

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF FREDERICKSBURG, TEXAS, REPEALING SECTION 5.401, "ADDITIONAL REQUIREMENTS FOR SHORT-TERM RENTAL USES," OF APPENDIX B, "ZONING ORDINANCE," OF THE FREDERICKSBURG MUNICIPAL CODE; AMENDING SECTION 2.100, "DEFINITIONS," OF APPENDIX B, "ZONING ORDINANCE," BY REVISING DEFINITIONS RELATED TO SHORT-TERM RENTALS; ADDING A NEW ARTICLE VII, "SHORT-TERM RENTALS," TO CHAPTER 20, "OFFENSES AND MISCELLANEOUS PROVISIONS," TO PROVIDE FOR THE REGULATION AND PERMITTING OF SHORT-TERM RENTALS; CREATING A NEW SECTION 4.400, "GENERAL REGULATIONS FOR SHORT-TERM RENTALS," IN APPENDIX B, "ZONING ORDINANCE," TO PROVIDE FOR ZONING REGULATIONS RELATED TO SHORT-TERM RENTALS; AMENDING SECTION 5.500, "BOARD OF ADJUSTMENT," OF APPENDIX B, "ZONING ORDINANCE," TO AUTHORIZE THE BOARD OF ADJUSTMENT TO GRANT SPECIAL EXCEPTIONS RELATED TO SHORT-TERM RENTALS; AMENDING MISCELLANEOUS PROVISIONS IN APPENDIX B, "ZONING ORDINANCE," TO ENSURE CONSISTENCY WITH THE AMENDMENTS HEREIN; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Fredericksburg, Texas (the "City"), is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution, and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council of the City ("City Council") recognizes the City's desirability as a premier tourist destination, as well as the importance of maintaining affordable housing for long-term residents of the City and its essential duty to protect residential areas as neighborhoods defined as districts that form a community with relation to its inhabitants or interests, and has therefore determined that the regulation of short-term rental properties is in the best interest of the public; and

**WHEREAS**, the City Council has previously adopted regulations governing short-term rentals and appointed a Short-Term Rental Task Force in Fall 2022 to analyze the particular issues faced by the City and to provide recommendations on approaches to improve the previously adopted regulations; and

**WHEREAS**, the City Council and Planning & Zoning Commission of the City have held multiple joint work sessions to evaluate the recommendations of the Task Force, recommendations of City staff, and data on short-term rental issues within the City; and

**WHEREAS**, the City Council and Planning & Zoning Commission have heard and reviewed extensive comments by members of the public, including citizens of the City expressing complaints as to noise, density, parking, and other adverse effects related to

the operation of short-term rentals in residential areas, as well as non-resident owners of short-term rental properties within the City expressing their commitment to supporting the City's tourism industry; and

**WHEREAS**, in consideration of the information, recommendations, and public comments provided, the City Council now seeks to amend the City's short-term rental regulations; and

**WHEREAS**, the purpose of the regulations set forth herein 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 cause adverse impacts to residential neighborhoods due to the intensive nature of the use creating excessive traffic, noise, density, and other adverse effects, and additionally to ensure that the number of occupants within such rental units do not exceed the design capacity of the structure causing health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions; and

**WHEREAS**, the City Council has determined that the enforcement of such regulations will promote the public health, safety and welfare of its citizens and the general public; ensure consistency in land uses and development; and protect the rights of property owners, residents, and visitors in the City of Fredericksburg.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS;**

### **SECTION 1**

Section 5.401, "Additional requirements for short-term rental uses," of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code is hereby repealed.

### **SECTION 2**

Section 2.100, "Definitions," of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code is amended by deleting the following definitions:

**"LOCAL CONTACT PERSON.**

The Owner, Operator, or person designated by the Owner or the Operator, who shall be available 24 hours per day for the purpose of responding to concerns or requests for assistance related to the Owner's Short-term Rental.

**OPERATOR.**

The Owner or the Owner's authorized representative who is responsible for advertising and/or operating a Short-term Rental.

### SHORT-TERM RENTAL (STR).

Any structure used for transient or guest lodging accommodations, rented for compensation of a dwelling unit, which includes but is not limited to a single-family residence, townhouses, and other residential use real estate improvements, in which the public may obtain sleeping accommodations for a period less than 30 consecutive days. This term applies regardless of whether the dwelling was originally constructed or zoned as a residential dwelling. This term does not apply to multi-family projects or apartment complexes. This term is a general definition and the various types of STRs are further defined in this Section 2.100.

### SHORT-TERM RENTAL, ACCESSORY.

A short-term rental providing transient or guest lodging accommodations for compensation within a lawful Guest House on the same lot as the primary structure which is the principal residence of the Owner (as evidenced by a current residence homestead exemption filed with the Gillespie Central Appraisal District) or the Local Contact Person (as evidenced by a sworn affidavit of principal residency). The Guest House shall not exceed the size of the primary structure. For purposes of this definition, the term "principal residence" refers to a person's primary or chief residence that the person actually occupies on a regular basis.

