

ORDINANCE NO. 2025-01-13 Business

AN ORDINANCE OF THE CITY OF NIXON, TEXAS REGARDING BUSINESSES WITHIN THE CITY OF NIXON; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

Business Regulations Ordinance

WHEREAS, The City of Nixon, Texas is a General Law City acting under the laws of the State of Texas, including, but not limited to, the Texas Local Government Code and the Texas Government Code; and

WHEREAS, City Council of the City of Nixon, Texas deems it necessary to adopt this ordinance governing requirements for and the regulation of businesses within the City, in order to protect the health, safety and welfare of the citizens of the City of Nixon.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NIXON, TEXAS:

Section 1 Alcoholic Beverages

1.1 Hours of sale and consumption:

a) It shall be unlawful for any person within the corporate limits of the city to consume any alcoholic beverage in a public place, or to possess with intent to consume any alcoholic beverage in a public place for the purpose of consuming the same in such a public place, at any time on Sunday between 1:15 a.m. and 12:00 noon and on any other day between 12:15 a.m. and 7:00 a.m.

b) Pursuant to sections 105.03(d)(2) and 105.05(d)(2) of the Texas Alcoholic Beverage Code, the city adopts the following hours of sale of alcoholic beverages in any part of the city as follows:

(1) A retailer of beer and wine may sell beer and wine from 7:00 a.m. to midnight Monday through Friday, from 7:00 a.m. to 1:00 a.m. on Saturday and from 10:00 a.m. to midnight on Sundays.

(2) A retailer of liquor may not sell or deliver liquor on Sundays, before 10:00 a.m. and after 9:00 a.m. on any other day, or on New Year's, Thanksgiving, or Christmas Day.

(3) A holder of a mixed beverage late hours certificate may sell/or serve mixed beverages between midnight and 2:00 a.m. on any day.

c) It shall be unlawful for any person to sell or offer for sale or deliver beer, mixed beverages, liquor, or wine during the hours when such sales are prohibited in Texas Alcoholic Beverage Code chapter 105 or this article.

d) Any person violating any part of this section shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than \$100.00 nor more than \$1,000.00, as provided by Texas Alcoholic Beverage Code sections 1.05 and 105

1.2 Municipal fees and city registration

a) The city will issue a certificate of registration under this section to a licensee or permittee authorizing the sale of alcoholic beverages under this article and a license or permit, if the licensee or permittee:

(1) Pays the fees established by City Council; and

(2) Provides the city with a copy of the license or permit.

b) A person who sells an alcoholic beverage at a business location before the person receives a certificate or registration for the city as provided by this section commits a class C misdemeanor.

c) All fees provided for any permits under state law pertaining to sales and consumption of beer, wine, and/or liquor to the extent permitted by state law to be collected by cities shall be applicable in the city and are hereby levied.

d) Any business that sells or serves alcoholic beverages shall not be located within 300 feet from the main entrance door of said business to the main entrance door of a religious and/or educational institution or public park.

Section 2 Sexually Oriented Businesses

Sexually oriented businesses shall not be allowed in the City of Nixon without a variance provided by the Nixon City Council.

See Texas Local Government Code 243.002 definition of sexually oriented business.

Section 3 Short-Term Rentals

3.1 Purpose:

The intent of this article is to safeguard the life, health, safety, welfare, and property of the occupants of residential dwelling units being used as short-term rentals, the neighbors of said occupants, and the general public.

3.2 Definitions:

For purposes of this article, the following words, terms, and phrases are defined as follows:

Administrator.

The person designated by the mayor to enforce and administer this article, including such person's designees.

Advertise.

The act of drawing the public's attention to a short-term rental in order to promote the availability of the residence for use as a short-term rental. Advertisements include but are not limited to, signage, social media, newspaper, magazine, brochure, website, and other mobile applications.

Bedroom.

The living area(s) of the dwelling unit that is designed and furnished for sleeping and which has proper egress as required by the International Residential Code.

Booking service.

Any reservation and/or payment service provided by a person or entity that facilitates a short-term rental transaction between an owner and a prospective occupant and for which the person or entity collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment services provided for the short-term rental transaction.

