



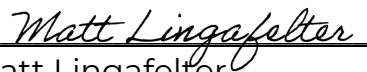
**NOTICE OF A CALLED MEETING
OF THE ZONING COMMISSION
OF THE CITY OF SUNSET VALLEY, TEXAS
WEDNESDAY, NOVEMBER 17, 2021
6:00 P.M.**

Notice is hereby given that the Zoning Commission of the City of Sunset Valley, Texas, will hold a called meeting on Wednesday, the 17th day of November 2021 at 6:00 P.M. in the Council Chambers, City Hall, 3205 Jones Road, Sunset Valley, Texas, at which time the following items will be discussed, to wit:

1. Call to Order
2. Citizen/Public Comments
3. Consider approval of the minutes from the October 27, 2021 regular meeting.
4. Discussion regarding implementation of a process for the registration of Short-Term Rentals within the City.
5. Adjourn

A quorum of the City Council may attend the meeting, however, no official action by the City Council shall be taken.

I certify that the above notice of meeting was posted at City Hall, 3205 Jones Road, Sunset Valley, Texas, on Friday the 12th of November 2021 at 5:00 P.M.


Matt Lingafelter
City Secretary



**MINUTES OF A REGULAR MEETING
OF THE ZONING COMMISSION
OF THE CITY OF SUNSET VALLEY, TEXAS
WEDNESDAY, OCTOBER 27, 2021
6:00 P.M.**

Commissioners Present:

Robert Skewis, Chair
Miguel Huerta, Vice Chair
Brant Boozer
John Frick
Robert Reetz

Staff Present:

Sylvia Carrillo, City Administrator
Matt Lingafelter, Asst. to the City Administrator
Jeff Ulmann, City Attorney

1. Call to Order

Chairman Skewis called the meeting to order at 6:02 P.M.

2. Citizen/Public Comments:

- Richard Hayes, regarding agenda item #6

3. Consider approval of the minutes from the September 22, 2021 regular meeting.

Miguel Huerta made a motion to approve the minutes, seconded by Brant Boozer. Commissioners Boozer, Frick, Huerta and Skewis voted in favor, and Commissioner Reetz abstained. With four votes in favor the motion carried.

4. Public Hearing to consider a request for a Special Use Permit for alcoholic beverages to be sold in a restaurant for on-premise consumption under Section 2.503(a) of the Land Development Code by Andre Dinata at 5400 Brodie Lane, Suite 1200.

- Question from Miguel Huerta regarding the name on the Special Use Permit application and the LLC for which the restaurant will be operating and a TABC license issued to – response from staff, the applicant and legal
- Chair Skewis opened the Public Hearing at 6:21 P.M.
- No Public Comments
- Chair Skewis closed the Public Hearing at 6:22 P.M.

5. Zoning Commission recommendation to the City Council regarding a request for a Special Use Permit for alcoholic beverages to be sold in a restaurant for on-premise consumption under Section 2.503(a) of the Land Development Code by Andre Dinata at 5400 Brodie Lane, Suite 1200.

The Zoning Commission, city staff and the applicant discussed the issue surrounding the name on the application versus the LLC for the Bluefin restaurant. It was determined that proper notice was given for the Public Hearing for TABC purposes. The Special Use Permit, if approved by City Council, will be issued under the legal name of which the TABC alcohol permit will be issued.

Robert Reetz made a motion to recommend the City Council to approve the request for a Special Use Permit, seconded by Miguel Huerta. All voted in favor and the motion carried.

6. Discussion and possible direction to staff regarding a process for regulation of Short-Term Rentals.

- Commission began discussing STR regulation
- OpenGov Citizen Comments read into the record:
 - Sharon Drinkwine
 - Lisa Versaci
- Question for legal – can the City limit where on the property an owner can rent out for STRs, i.e. the guest house – this applies to all SF properties, within the code
- Discussion of a registration process
- Question for Legal – can the City require a local contact to be able to be at the property within 30 minutes; what is a reasonable “local contact”?
- Citizen Comment:
 - Richard Hayes
- Definition of a family within the SF District

Miguel Huerta made a motion directing staff to present a process for Short-term rental registration consistent with the Commission’s discussion, seconded by Brant Boozer. All voted in favor and the motion carried.

