

ORDINANCE NO. 724

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEDWIG VILLAGE, TEXAS; AMENDING CHAPTER 44, MISCELLANEOUS OFFENSES, OF THE CODE OF ORDINANCES OF THE CITY OF HEDWIG VILLAGE, TEXAS, BY ADDING ARTICLE V, SHORT TERM RENTALS, TO REGULATE SHORT TERM RENTALS WITHIN THE CITY; CONTAINING FINDINGS AND PROVISIONS RELATING TO THE SUBJECT AND IMPOSING A PENALTY FOR VIOLATIONS.

WHEREAS, the City Council of the City of Hedwig Village, Texas (the "City Council") seeks to provide for the public health, safety, and welfare of its citizens; and

WHEREAS, the City Council seeks to promote orderly and safe use of property within the City of Hedwig Village, Texas ("City"); and

WHEREAS, the City Council finds that short term rentals pose certain adverse externalities on neighbors not generally created by long term rentals due to the nature of temporary, transient guests; and

WHEREAS, the City Council finds that absentee owners lack the same level of commitment to neighbors and the community as resident owners; and

WHEREAS, the City Council finds that the community has historically been predominantly single family residences; and

WHEREAS, the City's Comprehensive Plan prioritizes residential uses and values of the City; and

WHEREAS, the City Council believes that regulating short term rentals will assist in protecting and preserving the dignity, sanctity, and quiet enjoyment of low-density, single-family residential neighborhoods, which are the City's primary land use category; and

WHEREAS, the City Council desires to give City Staff tools to respond promptly to residents' concerns related to short term rentals; and

WHEREAS, the Texas Legislature has defined the short term rental of residential property as a business activity by inclusion of short term rentals in Texas Tax Code, Section 156.001, making same subject to the Hotel Occupancy Tax; and

WHEREAS, the City Council agrees with the State that short term rentals are business activities, and further that such are not "home occupations", nor are they non-conforming uses as defined by the City Code; and

WHEREAS, pursuant to Texas Local Government Code Section 211.003 the City has general authority to regulate the location and use of buildings, other structures and land for business, industrial, residential, or other purposes; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Section 217.002, the City has general authority to define and declare what constitutes a nuisance and authorize the summary abatement of the nuisance in any manner considered expedient; and

WHEREAS, the City Council finds that the terms of this ordinance are reasonable, necessary, and proper for the good government of the City of Hedwig Village, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEDWIG VILLAGE, TEXAS, THAT:

Section 1. Chapter 44, Miscellaneous Offenses, of the Code of Ordinances of the City of Hedwig Village, Texas is amended by the addition of a new Article V, Short Term Rentals to read as set out in Appendix A, attached hereto. All other portions of Chapter 44 of the Code of Ordinances not specifically amended hereby remain in full force and effect.

Section 2. All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.

Section 3. If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

Section 4. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

Section 5. The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Section 6. This Ordinance takes effect immediately upon its passage and adoption on second reading.

Appendix A

(deletions shown by strike-out, additions shown by underline)

Article V. – SHORT TERM RENTALS

Sec. 44-60.-Definitions.

In this article:

Non-Residential District means a zoning district within the City that is not a Residential District.

Residential District means a zoning district in the City primarily for residential use, including the following zoning districts: Residential District A and Residential District C.

Short Term Rental means the rental of all or part of a residential property to a person who is not a permanent resident, and who does not have the right to use or possess the property for at least thirty (30) consecutive days.

Sec. 44-61.-Confirmation of Zoning Violation.

- (a) Short Term Rentals in the Residential Districts of the City are an unlawful use in those districts as a business or commercial use incompatible with the zoning of the City's Residential Districts.
- (b) Any person subject to enforcement under section 44-63 violating a provision of this section shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty section 1-13 of the Code of Ordinances of the City.

Sec. 44-62.-Declaring a Nuisance.

- (a) The traffic, parking difficulty, noise, trash, and other aspects of hotel, motel, bed and breakfast and related business activities are not the norm in a residential neighborhood of Hedwig Village, Texas. Those aspects of commercial use are the basis for the separation through zoning of commercial and residential uses. Therefore the City declares Short Term Rentals a nuisance in the Residential Districts, and prohibited in the Residential Districts of the City.
- (b) Any person subject to enforcement under section 44-63 violating a provision of this section shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty section 1-13 of the Code of Ordinances of the City.

Sec. 44-63.-Persons Subject to Enforcement.

The owner of the property, the tenant and each of his or her guests, the management company, and any partnership, corporate entity acting in those capacities are subject to enforcement of this article.

PASSED, APPROVED and ADOPTED this, the 16th day of August, 2018.



Brian T. Muecke, Mayor
City of Hedwig Village, Texas

ATTEST:



Kelly Johnson, City Secretary
City of Hedwig Village, Texas