Hosting platform.

A person or entity that participates in the short-term rental business by providing, and collecting or receiving a fee for, booking services through which an owner may offer premises for an occupant on a short-term basis. Hosting platforms usually, though not necessarily, provide booking services through an online platform that allows an owner to advertise the premises through a website provided by the Hosting platform, and the hosting platform conducts a transaction by which potential occupants arrange their use and their payment, whether the would-be-occupant pays rent directly to the owner or to the hosting platform.

Leaseback.

An arrangement where the seller of a home leases the home back from the purchaser. In a leaseback arrangement, the specifics of the arrangements are typically made prior to or immediately after the sale of the home.

Occupant.

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.

Owner.

Any person, agent, operator, firm, trust, corporation, partnership, or any other legal entity who has a legal or equitable interest in the property; or who is recorded in the official records of the county as holding title to the property; or who otherwise has control of the property, including the guardian of the estate of any such person or the executor of the estate of such person if ordered to take possession of real property by a court.

Premises.

Property, a lot, plot, or parcel of land, including any structures or portions of structures thereon.

Rental.

Renting, bartering, trading, letting, or otherwise allowing the use of a residence or residential structure or room or rooms within a residence or residential structure. This shall not restrict, limit, or interfere with any homeowner from participating in a leaseback upon the sale of a residence or residential structure.

Short-term rental (STR).

A residential premises, or portion thereof, used for lodging accommodations to occupants for a period of less than thirty (30) consecutive days. The definition of short-term rental does not include a bed and breakfast or a hotel with more than 10 rooms, cabins, bungalows, or other rentable units.

Unit.

A separate accommodation, room, bungalow, casita, trailer, or cabin located on or within a single premises.

3.3 Regulations:

The following are established regulations for short-term rentals in the city:

a) Unpermitted short-term rentals prohibited:

1) It shall be unlawful for any owner or person to rent, lease, advertise, or otherwise permit or allow any premises to be operated or used as an unpermitted short-term rental.

2) Notwithstanding any other provision of this article, nothing shall relieve any other, person, occupant, or housing platform of the obligations imposed by the applicable provisions of state law and the city's ordinances, including but not limited to, those obligations imposed by the Tax Code. Further, nothing in this article shall be construed to limit any remedies available under the applicable provisions of state law and city ordinances.

b) Permit required:

An owner or operator who desires to use its premises as a short-term rental must have a valid, active short-term rental permit from the city prior to using, allowing the use of, or advertising the use of said premises as a short-term rental. Each rentable unit must be permitted. Upon application to the city, a short-term rental permit shall be approved by the administrator or designee, if the application satisfies all the conditions of this article. The administrator may place reasonable conditions on short-term rental permits to ensure compliance with the provisions of this article.

c) Permit limitations:

1) Short-term rental permits are not transferable. Short-term rental permits are not assignable.

2) A short-term rental permit shall expire on the last day of the September after the date of issuance. No short-term rental permit may be renewed without a completed renewal application submitted by the owner and payment of the renewal fee. If the renewal application satisfies all the conditions of this article and zoning ordinance, an application for the renewal of a short-term rental permit shall be approved by the code compliance department.

d) Requirements of new applications and renewals:

1) Except as provided in this section, every complete application for a short-term rental permit shall include the following information with such detail and in the form approved by the administrator.

(i) The name, address, contact information, and authenticated signature of the owner of the premises.

(ii) The name, address, and contact information of the operator, or agent if any, or if different than the owner, and designated local responsible party.

(iii) Receipt from Texas Comptroller of Hotel Occupancy Tax paid yearly

(iv) A dimensioned floor plan of the proposed short-term rental identifying bedrooms, other living spaces, and emergency evacuation routes.

(v) Proof of liability insurance.

(vi) A copy of the proposed host rules for the short-term rental.

(vii) A plot plan of the premises identifying the location of parking spaces to be used in conjunction with the short-term rental.

(viii) A yearly inspection shall be completed by Bureau Veritas (or other inspector designated by the city) at the expense of the owner, and must be completed prior to listing the dwelling as a rental.