John Frick made a motion directing legal to investigate and provide a formal memo regarding the legitimacy of Section 2.601(g) of the Land Development Code related to accessory structures, seconded by Robert Reetz. All voted in favor and the motion carried.

7. Adjourn

Robert Reetz made a motion to adjourn, seconded by John Frick. All voted in favor and the meeting adjourned at 7:13 P.M.

COMMISSION MEETING DATE: NOVEMBER 17, 2021



ZONING COMMISSION AGENDA ITEM #4

STAFF PREPARER/CONTACT INFORMATION: Matt Lingafelter, Asst. to the City Amin.
mlingafelter@sunsetvalley.org

SUBJECT: SHORT TERM RENTALS

DESCRIPTION: Discussion and possible direction to staff regarding the regulation of Short-Term Rentals.

BACKGROUND: The Zoning Commission was directed by the Mayor and City Council to discuss the possible regulation of short-term rentals (STRs) in the City of Sunset Valley. At the July meeting, the Commissioners directed staff to bring back regulations from other cities with a variety of stringency to their regulation of short-term rentals (STR).

Staff researched three cities: Port Aransas, Wimberley and Lakeway. At the August meeting, there was a consensus among the Commissioners to use Lakeway's STR regulations as a starting point for possible amendments to Chapter 2 of the LDC. Staff synthesized the Commissioners comments and markups to produce draft regulation that was presented at the September meeting.

[Click Here for the Backup Materials presented at the September 22nd Meeting.](#)

However, just prior to the September meeting, staff received a memo from the City Attorney informing staff and the Commission that as a General Law City, Sunset Valley does not have the legal authority to create stringent regulation for STRs, based on previous rulings in Texas courts, and must treat them similarly to Single Family Residential properties.

At the September meeting, the Commission did proceed with edits of the proposed regulations, and came up with a list of questions to be answered by the City Attorney before the next discussion surrounding STRs. The questions were:

1. Can the City forbid STRs within the City of Sunset Valley?
 - a. *Response from Legal – No.*

2. If the City cannot forbid STRs, but wish to regulate them, can the City regulate STRs through the Special Use Permit process within Chapter 2 of the LDC?
 - a. *Response from Legal- No*

- b. Commissioner Huerta suggested a stipulation that a Special Use is required for anything generating HOT Funds within the Single-Family residential district.
 - i. *Response from Legal – No.*
 - c. If the City cannot regulate STRs through SUPs, can we create a separate permit/registration process within Chapter 2?
 - i. *Response from Legal – Yes, a simplified registration process, but not a permit may be permissible.*
3. Can the City limit the number of STR permits within the City?
 - a. *Response from Legal – No*
 4. Can the City require STR Permit applicants to have insurance for their rentals?
 - a. *Response from Legal- As a general law city, you don't ask about insurance. You could ask but the City can't do anything if they don't.*
 5. Occupancy Requirements – if the City adopted the Texas Property Code could we enforce occupancy requirements with STRs?
 - a. *Response from Legal – No. You don't have occupancy requirements for any other type of owned residential property.*

The Commission continued discussion of possible regulation and a registration process, given the limitations presented by legal. At the October 27th meeting, staff was directed to present a simple registration process for Short-term Rentals in the City.

[Click Here for the Backup Materials presented at the October 27th meeting.](#)

Attached with this agenda item is a process chart of the potential process for registration and permitting of Short-term rentals, as well as possible code language based on past discussions and direction from legal.