### SHORT-TERM RENTAL, B&B.

A short-term rental providing transient or guest lodging accommodations for compensation within the rooms of the primary structure which is the principal residence of the Owner (as evidenced by a current residence homestead exemption filed with the Gillespie Central Appraisal District) or the Local Contact Person (as evidenced by a sworn affidavit of principal residency). Separate short-term rental permits shall be required for each separate bedroom unit within a Short-Term Rental, B&B which may be rented. For purposes of this definition, the term "principal residence" refers to a person's primary or chief residence that the person actually occupies on a regular basis.

### SHORT-TERM RENTAL, BEDROOM.

A short-term rental, bedroom shall be defined as a room within a structure used for Short-Term Rental purposes, with a minimum size of 70 square feet, plus a closet directly accessible from the room, that meets all the minimum international building code and fire code regulations regarding bedroom sizes, ingress, and egress.

### SHORT-TERM RENTAL, CONDOMINIUM.

Short-term rental located in a complex or housing group that is part of a declared and recorded condominium regime.

### SHORT-TERM RENTAL, DWELLING UNIT.

A structure or room that is rented separately from other rental units on the property, for the purpose of transient or guest lodging. Each individual short-term rental dwelling unit shall be required to obtain a separate short-term rental permit.

### SHORT-TERM RENTAL, FACILITY.

A facility or complex containing multiple short-term rental dwelling units (up to eight units) on a single lot, for transient or guest lodging where sleeping accommodations are provided for compensation. Any facility or complex, located in a commercial zoning district, containing multiple short-term rental dwelling units on a single lot, shall be developed in accordance with the multi-family regulations of the base zoning district.

### SHORT-TERM RENTAL PERMIT.

A permit issued by the City authorizing the use of a privately owned dwelling as a Short-term Rental.

### SHORT-TERM RENTAL, UNOCCUPIED.

A short-term rental providing transient or guest lodging accommodations for compensation within a lawful structure, that is not located on the same lot as the property owner's principal residence, and which includes, but is not limited to, a single-family residence, townhouses, duplexes, and other residential real estate improvements.”

## SECTION 3

Chapter 20, “Offenses and Miscellaneous Provisions,” of the Fredericksburg Municipal Code is hereby amended by adding a new Article VII to read as follows:

### “ARTICLE VII. – SHORT-TERM RENTALS

#### **Sec. 20-220. – Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*24-hour contact.* The local responsible party who can be contacted regarding emergencies, immediate concerns, and complaints from the public. Said individual must be available in person or by phone at all times during any occupant’s rental term for the short-term rental. If called, the 24-hour contact must respond to such call within thirty (30) minutes, and shall either resolve the issue or be present at the premises within one (1) hour of receiving a call from the director, the police department, code enforcement, or other city staff requesting the 24-hour contact’s presence. A 24-hour contact must be authorized to make decisions regarding the premises and its occupants.

*Bathroom.* An enclosed space containing one or more bathtubs, showers, or both, as well as one or more toilets, lavatories or fixtures serving similar purposes.

*Bedroom.* A room used or intended to be used for sleeping purposes and not as a kitchen, bathroom, living room, closet, hallway, utility space, reading nook, alcove, entry way, garage, patio or breezeway.

*Block.* A tract of land bounded by streets, or a combination of streets, public parks, railroad rights-of-way, shorelines of waterways or corporate limits.

*Code or city code.* The Fredericksburg Municipal Code.

*Department.* The development services department of the city.

*Director.* The director of development services of the city or their designee.

*Listing.* An advertisement containing information on a short-term rental through which a potential occupant may book a short-term rental premises for a specific period of time. A listing may be, but is not necessarily, an electronic advertisement, and it may be, but is not necessarily, posted on a platform like AirBNB, VRBO, or another website.

*Long-term rental.* The rental of any residence or residential structure, or portion of a residence or residential structure, to a residential tenant for a period of thirty (30) or more consecutive days.

*Occupant.* The person(s) who has/have lawfully obtained the exclusive use and possession of a short-term rental from the owner and/or operator, as well as any invitee(s) of such person(s).

*Operator.* The owner or local responsible party tasked with managing a property operating as a short-term rental on behalf of the owner.

*Owner.* The individual or entity who owns a property operating as a short-term rental.

*Permit.* The permit issued pursuant to the terms of this article authorizing the operation of a short-term rental.

*Short-term rental or STR.* The rental for compensation of any residence or residential structure, or a portion of a residence or residential structure, for the purpose of transient or guest overnight lodging accommodations for a period of less than thirty (30) consecutive days. Short-term rentals may include but are not limited to single-family residences, townhomes, duplexes, and other residential dwelling units, regardless of whether the dwelling was originally constructed or zoned as a residential dwelling. Short-term rentals shall not include hotels or motels. A short-term rental is further subject to the provisions of this article.