2) An application for a short-term renewal permit may be filed beginning thirty (30) days prior to the expiration of a current permit. Every complete application for a short-term rental renewal permit shall include updates, if any, to the information contained in the original permit application or any subsequent renewals. The permit holder shall sign a statement affirming that there is either no change to such information or that any updated information is accurate and complete.

3) An application for a short-term rental renewal permit submitted after the expiration of the most immediate permit for the premises shall be treated as an application for a new permit as described in subsection (d)(1).

e) 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. Said individual must be available to be always reached in person or by phone 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 a reasonable time of the call from city personnel. A local responsible party must be authorized to make decisions regarding the premises and its occupants and shall not act to release the owner of any liability.

f) Liability insurance required:

It shall be unlawful for the owner of premises operating as a short-term rental to operate without proof of liability insurance.

g) Building permits required:

All work done to the property must meet all city permitting requirements as stated and regulated in the city code.

h) Hotel occupancy tax request for occupancy history:

It shall be unlawful for any owner of premises used for a short-term rental to fail to pay hotel occupancy taxes under state law, this article and the city's hotel tax ordinance. Upon the request of a city employee, the owner of a premises used as a short-term rental shall remit, within 30 days, an accounting of all occupants who rented the premises and the hotel occupancy taxes paid therefor. It shall be unlawful for a person to fail to provide said information requested in a timely manner and will result in revocation of the permit.

i) Short-term rental permit nontransferable:

A short-term rental permit is nontransferable and shall not be assigned nor transferred to another person or entity, even upon the sale of the premises.

3.4 Penalties:

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed two thousand dollars (\$2,000.00) and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

3.5 Enforcement:

a) The owner of a property used as a short-term rental without the appropriate permit and that was not registered with the Texas Comptroller for hotel occupancy tax and who is unable to obtain a permit for said use or fails or refuses to obtain a permit for the use following the effective date of this article, shall discontinue the short-term rental immediately.

Section 4 Garage/Yard Sales

4.1 Definition:

Garage/Yard Sale: Casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of such sale.

Goods: Any goods, warehouse merchandise or other property capable of being the object of a sale regulated under this Ordinance.

4.2 Permit Required:

No person shall conduct a garage sale within the city without first obtaining a permit for the garage sale. Permit fees to be listed under the City of Nixon Fee and Rate Schedule. The permit which shall be prominently displayed on the premises, shall contain the name of the person who will conduct the sale, the address at which the sale will be held and the dates on which the sale will be held. Participation in a citywide garage sale event shall not count toward the maximum number of garage sales allowed at a location within a calendar year.

4.3 Restrictions on Conduct of Sale:

a) No person other than the occupant shall conduct a garage sale. No person shall conduct a garage sale if such a sale has been conducted on the same property or premises within the period of four (4) months immediately preceding the date of the commencement of the proposed sale except that in the event there has been a change of occupancy upon the property or premises then the new occupant shall be permitted to hold one (1) garage sale on the property or premises within the above referenced three-month period.

b) No person shall sell or offer for sale at a garage sale merchandise other than used and discarded items from personal property belonging to the occupant. The occupant may allow the neighbors to sell their items at the occupant's garage sale provided the majority of all of the items to be sold are owned by the occupant.

4.4 Length and Time of Holding Sale

No garage sale shall be conducted for a period in excess of seventy-two (72) consecutive hours. In the event the person who is issued a permit does not hold the garage sale on the days for which the sale was

originally permitted, he/she may return the paperwork to the city on or before the first working day after the originally permitted sale date and reschedule the sale for a date not more than sixty (60) days after the originally permitted date.

4.5 Hours of Operation

Garage sales may only be held between the hours of 8:00 a.m. and 7:00 p.m.

4.6 Display of Sales Merchandise

Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in the yard of the property; and only in such areas. No property offered for sale shall be displayed in any public right-of-way, sidewalk, alley, or street.