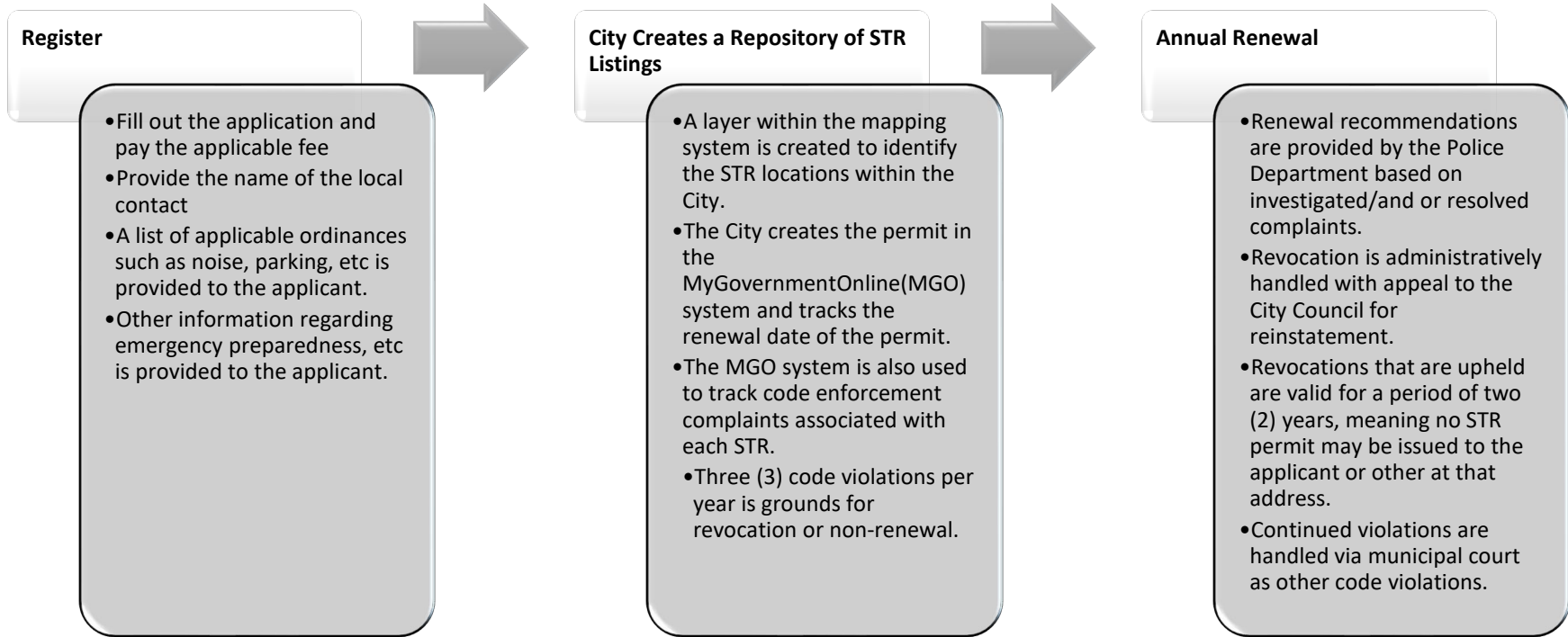
Additionally, the Chief of Police prepared a memo regarding enforcement of certain nuisance issues related to the discussion surrounding Short-term Rentals.

APPLICABLE CODE SECTIONS: CHAPTER 2

STAFF RECOMMENDATION: Continue to refine registration process; finalize recommendations before holding a Public Hearing to amend Chapter 2

