

ORDINANCE NO. 2017-_____

AN ORDINANCE ADOPTING A NEW ARTICLE XIII. “BED AND BREAKFAST FACILITIES AND SHORT TERM RENTAL FACILITIES” IN CHAPTER 13 “LICENSES, PERMITS AND BUSINESS REGULATIONS” OF THE CODE OF ORDINANCES OF THE CITY OF WACO, TEXAS, TO PROVIDE FOR THE LICENSING AND REGULATION OF BED AND BREAKFAST FACILITIES AND SHORT TERM RENTAL FACILITIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR PENALTIES; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF WACO, McLENNAN COUNTY, TEXAS:

Section 1. That Article XIII. “Bed and Breakfast Facilities and Short Term Rental Facilities” in Chapter 13 “Licenses, Permits and Business Regulations” of the Code of Ordinances of the City of Waco, Texas, is hereby adopted to read as follows:

ARTICLE XIII. – BED AND BREAKFAST FACILITIES AND SHORT TERM RENTAL FACILITIES

Sec. 13-464. Purpose.

The purpose of the regulations set forth in this article is to provide a procedure to allow the rental of private residences to visitors on a short term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the design 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.

Sec. 13-465. Definitions.

As used in this article:

Bed and Breakfast Facility includes a Bed and Breakfast Homestay Establishment or Bed and Breakfast Inn.

Bed and Breakfast Homestay Establishment shall mean an owner occupied residential property where short term lodging is provided that contains no more than 5 guest rooms and where breakfast service may be provided to overnight guests only. The owner must reside on the property and be present at the property for the duration of any short term rental. The property may be rented out to multiple short term lodging groups at a time.

Bed and Breakfast Inn shall mean a resident managed residential property where short term lodging is provided that contains no more than 15 guest rooms and where breakfast service may be provided to overnight guests only. The resident manager must reside on the property and be present at the property for the duration of any short term rental. The property may be rented out to multiple short term lodging groups at a time.

Group shall mean a unit of person(s) that are together under a single reservation.

Licensee shall mean a person issued a Bed and Breakfast Facility or Short Term Rental Facility license.

Designated Operator shall mean the operator of a Bed and Breakfast Facility or Short Term Rental Facility who resides in McLennan County, Texas and will be present in McLennan County and available at all times the rental is in use.

Short Term Rental shall mean a residential dwelling unit(s) that is rented out for compensation on a temporary basis for a period of less than 30 consecutive days.

Short Term Rental Facility includes a Short Term Rental Type I, Short Term Rental Type II, or Short Term Rental Type III.

Short Term Rental Type I shall mean an owner occupied residential property where short term lodging is provided to only one group at a time per dwelling unit. Non-conforming single family residential properties that contain more than one dwelling unit shall rent to only one group at a time. The owner must reside in the primary structure on the property and be present at the property for the duration of any short term rental.

Short Term Rental Type II shall mean a single family or duplex residential property where short term lodging is provided to only one group at a time per dwelling unit. Non-conforming single family residential properties that contain more than one dwelling unit shall rent to only one group at a time. The property is not part of a multi-family residential use. The owner does not reside on the property or is not present at the property for the duration of any short term rental.

Short Term Rental Type III shall mean a multi-family residential property where short term lodging is provided to only one group at a time per dwelling unit. The owner does not reside on the property or is not present at the property for the duration of any short term rental.

Sec. 13-466. Bed and Breakfast Facility or Short Term Rental Facility license required.

It shall be unlawful to operate a Bed and Breakfast Facility or a Short Term Rental Facility:

- (1) Without a Bed and Breakfast Facility or Short Term Rental Facility license;
- (2) In violation of any provision of a Bed and Breakfast Facility or Short Term Rental Facility license, this article, or any other applicable city ordinance or other law; or
- (3) Without having an unexpired special permit, if required by Chapter 28 of this code.

Sec. 13-467. License application and review.