*Short-term rental accessory or STR-ADU.* A short-term rental operating within a lawful accessory dwelling unit on the same lot as the primary structure, in which the primary structure is (a) the owner's homestead as evidenced by a current homestead exemption filed with the Gillespie Central Appraisal District or (b) the primary residence of the 24-hour contact, as evidenced by a sworn affidavit to be provided with the short-term rental permit application. The accessory dwelling unit shall comply with section 8.220 of the city zoning ordinance.

*Short-term rental B&B or STR-B&B.* A short-term rental that operates on a residential property in which the owner, operator, or 24-hour contact resides as their principal residence (as evidenced by a current residence homestead exemption filed with the Gillespie Central Appraisal District or a sworn affidavit). Separate short-term rental permits, with a maximum of four units, shall be required for each separate bedroom unit operating as a short-term rental within a short-term rental B&B.

*Short-term rental facility or STR-facility.* A facility or complex, owned or operated by a single owner or operator, containing multiple short-term rental units (up to eight units) operated for short-term rental purposes on a single lot. Each unit within an STR-facility shall require a separate short-term rental permit.

*Short-term rental unoccupied or STR-unoccupied.* A short-term rental within a lawful residential dwelling that is not operating as an STR-ADU or STR-B&B.

## **Sec. 20-221. – Short-term rental permitting and inspections.**

It shall be unlawful for any owner, operator, or other person to advertise, offer to rent or rent, lease, sublease, license or sublicense a residential property within the city as a short-term rental for which a permit application has not been properly made and filed with the department, and a permit issued.

- (1) Permit application; fees.
  - a. A separate permit application must be submitted for each individual short-term rental.
  - b. A permit application shall be made upon forms furnished by the city for such purpose and shall be accompanied by the nonrefundable application fee identified in the city fee schedule.
- (2) Permit term; renewals; conditions.
  - a. Each individual short-term rental shall be assigned a unique permit number by the city to remain assigned to the short-term rental through any property ownership transfers.
  - b. An owner and/or operator shall obtain a unique permit for each short-term rental unit operating within an STR-facility or STR-B&B.

- c. Permits shall be valid for a term of one (1) year.
- d. A permit holder shall apply for renewal prior to permit expiration on a form furnished by the city for such purpose. The permit holder shall either update the information required on the initial application form or provide a certification affirming that the information previously submitted is still accurate. A complete application for renewal received after the expiration of a current permit shall be treated as an application for a new permit in accordance with section 20-221(1). Notwithstanding the foregoing, the permit holder of a short-term rental located in a zoning district where the short-term rental use is no longer permitted by right may transfer said permit pursuant to section 20-221(3).
- e. Upon issuance, each short-term rental shall receive a physical permit, indicating the permit number, property address, maximum occupancy, the name and phone number of the 24-hour contact, and expiration date, that shall be posted within the short-term rental, such that it may be easily viewed by any occupant.

(3) Transfers of ownership.

- a. For properties located in zoning districts where short-term rental uses are permitted by right, a short-term rental permit may be transferred to a new property owner upon submission of a complete short-term rental permit application prior to commencing short-term rental operations under new ownership. A permit transfer shall be required upon transfer of more than fifty percent (50%) of the ownership interest in any short-term rental, including any such transfer of interest in a legal entity owning a short-term rental.
- b. For properties located in zoning districts where short-term rental uses are no longer permitted by right, a short-term rental permit may be transferred subject to the following regulations.
  - 1. A permit transfer shall be required upon transfer of more than fifty percent (50%) of the ownership interest in any short-term rental, including any such transfer of interest in a legal entity owning a short-term rental.
  - 2. The new owner must submit a new permit application in accordance with this section 20-220 within the time period for voluntary discontinuance of a nonconforming use identified in section 6.110, "Continuance of a Nonconforming Use," of the city zoning ordinance, beginning on the date of closing on the property or, in the absence of a closing date, other effective date of the transfer of interest.

3. In the event the new owner fails to submit a short-term rental permit application within the time period identified in section 6.110, the short-term rental use must be discontinued, and the short-term rental permit shall not be transferred or issued, pursuant to section 6.110 of the city zoning ordinance governing the abandonment of nonconforming uses.
4. Notwithstanding the foregoing, the owner of any short-term rental located in a zoning district where the short-term rental use is no longer permitted by right who, on the effective date of this article, has timely filed an appeal of a short-term rental permit application denial with the city manager, may obtain a vesting determination from the city manager allowing said owner to obtain a short-term rental permit without regard to such zoning prohibition but subject to all other regulations herein. The city manager may issue a formal vesting determination based on a short-term rental's prior lawful operations, relevant application dates, and any other mitigating factors.

(4) Inspections.

- a. Prior to permit issuance, the director shall perform an initial inspection of the short-term rental premises to determine compliance with all applicable codes, laws, and regulations. No permit shall be issued until the premises successfully passes such inspection.
- b. Prior to permit renewal, the director shall perform a renewal inspection of the short-term rental premises to determine compliance with all applicable codes, laws, and regulations.
- c. Additional inspections shall be conducted in the following circumstances:
  1. Upon transfer of ownership;
  2. When an owner or operator makes modifications to the short-term rental property that would alter the property's maximum occupancy, alter the property's evacuation plan, or otherwise affect the health and safety of any occupant; and
  3. When complaints are filed regarding property conditions related to health and safety concerns.



