(a) This section is intended 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.

(b) *Definitions:*

(1) "Adult" means an individual 17 years of age or older.

(2) "Bedroom" means a room designated and used primarily for sleeping and rest on a bed.

(3) "Floodway" means the channel for a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(4) "Non-Residential District" means the following zoning districts: R-3, R-3L, R-3H, MU-A, MU-B, C-1, C-1A, C-1B, C-2, C-2A, C-3, C-4, C-4A, C-4B, C-O, M-1, M-1A, and M-2A.

(5) "Occupant" means the person or persons who have rented the Short Term Rental and their guest(s).

(6) "Operator" means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit who is the proprietor of a Short Term Rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, license or any capacity. Where the operator performs his or her functions through a managing agent of any type of character, other than an employee, or where the operator performs his or her functions through a rental agent, the managing agent or the rental agent shall have the same duties as his or her principal.

(7) "Owner" means the person or entity that holds legal and/or equitable title to the private property.

(8) "Residential District" means the following zoning districts: R-1, R-1A-43.5, R-1A-12, R-1A-8, R-1A-6.6, R-2, R-2A, B-1, B-1A, B-1B, TH, TH-A, ZH, ZH-A and SND-1.

(9) "Resort Condominiums" means a form of housing tenure and other real property where a specified part of a piece of real estate (usually of an apartment house) is individually owned and rented out for use of persons for less than 30 days while use of and access to common facilities in the piece such as hallways, heating system, elevators, exterior areas is executed under legal rights associated with

the individual ownership and controlled by the association of owners that jointly represent ownership of the whole piece.

(10) "Resort Property" means A compound of buildings and facilities located together that provide lodging, entertainment and a relaxing environment to people on vacation. This includes 24 hour security and 24 hour front desk personnel. These units comply with all commercial building code standards.

(11) "Short Term Rental" means the rental for compensation of one- or two -family dwellings, as defined in the IRC (International Residential Code), for the purpose of overnight lodging for a period of not less than one (1) night and not more than thirty (30) days other than ongoing month-to-month tenancy granted to the same renter for the same unit. This is not applicable to hotels, motels, bed and breakfasts, resort properties as defined in this ordinance or resort condominiums.

(12) "Short Term Rental Decal" means the decal issued by the City as part of a Short Term Rental permit that identifies the subject property as a Short Term Rental, the Short Term Rental permit number, the owner or rental agent's name and 24-hour emergency contact phone number of either the owner or the rental agent.

(13) "Sleeping Area" means a room or other space within a Dwelling designed or used for sleeping, including a Bedroom. Tents and Recreational Vehicles shall not be considered a Sleeping Area.

(c) *Applicability.*

(1) Short Term Rental within Residential Districts is prohibited.

(2) Short Term Rental is prohibited in any floodway located within the city limits, regardless of zoning district.

(3) A Short Term Rental Permit is required prior to the use of a one family or two family dwelling as a Short Term Rental located within a Non-Residential District. Subject to Subsection (d), Standards, of this Section, an Owner shall obtain and maintain a current permit whenever a dwelling is used as a Short Term Rental. Annual inspection is required as specified in Subsection (f), Inspections, of this Chapter. <u>A Special Use Permit is required in all zoning districts except C-4, C-4A and C-4B.</u>

(4) Within one hundred and eighty (180) days of the effective date of this Ordinance, the Owner or Operator of each existing legally established short term rental shall apply for and pay the permit fee for a Short Term Rental Permit. Within forty-five (45) days of receipt of a completed application, the permit fee and compliance with Subsection (e), Short Term Rental Permit, of this Section, a permit shall be issued to the Owner or Operator that will be good for one (1) year from the date issued and subject to the annual renewal inspection by the Fire Marshal. Ability to approve said permit is predicated on verification that the short term rental is in compliance with Section 2.3(b, c, d), Nonconforming Use.

(d) *Standards.* All Short Term Rentals permitted pursuant to this Chapter are subject to the following standard requirements:

(1) *Occupancy.* The maximum number of persons allowed to reside in a Short Term Rental is two (2) adults per Sleeping Area plus an additional four (4) adults per

residence.

(2) *Short Term Rental Decal Display.* As part of a Short Term Rental Permit, the City issued Short Term Rental Decal shall be posted on the front of each Short Term Rental in a location that is accessible and legible to an individual at the entry of the Short Term Rental.

(3) *Parking.* A minimum of one (1) off-street parking space, not including the garage, per Sleeping Area shall be provided with a minimum of two (2) and a maximum not to exceed the number of Sleeping Areas plus one (1). No required parking shall be permitted within public right-of-way or access easements as defined by City and State regulations regarding parking.

