental registration is revoked by the City Administrator and the applicant fails to successfully appeal the City Administrator' s decision, no second or additional registration shall be issued for a short-term rental on the premises for one year of the date such registration was revoked.

Section 13. Appeal of revocation of registration. If the City Administrator revokes a registration under Section 12, the City Administrator' s decision is final unless the owner, within ten (10) days after the receipt of written notice of the action, files a written appeal with the Board of Alderman, who shall at the next regular meeting consider all the evidence in support of or against the action appealed, and render a decision, either sustaining or reversing the action. The decision of the Board of Alderman is final.

Section 14. Violations. It is unlawful, and shall be considered a violation of this ordinance, to:

- (a) Rent, lease, or otherwise permit or allow any dwelling unit or premises to operate, or be operated as a short-term rental without first registering the property in which the short-term rental is to occur and unless all requirements of this ordinance and state laws and codes are met;
- (b) Operate a short-term rental without paying the required hotel occupancy taxes;
- (c) Operate or allow to be operated a short-term rental without first registering the property in which the rental is to occur with the Village of San Leanna in accordance with this article;
- (d) Operate a short-term rental that does not comply with all applicable Village of San Leanna ordinances and state laws and codes;
- (e) Fail to renew required registration (may result in double fees);
- (f) Fail to register existing short-term rental within 60 days of the execution of this ordinance.

Section 15. Review of ordinance. The provisions of this ordinance pertaining to short-term rentals shall be reviewed by the Board within one year of the effective date. Those provisions are subject to amendment or repeal upon such review or at any other time.

Section 16. Penalty.

- (a) A person who violates any provision of this ordinance by performing an act prohibited or by failing to perform an act required is guilty of a misdemeanor. Each day a violation exists or continues to exist shall be a separate offense.
- (b) If the definition of an offense under this ordinance does not prescribe a culpable mental state, then a culpable mental state is not required. Such offense shall be punishable by a fine not to exceed \$500.00. Although not required, if a culpable mental state is in fact alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, such offense shall be punishable by a fine not to exceed \$2,000.00.
- (c) If the definition of an offense under this ordinance prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense shall be punishable by a fine not to exceed \$2,000.00.
- (d) The provisions of this section are in addition to and not in lieu of any criminal prosecution or penalties as provided by other Village of San Leanna ordinances, county, or state law.

Section 17. Savings/Repealing Clause. Any provisions of the ordinances of the Village of San Leanna in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 18. Severability. That it is hereby declared to be the intention of the Board of Alderman that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the Board of Alderman without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

Section 19. Effective Date. This Ordinance shall become effective upon its passage and publication as required by law.

DULY PASSED AND APPROVED BY THE BOARD OF ALDERMAN OF THE VILLAGE OF SAN LEANNA, TEXAS, on this the 16th day of November, 2023.

APPROVED:

Molly Quirk, Mayor

ATTEST:

Rebecca Howe, City Administrator