- d. Upon receiving notification from the director that a short-term rental permit application has proceeded to the inspection phase of the application review process, the owner and/or operator must schedule such inspection within thirty (30) days of receiving such notification. Failure to comply with this provision may result in permit denial.
  - e. An owner and/or operator may refuse to consent to an inspection. In the event the owner or operator does not authorize the director to enter and inspect the premises, the director is authorized to seek a warrant pursuant to article 18.05 of the Texas Code of Criminal Procedure, as amended. Any warrants issued will constitute authority for the director to enter upon and inspect the rental unit described therein.
  - f. If, upon completion of any inspection, the premises are found to be in violation of one or more provisions of this section, the director shall provide written notice of such violation and shall set a re-inspection date. Failure to pass the re-inspection shall result in permit denial. Re-inspection fees will be charged in accordance with the city fee schedule. A property cannot be occupied as a short-term rental while its status is noted as being in violation.
- (5) Public information. All permits issued under this article constitute public information, subject to the terms of the Public Information Act.

### **Sec. 20-222. –Regulations.**

- (a) Duration of rental period. An owner and/or operator shall not rent or lease a short-term rental unit for a period of less than one (1) night. If an owner and/or operator seeks to operate a short-term rental property as a long-term rental for a rental term of thirty (30) or more consecutive days, the owner and/or operator shall notify staff in accordance with section 20-226(d) in order to preserve the property's short-term rental permit.
- (b) Occupancy. The maximum number of persons permitted to stay in a short-term rental is limited to two (2) persons per bedroom as defined herein, plus two (2) additional persons; however, no short-term rental shall permit the cumulative total number of occupants to exceed twelve (12) persons. An owner or operator may indicate a reduced occupancy maximum on a short-term rental permit application or an advertisement for a short-term rental. Notwithstanding the foregoing, an owner or operator may apply for a special exception in accordance with this article and section 5.500 of the city zoning ordinance in order to increase the occupancy maximum for a short-term rental.
- (c) Parking restrictions. A short-term rental owner and/or operator must provide one on-site parking spot per bedroom operating as a short-term rental. Additionally, it shall be unlawful for an occupant to park a motor vehicle on an unimproved

surface, or for an owner and/or operator to permit such parking. All motor vehicles are further subject to the parking requirements of chapter 44, article VI of the code. Tandem parking is permitted for multiple vehicles, so long as no part of any parked vehicle obstructs a public right-of-way.

(d) Life safety.

- (1) The short-term rental must be equipped with the following life safety measures:
  1. Working smoke alarms, meeting the requirements of Section 92.254 and 92.255 of the Texas Property Code, with a minimum of one on each floor or level; one in each room used as a bedroom; and, if multiple bedrooms are served by the same corridor, one in the corridor in the immediate vicinity of the bedrooms; and
  2. A minimum of one working carbon monoxide detector on each floor or level if the premises are equipped with natural gas, propane, and/or an attached garage; and
  3. A minimum of one 2A:10B:C type fire extinguisher (a standard five-pound extinguisher) available on each floor, inspected annually in accordance with the International Fire Code and tagged by a third-party inspector.
- (2) All gas appliances shall be properly ventilated outside the home.
- (3) Each room used as a bedroom must have at least one means of egress opening directly to the outdoors.
- (4) All pool and spa facilities must comply with the International Property Maintenance Code as adopted in article IX, chapter 5 of the city code.
- (5) All properties must comply with sections 7.330 and 7.340 of the city zoning code governing setback requirements, in addition to all applicable provisions contained in the city zoning code.
- (6) Any room that does not comply with this subsection (d) shall not be used as a bedroom, and where equipped with a door, shall remain locked at all times when the dwelling is being used as a short-term rental. Any non-compliant bedroom shall not be included in the maximum occupancy calculation for the short-term rental, nor be advertised as a bedroom.