SUPPORTING MATERIALS PROVIDED: YES

- STR REGISTRATION PROCESS CHART
- PROPOSED REGULATIONS
- MEMO FROM CHIEF 11.12.21



Short Term Rental Permits

- 1) The applicant shall provide a copy of the filed Comptroller of Public Accounts' Form AP-102 (hotel occupancy tax questionnaire);
- 2) Initial permits shall be issued for a one (1) year period and shall be renewable for a one-year period provided a complete application for renewal is filed with the city no more than ninety (90) days and no less than sixty (60) days prior to the expiration date of the initial permit;
- 3) No permit application shall be accepted for filing, processed, or approved during a period of two (2) year following the denial of an application or revocation of a permit for any residential property;
- 4) No additional permit application for short-term rental use shall be accepted for filing from, processed, or approved for an owner of real property with an existing permit for short-term rental use;
- 5) A permit is NOT transferable.
- 6) All structures housing short-term rental use shall comply with this article and all other applicable regulations of this code, and compliance shall be verified by means of an on-site inspection by city staff;
- 7) Accessory structures, including guest houses, cannot be used as a Short-Term Rental;
- 8) A placard that is clearly visible on the structure is required displaying the permit number and name of designated local contact with their 24/7 contact information;
- 9) Parking by renters or their guests shall not encroach upon or obstruct ingress, egress, or access to the neighboring properties;
- 10) Advertisement of the short-term rental use shall not be displayed on the premises of the property in any manner that is visible from the exterior of the house;
- 11) Short-term rental use permit holders shall comply with and ensure their tenants have provided written notice and comply with all applicable city ordinances and state laws regulating litter, waste disposal, noise, nuisance, and other regulations for the protection of the health, safety, and welfare of the public;
- 12) The short-term rental use shall not produce nuisances as defined in Title IX, General Regulations, of the Sunset Valley Code of Ordinances or elsewhere in this code including but not limited to noise, damage, odors, inconsiderate or offensive behavior, late night parties, illegal drug or alcohol use, pets, public urination, public indecent exposure, disturbance of the peace, disorderly conduct, or any other conduct that may constitute a public or private nuisance;
- 13) Maximum rental period shall be thirty (30) consecutive nights;
- 14) Short-term rental use permit holders shall file state hotel occupancy tax reports in a timely manner, shall maintain accurate logs including dates and times of rentals, number of guests, number of automobiles present, and complaints received, and shall forward logs to the city-designated official on a Quarterly basis or upon request of the City;
- 15) The city administrator or designee may suspend any short-term rental permit upon the finding of one or more of the following:
 - (A) A violation of any of the applicable terms, conditions, or limitations;
 - (B) A violation of any applicable ordinance or regulation;
 - (C) Operation or maintenance of the short-term rental property in a manner that is detrimental to the public's health, safety, or to constitute a nuisance.
- 16) The City may initiate such suspension on its own or upon application by any city resident. The City Administrator or their designee shall provide written notice to the Permit Holder of suspension proceeding. Provide the Permit Holder opportunity to respond to such suspension proceeding. The City Administrator shall make such determination and provide a written report on why the Permit Holder's permit has been suspended or not suspended, which such suspension shall be effective immediately upon such determination. Determinations made by the City Administrator may be appealed to the City Council.

Specific criteria for applications for short-term rental permits. The following shall be included in the initial permit application to operate a short-term rental

- 1) The complete legal description, street address, and location of the short-term rental unit;
- 2) Proof of ownership and the name, street address, telephone number, driver's license, and email of each person or entity with an ownership interest in the short-term rental as well as the local responsible contact for the short-term rental; local responsible contact must be available within thirty (30) minutes notice to be on site;
- 3) Proof of a valid and current registration, license, or approval under the hotel occupancy tax program administered by the state and the city and proof of payment of hotel occupancy taxes due as of the date of the submission of the application.