(4) *Life Safety.*
- (a) All building and fire related construction shall conform to the City's adopted IRC (International Residential Code) building code.
- (b) A 2A:10B:C type fire extinguisher (a standard 5 lb. extinguisher) shall be properly mounted within 75 feet of all portions of the structure on each floor.
- (c) Every sleeping room shall have at least one operable emergency escape and rescue opening
- (d) An evacuation plan posted conspicuously in each Sleeping Area.
- (e) Every bedroom / sleeping area in a Short Term Rental that does not comply with Subsection (d(4), Life Safety, of this Section shall not be used as a Sleeping Area and where equipped with a door, shall remain locked at all times when the Dwelling is being used as a Short Term Rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation for the Short Term Rental. The owner / operator shall notify every Occupant, in writing, that the non-compliant Sleeping Area may not be used for sleeping.

(5) *Conduct on premises.*
- (a) Each occupant and visitor to a Short Term Rental shall comply with all applicable provisions of the City's Code, including, without limitation: noise and disorderly conduct restrictions from Chapter 82, Offenses and Miscellaneous Provisions; litter prohibition from Chapter 50, Environment; and others such as parking, and trespassing provisions. No occupant of or visitor to a Short Term Rental shall cause or permit a public nuisance to be maintained on such property. This information shall be included in the rental agreement and inside the Short Term Rental as specified in Subsection (7), Tenant Indoor Notification, below.
- (b) All Occupants shall be informed in writing of relevant City ordinance including, but not limited to, the City's nuisance and water conservation ordinances by the Owner/Operator of the Short Term Rental.
- (c) Excessive noise or other disturbance outside the Short Term Rental is prohibited between the hours of 10:00 p.m. and 8:00 a.m. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.
- (d) No sleeping outdoors.

(6) *Signage. S*ignage shall be in compliance with the City's current Sign Code.

(7) *Tenant Indoor Notification.* The Operator shall post in a conspicuous location of the Dwelling the following minimum information:

(a) Maximum number of occupants.
(b) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas.
(c) Quiet hours and noise restrictions.
(d) Restrictions of outdoor facilities.
(e) 24 hour contact person and phone number.
(f) Property cleanliness requirements.
(g) Trash pick-up requirements, including location of trash cans.
(h) Flooding hazards and evacuation routes. Including information on the emergency siren system.
(i) Emergency numbers.
(j) Notice that failure to conform to the occupancy and parking requirements is a violation of the City's Municipal Code and occupant or visitor can be cited.
(k) Other useful information about the community.

(8) *Rental Agreement Notification.* The rental agreement between the owner/operator of the Short Term Rental and the occupant shall include by attachment, all of the information provided on the Tenant Indoor Notification signage.

(e) *Short Term Rental Permit.*

(1) *Application.* Application for a Short Term Rental Permit shall be in writing on an application form available in the Planning Director's office, shall be accompanied by a one-time payment of the fee of $50 and shall include the following information, at a minimum:

(a) A list of all Owners of the short term rental including names, address and telephone numbers.
(b) A sketch or narrative describing the location of the available parking spaces as required by Subsection d(3), Parking, of this Section.
(c) A sketch of the floor plan.
(d) The name, address and 24 hour telephone numbers of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the Short Term Rental.
(e) Proof of Hotel Occupancy Tax compliance with Chapter 351 of the Tax Code, before permit is granted.
(f) A statement that the Owner of the Short Term Rental has met and will continue to comply with the standards and other requirements of this Ordinance.
(g) Provide current email address of Owner/Operator, if applicable.
(h) If Owner/Operator has a property management or agent, Owner/Operator shall provide property management or agent phone number, mailing address and email address.

(2) *Completeness of Application*. If the application is incomplete or the full fee has not been paid, the Planning Director shall notify the applicant in writing, within 10 business days of the date of the application, that the application is incomplete and will not be considered by the City until the application is complete and/or the full fee is paid. If the full fee is not paid or the application is not compete within 45 days of the date of the application, the application shall expire.

(3) *Annual Renewal.* A Short Term Rental Permit will be renewed annually through an inspection conducted by the Fire Marshal to verify continued compliance with Subsection (d), Standards, of this Section.