- (e) Signage. All signs must comply with the city sign ordinance, as applicable, set forth in chapter 29 of the code. Short-term rental uses may erect a nameplate sign, which shall be considered a sign exempted from certain regulations under section 29-5(3) of the code, provided that such sign is not more than two square feet in area and is attached to the structure.
- (f) Food service. Only overnight guests may be served meals except in zones permitting restaurant use. Such meals shall be limited to a continental-type breakfast consisting of, for example, pastries prepared by a licensed provider, milk, cereal, fruit, fruit juice and coffee, unless the facility meets the State of Texas and Gillespie County Health Division requirements for commercial food service.
- (g) 24-hour contact. The owner and/or operator must designate the name and contact information of a 24-hour contact who shall be the local responsible party who can be contacted regarding emergencies, immediate concerns, and complaints from the public. Said individual must be available in person or by phone at all times during any occupant's rental term for the short-term rental. If called, the 24-hour contact must respond to such call within thirty (30) minutes, and shall either resolve the issue or be present at the premises within one (1) hour of receiving a call from the director, the police department, code enforcement, or other city staff requesting the 24-hour contact's presence. A 24-hour contact must be authorized to make decisions regarding the premises and its occupants.
- (h) Advertising. The owner and/or operator shall not advertise or promote, or allow another to advertise or promote, the short-term rental without including the following information on the listing: City permit number, occupancy maximum, maximum parking capacity, host rules, and a street-view image of the front of the property.
- (i) Conduct on premises. Each short-term rental owner, operator, and occupant shall comply with all requirements of the city code. Owners and/or operators shall be responsible for informing occupants that occupants must comply with all relevant city codes and may be liable for violations of same, including but not limited to the following specific provisions:
  - (1) Conduct that would violate the city noise ordinance contained in chapter 20, article VI of the code, in residential zoning districts or planned unit developments with residential uses, including, but not limited to, the following outside areas: decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas;
  - (2) Conduct that would violate the city trash ordinance contained in chapter 32 of the code;
  - (3) Conduct that would violate the city's outdoor fire regulations contained in chapter 17, article V of the code;

- (4) Operating exterior string and flood lights in violation of chapter 5, article XV (“Outdoor Lighting,” or the City’s Dark Sky regulations) of the code; and
  - (5) Using or permitting the use of the short-term rental for the purpose of selling illegal drugs; selling alcohol or another activity that requires a permit or license under the Alcoholic Beverage Code; or operating as a sexually oriented business.
- (j) Host Rules. The owner and/or operator shall post in a conspicuous location of the short-term rental premises a packet containing, at a minimum, host rules with the following information:
- (1) Maximum number of occupants;
  - (2) Location of required off-street parking and prohibition of parking on unimproved areas;
  - (3) Applicable quiet hours (10:00 p.m. to 7:00 a.m. in residential zones);
  - (4) Waste pick-up requirements, including location of waste and recycling receptacles;
  - (5) Exterior lighting requirements due to Dark Sky regulations;
  - (6) 24-hour contact name and phone number;
  - (7) Operator contact name and phone number;
  - (8) If relevant, emergency evacuation procedures;
  - (9) Emergency and non-emergency dispatch numbers; and
  - (10) Notice that failure to conform to city ordinances constitutes a violation of the code for which an occupant may be cited.
- (k) Hotel occupancy taxes. In accordance with chapter 41, article IV of the city code, the owner and/or operator of the short-term rental property shall contact the city finance department prior to the date that the short-term rental permit application is submitted, and the owner and/or operator must remit all applicable hotel occupancy taxes in a timely manner pursuant to applicable laws.
- (l) Application information to be updated. Within ten (10) business days of any change to information provided on the permit application form, other than a change of ownership, the owner or operator of a short-term rental shall notify the city of such change by providing an amended application form.

**Sec. 20-223. – Special exceptions available.**

An owner and/or operator seeking to operate a short-term rental may apply for a special exception in the following circumstances, subject to the regulations outlined in section 5.500 of the city zoning ordinance:

- (1) To permit short-term rental unoccupied operations in the R-1 and R-2 zoning districts if the following conditions are satisfied:
  - a. The property shares two (2) or more lot lines, or one (1) or more lot lines for a corner lot, with a property either (i) lawfully operating as a short-term rental unoccupied use or (ii) zoned CBD, C-2, or PF (excluding properties zoned PF with public primary educational facility uses and/or public secondary educational facility uses); and
  - b. More than fifty (50) percent of the properties within a two hundred (200) foot radius are either (i) lawfully operating as a short-term rental unoccupied use or (ii) zoned CBD, C-2, or PF (excluding properties zoned PF with public primary educational facility uses and/or public secondary educational facility uses).
- (2) To permit short-term rental operations with an expanded occupancy maximum or exception to parking requirements.
- (3) To permit short-term rental operations in the historic shopping district overlay involving the operation of a short-term rental use on the first floor of any new construction or converted existing structure.

**Sec. 20-224 - Enforcement; repeat offenses; suspension; revocation.**

(a) Enforcement.

- (1) If the owner, operator, or any occupant of the short-term rental property fails or refuses to comply with the standards and requirements contained herein, the city may initiate enforcement action against the owner, operator, or any occupant, including, but not limited to, the immediate issuance of a citation.
- (2) Failure to timely remit applicable hotel occupancy tax is a violation under this article and shall result in a 90-day permit suspension upon notice by the director if all applicable tax is not paid in accordance with a delinquency notice issued by the finance department. The city retains the right to pursue all available remedies prescribed under chapter 351 of the Local Government Code.
- (3) Any advertisement, whether it be online or in print, promoting the availability of a property within the city for rent for a period of less than thirty (30) days shall constitute prima facie evidence of the property's use as a short-term rental.