(a) To obtain a license for a Bed and Breakfast Facility or a Short Term Rental Facility, a person must submit an application on a form provided for that purpose to the Planning Services department. The application must contain the following:

- (1) The name, street address, mailing address, email address, and telephone number of the applicant, the owner, and the designated operator of the Bed and Breakfast Facility or Short Term Rental Facility. The applicant must assign a “Designated Operator” who resides in McLennan County, Texas and shall be present in McLennan County and available at all times the rental is in use.
- (2) If the applicant or owner is a partnership, a corporation, or limited liability company, the application shall list the names of all partners, directors, members, and officers, as applicable, of the applicant and the owner.
- (3) A scaled site plan that meets all site development requirements of Chapter 28 of this code. Such site plan shall include property lines, proposed and existing structures, proposed signage, proposed and existing site improvements such as parking, fences, landscaping, etc.
- (4) A non-refundable license fee for the amount established.
- (5) Proof that the applicant has no delinquent hotel occupancy taxes due on the property.
- (6) Proof that a Life Safety Inspection of the applicant’s property has been approved by the Inspection Services department (required for the initial application). The Life Safety Inspection will not be required for structures that have attained a Certificate of Occupancy through construction or renovation of a structure within the last year.

(b) When a special permit for a Bed and Breakfast Facility or Short Term Rental Facility is required, the special permit must be issued prior to the issuance of a Bed and Breakfast Facility license or Short Term Rental Facility license.

Sec. 13-468. - Length of license; renewal.

(a) A Bed and Breakfast Facility license or Short Term Rental Facility license shall be valid for a period of one year from the date of issuance and may be renewed by applying in accordance with section 13-467.

(b) Bed and Breakfast Facilities or Short Term Rental Facilities with existing special permits, or that are allowed by right per Chapter 28 of this code, as of August 1, 2017 are required to obtain a license under the provisions of this article, subject to the following:

- (1) A license must be obtained on or before February 28, 2018; and
- (2) The initial license fee will be waived for such facilities with existing special permits.

Sec. 13-469. Fees.

A license fee will be charged at time of issuing the license and at the time of renewal. The city council shall set the fees for the license and renewal.

Sec. 13-470. Operation of a Bed and Breakfast Facility or Short Term Rental Facility.

(a) The licensee shall comply with the noise requirements set forth in Article VII of Chapter 16 of this code.

(b) The licensee will comply with all building, electrical, and other codes and ordinances of the city.

(c) The licensee shall obtain a Life Safety Inspection for compliance with applicable city codes. This inspection includes, but is not limited to, smoke detectors, at least one operable egress window per bedroom, an evacuation plan posted conspicuously in each sleeping area, repair of any exposed wiring, water heater inspection, required safety measures for pools (if applicable), and exterior stairwells (if applicable). The Life Safety Inspection of the licensee's property must be approved by the Inspection Services department.

(d) Functions such as meetings, receptions, weddings and other social events provided for compensation or held by guests are not permitted as part of the Bed and Breakfast Facility or Short Term Rental Facility unless such facility is located in a commercial zoning district.

(e) The designated operator shall be present in McLennan County and available at all times the property is being rented. Contact information will be furnished to owners of real property within 200 feet of the Bed and Breakfast Facility or Short Term Rental Facility by the Planning Services Department. Also, a sign must be posted conspicuously in the common area of each unit. This sign will be provided by the Planning Services Department to the licensee and will contain the following information:

- (1) The name and contact information of the owner and/or designated operator;
- (2) The license number of the Bed and Breakfast Facility or Short Term Rental Facility; and
- (3) The occupancy limits and requirements set forth in the license.

(f) The license number and occupancy limit shall be included in all marketing materials, advertisements, and online listings for the Bed and Breakfast Facility or Short Term Rental Facility.

Sec. 13-471. Additional requirements and restrictions for Bed and Breakfast Facilities or Short Term Rental Facilities.

(a) *Distance and Density.*

- (1) In R-E, R-1A, R-1B, and R-1C zoning districts, a Bed and Breakfast Homestay Establishment or Short Term Rental Type II may not be located within 500 feet of another licensed Bed and Breakfast Homestay Establishment or Short Term Rental Type II.
- (2) Short Term Rental Type III properties may operate up to five (5) units as short term rentals.
- (3) Bed and Breakfast Facilities and Short Term Rental Facilities with an existing special permit as of August 1, 2017 are exempt from the distance and density requirements of this section subject to the following:
 - i. The license is granted to the same person or entity that the special permit was granted to; and
 - ii. The license is continuously renewed prior to expiration; and
 - iii. The license is not revoked after August 1, 2017.