DRAFT

MEMORANDUM

To: Matt Lingafelter, Assistant to the City Administrator
From: Lenn Carter, Chief of Police
Date: November 11, 2021
Subject: Enforcement of Nuisance Violations

Nuisance Violations

Most of the disputes between neighbors in Sunset Valley that require a police response involve complaints regarding parking violations and/or excessive noise issues. Officers can refer to two different sources for enforcing these issues. The Texas Penal Code or The Sunset Valley Code of Ordinances. State law is more general and allows for more discretion. Briefly, it is against state law to make an unreasonable noise in or near a private residence. The SV City Code is more specific. It is illegal to make any sound which:

- (1) Endangers or injures the safety or health of humans or animals;
- (2) Annoys or disturbs a reasonable person of normal sensitivities.
- (3) Endangers or injures personal or real property; or
- (4) Exceeds the applicable maximum permissible sound levels

The City Code also declares that between the hours of 10:30 p.m. and 7:00 a.m. it is unlawful to:

- (1) Own, harbor, keep or have control of one or more animals on premises owned, leased or controlled by the person, which animal(s) make any unreasonably loud or disturbing noise;
- (2) Cause any unreasonably loud or disturbing noise by any musical instrument, radio, sound amplifying equipment, explosive or by any other means; or
- (3) Permit or allow on property owned, leased or controlled by the person any unreasonably loud or disturbing noise by any musical instrument, radio, sound amplifying equipment, explosive or by any other means; which noise either:
 - (a) Causes material distress, discomfort or injury to persons of ordinary sensitivities in the immediate vicinity thereof; or
 - (b) Substantially interferes with the comfortable enjoyment of private home(s) by person(s) of ordinary sensitivities.

(B) The following acts, among those specified in division (A) above and among others unspecified, are declared to be nuisances in violation of this chapter, but the enumerations shall not be deemed to be exclusive, to wit:

- (1) The use of any sound amplifying equipment of the intensity that disturbs persons of ordinary sensibilities in the immediate vicinity thereof;
- (2) The continued or frequent sounding of any horn or signal device on any motor vehicle, except as a danger or warning signal;
- (3) The running of any motor vehicle that is so out of repair, so loaded or is operated in a manner as to create loud, grating grinding, jarring or rattling noise; and
- (4) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(C) As the city desires to preserve its rural environment, reasonable sounds made by domestic animals, including cows, sheep, chickens, goats, horses, dogs, cats and other animals kept and maintained for personal, non-commercial purposes shall not constitute a violation of division (A)(1) above.

(D) The following shall be among the criteria considered for the purpose of determining the reasonableness of noise made by animals:

- (1) The volume and pitch of the sound(s);
- (2) Whether the noise is habitual or recurring;
- (3) Whether the noise is encouraged or induced by the owner, possessor or one controlling the animal(s); and
- (4) The proximity of the noise to any residence, business or person complaining of the noise.

(E) There shall be a rebuttable presumption that any noise other than an animal noise measured at a level in excess of 65 dBA of sound pressure measured at or beyond any point on a real property boundary line for a total five minutes out of any hour, whether continuously or intermittently, shall constitute an unreasonable noise in violation of this chapter.

Police Enforcement of Nuisance Violations

When it comes to enforcement of these nuisance type violations, the police department takes a two-step approach, voluntary compliance or enforcement action.

Voluntary Compliance

Our primary goal is to obtain voluntary compliance from the offending party. Generally, this will take the form of an officer verbally counseling the subject(s) and explaining that his/her behavior is creating a neighborhood nuisance. If the person alleviates the nuisance then the incident will be noted on a call log but no further action is taken. However, additional responses to the same location will result in a citation being issued. Citations for noise or disorderly conduct can result in fines of up to \$500.

Enforcement

In some nuisance cases verbal counseling is not appropriate. In addition to instances of repeated calls to the same address, incidents involving unreasonable behavior will

result in immediate enforcement action such as arrest, issuing a ticket, or towing a vehicle. Unreasonable behavior is action that would disturb a reasonable person of normal sensibilities. For example, an officer responding to a loud music call at 2:00 a.m. is more likely to write the offending party a ticket than an officer answering a similar call at 2:00 p.m. Similarly, an officer will probably issue citations to multiple cars parked in a No Parking Zone but issue a warning to a single vehicle parked illegally.