4.7 Signage

- a) A maximum of two (2) on premises signs may be placed within the property of the sale.
- b) A maximum of four (4) off premises signs may be placed outside of the property of the sale.
- c) Signs must not be posted on sidewalks, in the right-of-way, utility poles, regulatory signs or posts, or any other area not allowed by this article, are hereby declared a nuisance to public safety, as they detract from the driving public's attention to traffic signals as well as other vehicular and pedestrian traffic.
- d) Signs must not exceed five (5) square feet in area and may not exceed forty (40) inches in height and may not be illuminated.
- e) Signs shall not be placed closer than three (3) feet from street curb or edge of the pavement.
- f) Signs must be securely anchored. Signs may not be mounted on or placed in vehicles.

4.7 Penalties

Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and upon conviction, shall be fined a sum not to exceed \$500.00 for each offense plus Court costs/fees, and each and every violation or day such violation shall continue or exist, shall be deemed a separate offense. If a permit is approved and issued by the City pursuant to this Ordinance, and a violation occurs, the individual to which said permit was issued shall be cited for the violation, if any. If any property owner, person, firm or corporation violates any of the provisions or terms of this Ordinance and the City has not issued a permit, the citation shall be issued to the registered property owner where the violation has occurred.

Section 5 General Provisions

- a) One business will be allowed per physical address, unless variance is approved by city council.
- b) Any business serving food and/or drinks shall have a backflow preventer installed and tested yearly at the cost of the owner, to be submitted to the Public Works Director yearly.
 - 1) Any business that does not already have a backflow preventer installed will be allowed a six (6) month grace period to install one.

- 2) Any business that does not install a backflow preventer within the given time will be subject to a class C misdemeanor.
- c) Any business serving food shall have a grease trap installed and cleaned at recommended intervals pursuant to manufacturer, at the cost of the owner.
 - 1) Any business that does not already have a grease trap installed will be allowed a six (6) month grace period to install one.
 - 2) Any business that does not install a grease trap within the given time will be subject to a class C misdemeanor.
- d) Any business serving food/drinks shall have a yearly health and fire inspection of the business to ensure the business is not violating any state or city laws/ordinances. Inspection fees will be paid yearly to the city, and inspection will be scheduled within the calendar year.
- e) Any business regulated by the Texas Department of Licensing and Regulation that services cliental for barbering, cosmetology, massages, piercings, or tattoos is required to have a yearly health and fire inspection of the business to ensure the business is not violating any state or city laws/ordinances. Inspection fees will be paid yearly to the city, and inspection will be scheduled within the calendar year.
- f) All businesses shall be subject to inspection during business hours.
 - 1) If building, during inspection, is found to violate city ordinance or be considered a public health and safety hazard the code compliance department may shut down the business immediately until a hearing can be conducted by City Council to determine if the business is to remain closed until repairs are made.
 - 2) If a building is closed due to violations inspections must be completed prior to the reopening (and must pass all inspections) and the fee for said inspections shall be at the owner's expense.
- g) All other businesses are subject to all inspections required by the State of Texas. Inspections will be completed at the city at the owner's expense.
- h) All inspection reports are to be posted in plain view for the public to see.

Section 6 Enforcement

Any person violating any part of this section shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than \$100.00 nor more than \$500.00.

If a business that is required to have a health or fire inspection (by this ordinance or state law) refuses to have the inspection completed the city administrator or their representative may have the business closed until such time the business complies and passes required inspections.

If a business fails any inspection/s required by this ordinance or any other city ordinance or state law they will have 10 days before a second inspection is required or a reasonable time thereafter upon the discretion of the city administrator or their representative. If the business fails the second inspection the

city administrator or their representative may have the business closed until the business is able to pass all inspections.

Section 7 Severability Clause

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, paragraphs, or section of this ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, shall unconstitutionally shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 8 Effective Date

This Ordinance shall become effective immediately upon its passage and publication as required by law.

Section 9 Open Meeting

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED on this 13th day of January 2025.

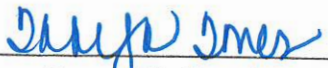
CITY OF NIXON, TEXAS



Ellie Dominguez, Mayor

ATTEST:

APPROVED AS TO FORM:



Tanya Torres, City Secretary

Eduardo "Eddie" X. Escobar, Gonzales County Attorney