(b) *Parking.*

- (1) The requirements of this section shall not apply to properties located within the C-4, central commercial zoning district.

(2) A minimum of one (1) off-street parking space is required per rented room. Required parking must be improved in accordance with the City of Waco, Parking and Access Design Standards for Site Development and Article VII of Chapter 28 of this code prior to issuance of a license.

(3) No on-street parking shall be allowed for Bed and Breakfast Facility or Short Term Rental Facility guests.

(c) *Signs.*

(1) In R-E, R-1A, R-1B, and R-1C zoning districts, no sign shall be permitted on the premises except a non-illuminated name plate no larger than one square foot in area.

(2) In all other residential zoning districts

- i. The size of the sign shall not exceed four square feet in area.
- ii. The maximum height shall be four feet.
- iii. The front yard setback shall be five feet from property line.

(3) In office and commercial zoning districts, signage shall comply with the requirements of Article VIII of Chapter 28, Zoning.

(4) The design for a sign must be submitted with the site plan during the application process.

(d) *Lighting.* If the property is residentially zoned, all lighting must be directed toward the establishment and not at adjacent properties.

(e) *Occupancy.*

(1) The maximum number of adults allowed to reside in any Bed and Breakfast Facility or Short Term Rental Facility is 2 adults per bedroom plus 2 additional adults per rental unit.

(2) In R-E, R-1A, R-1B, and R-1C zoning districts, a Bed and Breakfast Homestay Establishment, a Short Term Rental Type I or a Short Term Rental Type II may not be occupied by more than 4 individuals unrelated by blood, marriage, or adoption at any given time.

(f) *Food Services.*

(1) Food service establishments and events open to non-guests may be provided as part of the Bed and Breakfast Facility or Short Term Rental Facility only in zoning districts that allow these uses and must meet all development standards consistent with the site requirements set forth in Chapter 28 of this code.

Sec. 13-472. Revocation, suspension or denial of a license.

The Director of Planning Services may immediately revoke or suspend the license, or deny either the issuance or renewal thereof, if it is found that:

- (1) The licensee, designated operator, or guest has violated or failed to meet any of the provisions of this article or conditions of the license;
- (2) The licensee, designated operator, or guest has violated any federal, state, or city law, or regulation pertaining to the use of the property as a Bed and Breakfast Facility or Short Term Rental Facility;
- (3) The chief of the police department or the chief of the fire department has determined that the Bed and Breakfast Facility or Short Term Rental Facility would pose a serious threat to public health, safety, or welfare; or
- (4) The applicant has made a false statement of material fact on an application for a Bed and Breakfast Facility license or Short Term Rental Facility license.

Sec. 13-473. Notice to applicant/licensee; appeals.

(a) Upon denial, suspension or revocation, the Director of Planning Services shall notify the applicant or licensee in writing either in person or by certified mail to the address listed on the application of the action taken and the reasons therefore. A person may appeal a decision to deny, revoke, or suspend a license to the city council. Appeals shall be submitted to the city secretary in writing within 15 days following the date the applicant or licensee receives the decision. A hearing on the denial, suspension, or revocation will be scheduled for the next regular meeting of the city council that is more than six days away. The council will render a decision on the appeal within ten days of the hearing. A licensee shall not operate Bed and Breakfast Facility or Short Term Rental Facility during the appeal process.

(b) At the appeal hearing on a denial of an initial license application, the appealing party must present evidence clearly indicating that the Director of Planning Services was incorrect in determining that the stated grounds for the license denial existed.

(c) At the appeal hearing on a license suspension, revocation, or refusal to renew, the Director of Planning Services must present evidence clearly indicating that the stated grounds for such action existed.

Section 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 4. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Waco, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 5. That a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-14 of the Code of Ordinances of the City of Waco, which shall be a fine of not less than \$1.00 and no more than \$500.00, and each day a violation exists shall be a separate offense.

Section 6. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place and purpose of said meeting was given as required by law.

PASSED AND APPROVED:

First Reading: this 18th day of July, 2017.

Second Reading: this 1st day of August, 2017.

Kyle Deaver, Mayor
City of Waco, Texas

ATTEST:

Esmeralda Hudson, City Secretary

APPROVED AS TO FORM & LEGALITY:

Jennifer Richie, City Attorney