- (4) For citations issued to the owner and/or operator of a short-term rental, the address information provided for each owner and/or operator on the permit application shall be presumed valid for the purposes of serving such citations.
- (b) Repeat offenses; suspension; revocation.
- (1) Violations of this article shall be classified as follows:
    - c. Minor violations shall include any violations of section 20-222 not presenting a threat to health and safety or otherwise enumerated in subsection 20-224(b)(1)(b).
    - d. Major violations shall include violations related to health and safety, occupancy, noise, a failure to update application information, an unresponsive 24-hour contact, non-remittance of hotel occupancy tax, unlawful advertisements, and operations without a permit. Three (3) citations for minor violations within a twelve (12) month period shall constitute one major violation.
  - (2) If the director finds that the owner, operator, or any occupant of a short-term rental accumulates three (3) major violations within a 12-month period, the director shall refer the short-term rental permit to city council for review. Upon consideration of evidence presented by staff, city council may suspend the permit for up to ninety (90) days.
  - (3) If the director finds that a property is the subject of five (5) or more violations of federal law, state law, or the other provisions of the city code outside of this article within the previous 24-month period, the director shall refer the short-term rental permit to city council for review. Upon consideration of evidence presented by staff, the city council may suspend the permit for ninety (90) days. City council may consider factors including (1) the frequency of any repeated violations; (2) whether a violation was committed intentionally or knowingly; and (3) any other information that demonstrates the degree to which the owner or occupant has endangered public health, safety, or welfare.
  - (4) If a permit is referred to city council for review more than two (2) times within a 24-month period and the property ownership has not changed, city council may revoke the permit or suspend the permit for a period between ninety (90) and one hundred eighty (180) days, based on factors including (1) the frequency and severity of any repeated violations; (2) whether a violation was committed intentionally or knowingly; and (3) any other information that demonstrates the degree to which the owner or occupant has endangered public health, safety, or welfare.

**Sec. 20-225. – Appeal.**

- (a) The director's denial of an application for a permit to operate a short-term rental, whether an initial application or a renewal application, may be appealed to the city council in accordance with the provisions of this section. Enforcement of this article shall be stayed during the pendency of any appeal pursuant to this section.
- (b) An appeal filed under this section must be filed with the director no later than the 20th day following the date on which the permit was denied. The appeal must be sworn and must identify each alleged point of error, facts and evidence supporting the appeal, and reasons why the action of the director should be modified or reversed.
- (c) The city council shall, at the next regularly scheduled city council meeting following the expiration of fourteen (14) calendar days following the perfection of the appeal, hear the appeal, and may affirm, modify, or reverse an application denial. The city council shall give written notice of a decision on an appeal to the appellant.
- (d) An appellant who seeks judicial review of the city council's review on appeal, or of the city council's decision to revoke or suspend a permit, must file a petition with a court of competent jurisdiction located in Gillespie County, Texas. Such judicial review shall be governed by the procedural rules contained in section 211.011 of the Texas Local Government Code as if the board of adjustment had conducted the review on appeal.

**Sec. 20-226. – Applicability to existing operations; nonconforming uses; discontinuance of operations.**

- (a) The regulations identified herein pertaining to life safety, 24-hour contact, signage, food service, host rules, conduct on premises, duration of rental, hotel occupancy tax, application information, and advertising shall apply uniformly to existing and new short-term rentals. Existing short-term rentals operating pursuant to a lawful permit on the effective date of this article shall come into compliance with all applicable regulations upon renewal of the existing short-term rental permit. Regulations governing the occupancy maximum and parking shall not apply to short-term rentals holding a lawful permit on the effective date of this article.
- (b) The owner and/or operator of a property used as a short-term rental who held a valid short-term rental permit prior to the effective date of this article, and who is unable, fails, or refuses to obtain a permit renewal due to noncompliance with the regulations herein following the effective date of this article shall discontinue the short-term rental use within sixty (60) days of the notice of permit denial.
- (c) All legal nonconforming short-term rental uses located in zoning districts where short-term rental uses are no longer permitted by right shall be subject to the abandonment of nonconforming use provisions contained in section 6.110 of the city zoning ordinance.

- (d) It shall be a defense to any permit denial based on the abandonment of a nonconforming use that the short-term rental use was suspended, for a period of ninety (90) or more days, for repair or renovation, for the property owner's use as a primary residence, or for use as long-term rental housing, and the property owner (1) notified the department of such suspension of use before the expiration of the voluntary discontinuance period described by subsection 20-226(c); (2) files a zero-dollar hotel occupancy tax report on a quarterly basis as required by chapter 41, article IV of the code; and (3) renews the short-term rental permit in accordance with section 20-221 of the code."

#### **SECTION 4**

Section 2.100, "Definitions," of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code is amended by adding the following definitions, inserted alphabetically to read as follows:

**"SHORT-TERM RENTAL or STR.**

The rental for compensation of any residence or residential structure, or a portion of a residence or residential structure, for the purpose of transient or guest overnight lodging accommodations for a period of less than thirty (30) consecutive days. Short-term rentals may include but are not limited to single-family residences, townhomes, duplexes, and other residential dwelling units, regardless of whether the dwelling was originally constructed or zoned as a residential dwelling. Short-term rentals shall not include hotels or motels. A short-term rental is further subject to the provisions of chapter 20, article VII of the city code.