(4) *Transferability.* A Short Term Rental Permit is transferable to a new property owner, if the new property owner submits a Short Term Rental Permit application and agrees in writing to comply with the requirements of this Ordinance. A new Owner must apply for a Short Term Rental Permit within ninety (90) days from the closing date of the purchase. The new Owner must provide a copy of the closing statement with the Short Term Rental Permit application form. Failure of the new property owner to apply for permit within ninety (90) days from the closing date will revoke the Short Term Rental Permit. Short Term Rentals existing prior to the effective date of this ordinance that are non-conforming to the zoning for which property is located, but obtained a permit in compliance with Subsection (c(4), Applicability, shall become null and void if the new Owner fails to apply for the Short Term Rental Permit within ninety (90) days from the date of the deed of the new Owner's purchase.

(5) *Appeal.* If an application for a Short Term Rental Permit or renewal is denied, the Owner or Operator may appeal to the Planning and Zoning Commission by written notice delivered within thirty (30) days of denial or revocation.

(f) *Inspections.* To ensure continued compliance with the requirements of this Section a Short Term Rental shall be inspected in the following methods:

(1) *Transfer Inspection.* As part of the transfer of a Short Term Rental Permit to a new Owner, in accordance with Subsection (e(4), Transferability, and the issuance of a new Short Term Rental Permit the City's Fire Marshal shall conduct an inspection to verify compliance with this Ordinance.

(2) *Fire Extinguishers.* The Owner/Operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the City's current Fire Code.

(3) *Immediate Inspection.* The City will perform inspections immediately when a violation is suspected.

(4) *Annual Fire Inspection.* The City's Fire Marshal's Office will perform annual inspections for compliance with this Ordinance.

(g) *Enforcement/Penalty.*

(1) *Emergency Contact.* The Owner/Operator of the Short Term Rental shall provide the City with a twenty-four (24) hour contact number. Should a law enforcement officer respond to the Short Term Rental and issue a citation for any violation of City Ordinances, the Owner/Operator shall be called by the officer. The Owner/Operator shall attempt to contact the occupants within one hour of the call to address the occupants about the complaints. Should a second complaint be filed and citation issued to any part of the occupants or guests, the Owner/Operator must take appropriate step, in accordance with the individual rental agreement, to assure future complaints do not occur. Should three (3) separate citations be issued to an occupant or their guest(s), involving separate occupants under separate rental agreements within a six (6) month period, the

Short Term Rental Permit may be revoked in accordance with the revocation process specified in Subsection (h), Revocation.

(2) Violations of any Subsection of this Section may revoke the Short Term Rental Permit in accordance with Subsection (h), Revocation.

(3) Failure to pay Hotel Occupancy Tax timely is considered a violation of this Section and may result in revocation of the Short Term Rental Permit in accordance with Subsection (h), Revocation. Owner shall have 30 days from the date the City or State issue a notice of delinquency to submit delinquent Hotel Occupancy Tax to City and State before revocation of the Short Term Rental Permit begins.

(4) Failure to successfully complete the renewal process of a Short Term Rental Permit is considered a violation of this Section. Owner shall have 45 days from the date City issues notice of denial to gain compliance of noncompliant items before the revocation of the Short Term Rental Permit begins.

(5) The provisions of this Subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by City Ordinances or County or State Law.

(6) *Proof.* Prima facie proof of occupancy of a Dwelling is established in any prosecution for violation of this Section if it is shown that vehicles with registrations to persons having different surnames and addresses were parked overnight at the Dwelling. Establishment of a prima facie level of proof in this Subsection does not preclude a showing of illegal "occupancy" of a Dwelling by a person in any other manner.

(7) *Offense.* It is an offense for the property owner, any agent of the property owner, or the occupant(s) to directly occupy or indirectly allow, permit, cause, or fail to prohibit an occupancy in violation of this Ordinance 144-5.16. Each day that a unit is occupied in violation of this ordinance shall be considered a separate offense, and, upon conviction, shall be subject to a minimum fine of $500.00 to a maximum fine of $2,000.00 per violation.

(8) Each day of violation of said Standards and provisions of this Section constitutes a separate offense and is separately punishable, but may be joined in a single prosecution.

(h) *Revocation.* If any violations stated in Subsection (g), Enforcement/Penalty, of this Section have been committed and not corrected within the time specified the Planning Director shall begin the procedures to revoke the Short Term Rental Permit in accordance with the following:

(1) The City shall give thirty (30) day written notice to the Owner/Operator regarding the public hearing date and recommendation by the Planning Commission, and public hearing and decision by the City Council.

(2) The City shall provide written notice to property owners within 200 feet of the subject property at least 15 days prior to the hearing.

(3) If a Short Term Rental Permit is revoked, the Owner/Operator may not reapply for the same property for a period of twelve (12) months.

(i) *Abrogation and Greater Restrictions.* This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

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