**SHORT-TERM RENTAL ACCESSORY or STR-ADU.**

A short-term rental operating within a lawful accessory dwelling unit on the same lot as the primary structure, in which the primary structure is (a) the owner's homestead as evidenced by a current homestead exemption filed with the Gillespie Central Appraisal District or (b) the primary residence of the 24-hour contact, as evidenced by a sworn affidavit to be provided with the short-term rental permit application. The accessory dwelling unit shall comply with section 8.220 of the city zoning ordinance.

**SHORT-TERM RENTAL B&B or STR-B&B.**

A short-term rental that operates on a residential property in which the owner, operator, or 24-hour contact resides as their principal residence (as evidenced by a current residence homestead exemption filed with the Gillespie Central Appraisal District or a sworn affidavit). Separate short-term rental permits, with a maximum of four units, shall be required for each separate bedroom unit operating as a short-term rental within a short-term rental B&B.



**SHORT-TERM RENTAL FACILITY or STR-FACILITY.**

A facility or complex, owned or operated by a single owner or operator, containing multiple short-term rental units (up to eight units) on a single lot, for transient or guest lodging where sleeping accommodations are provided for compensation. Any facility or complex located in a commercial zoning district and containing multiple short-term rental dwelling units on a single lot shall be developed in accordance with the multi-family regulations of the base zoning district.

**SHORT-TERM RENTAL UNOCCUPIED or STR-UNOCCUPIED.**

A short-term rental within a lawful residential dwelling that is not an STR-ADU or STR-B&B.”

**SECTION 5**

Section 4.400 of Appendix B, “Zoning Ordinance,” of the Fredericksburg Municipal Code is hereby added to read as follows:

**“Sec. 4.400. – GENERAL REGULATIONS FOR SHORT-TERM RENTAL USES.**

- (a) Short-term rentals shall be subject to the permitting requirements and regulations contained in chapter 20, article VII of the code. Such uses shall be permitted (“P”) in only specific zoning districts as follows, as well as planned unit developments where short-term rental use is identified as a permitted use, and shall otherwise comply with all regulations identified in chapter 20, article VII:

STR USE	ZONING DISTRICT																		
	R-1	R-1-A	R-2	R-3	R-4	R-5	RURAL RESIDENTIAL	C-1	C-1.5	C-2	C B D	INDUS-TRIAL	M-1	M-2	M-3	OS	PF	MU-1	MU-2
STR-ADU	P		P					P	P	P	P							P	P
STR-B&B	P		P					P	P	P	P							P	P
STR-FACILITY								P	P	P	P							P	P
STR-UNOCCUPIED	P (by special exception only)		P (by special exception only)					P	P	P	P							P	P

- (b) The zoning board of adjustment is authorized to hear applications for special exceptions in order to allow short-term rental operations in accordance with section 5.500 of this ordinance, subject to this section and in conjunction with section 20-223 of the code.”

## SECTION 6

Section 5.500 of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code is hereby amended to add a special exception provision as follows:

"Special Exceptions. To hear and decide, upon application, special exceptions to the terms of the zoning ordinance. The term "special exception" shall mean a deviation from the requirements of the zoning regulations herein established. Special exceptions shall be granted only when the board finds that such special exceptions will not adversely affect the value and use of adjacent or neighboring property or be contrary to the public interest. The procedural guidelines for variances outlined in sections 5.610, 5.620, 5.630, 5.640, 5.660, 5.670, 5.671, 5.680, and 5.690 of the city zoning code shall be utilized for special exceptions to the extent applicable.

- (a) Special exceptions may be granted only in the following circumstances:
  - (1) To permit short-term rental unoccupied operations in the R-1 and R-2 zoning districts if the following conditions are satisfied:
    - a. The property shares two (2) or more lot lines, or one (1) or more lot lines for a corner lot, with a property either (i) lawfully operating as a short-term rental unoccupied use or (ii) zoned CBD, C-2, or PF (excluding properties zoned PF with public primary educational facility uses and/or public secondary educational facility uses); and
    - b. More than fifty (50) percent of the properties within a two hundred (200) foot radius are either (i) lawfully operating as a short-term rental unoccupied use or (ii) zoned CBD, C-2, or PF (excluding properties zoned PF with public primary educational facility uses and/or public secondary educational facility uses).
  - (2) To permit short-term rental operations with an expanded occupancy maximum or exception to parking requirements.
  - (3) To permit short-term rental operations in the Historic Shopping District Overlay involving the operation of a short-term rental use on the first floor of any new construction or converted existing structure.
- (b) In hearing an application for a special exception for short-term rental operations, the board may consider factors such as the following:
  - (1) Whether such operation is likely to disrupt adjacent owners' right to the quiet enjoyment of their property (for example, by considering whether lot sizes are small enough that noise is likely to affect neighboring property owners);

- (2) Whether operation as a short-term rental in the property's zoning district is compatible with the quality of the surrounding area;
- (3) Whether such operation will substantially impact nearby streets, including whether the property provides only limited off-street parking;
- (4) Which type of short-term rental, as defined in section 20-220, the applicant seeks to operate;
- (5) For a short-term rental existing prior to the effective date of chapter 20, article VII of the code, the duration of that short-term rental's operations and the number and type of complaints and/or citations related to that short-term rental;
- (6) Whether operation with the terms of the special exception will adversely impact the residential quality of the surrounding neighborhood;
- (7) Whether any properties located within a two hundred (200) foot radius of the property are operating with public or private primary or secondary educational facility uses; and
- (8) Specific property characteristics of the short-term rental like lot size or large square footage of the structure."

## **SECTION 7**

Table 7.863 "Off-Street Parking" of Section 7.860 "Design Standards" of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code is hereby amended by deleting the use classification and minimum off-street parking requirements for the short-term rental, condominium use classification and by amending the use classifications and minimum off-street parking requirements for the following use classifications: short-term rental, unoccupied; short-term rental, accessory; short-term rental, B&B; and short-term rental, facility.

USE CLASSIFICATION	MINIMUM OFF-STREET PARKING REQUIREMENTS
* * *	
Short-term Rental Unoccupied	Parking spaces shall be provided at a ratio of one (1) space per bedroom. In no case shall the number of required off-street parking spaces be reduced below two (2) spaces per parcel. Tandem parking is allowed for multiple vehicles, so long as no part of any parked vehicle obstructs a public right-of-way.
Short-term Rental Accessory	Two (2) spaces for the primary structure, plus one (1) space per each bedroom in the accessory structure used for short-term rental operations. In no case shall the number of required off-street parking spaces be reduced below two (2) spaces per parcel. Tandem parking is allowed for multiple vehicles, so long as no part of any parked vehicle obstructs a public right-of-way.
Short-term Rental B&B	Two (2) spaces for the primary structure, plus one (1) space per each bedroom within the primary structure used for short-term rental operations. Tandem parking is allowed for multiple vehicles, so long as no part of any parked vehicle obstructs a public right-of-way.
* * *	
Short-term Rental Facility	Parking spaces shall be provided at a ratio of 60% of the permitted occupancy. Tandem parking is allowed for multiple vehicles, so long as no part of any parked vehicle obstructs a public right-of-way.

**SECTION 8**

The following sections of Appendix B, “Zoning Ordinance,” of the Fredericksburg Municipal Code are hereby amended as follows:

A. Section 3.100, “R-1: Single Family Residential,” is hereby amended by replacing the references to “Section 5.401” with references to “Chapter 20, Article VII of the Code” and by deleting the provision that reads as follows:

“Short-term Rental, Unoccupied (With a STR permit and adherence to Section 5.401)

- If 2 or more lot lines (only 1 or more lot lines required for a corner lot) are abutting a lawfully permitted "STR Unoccupied" use (STR B&B and STR Accessory uses are not included in this calculation); and
- If 75% or more of the properties on the same side of the street, between intersecting streets, are a lawfully permitted "STR Unoccupied" use (STR B&B and STR Accessory uses are not included in this calculation).”

B. Section 3.110, “R-2: Mixed Residential,” is hereby amended by replacing the references to “Section 5.401” with “Chapter 20, Article VII of the Code” and by deleting the provisions that read as follows:

“Short-term Rental, Unoccupied—not located within the Historic Overlay District: (With a STR permit, adherence to Section 5.401).”

“Short-term Rental, Unoccupied - located within the Historic Overlay District: (With a STR permit, adherence to Section 5.401).”

“Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401)

- If the property is immediately abutting a Non-Residential Zoning District (Open Space not included), or a PUD that allows commercial uses.
- When located within the Historic Overlay District, use is limited to a maximum of one structure per 5,000 square feet of land.”

“Short-term Rental, Facility: (With a STR permit and adherence to Section 5.401)

- If the property is immediately abutting a Non-Residential Zoning District (Open Space not included), or a PUD that allows commercial uses.
- When located within the Historic Overlay District, use is limited to a maximum of one structure per 5,000 square feet of land.”

C. Section 3.120, “R-3: Multi-Family Residential,” is hereby amended by deleting the provisions that read as follows:

“Short-term Rental, B & B: (With a STR permit and adherence to Section 5.401).”

“Short-term Rental, Facility: (With a STR permit and adherence to Section 5.401).”

“Short-term Rental, Unoccupied: (With a STR permit and adherence to Section 5.401).”

“Short-term Rental, Accessory: (With a STR permit and adherence to Section 5.401).”

“Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401).”

D. Section 3.200, “C-1: Neighborhood Commercial,” is hereby amended by replacing the references to “Section 5.401” with “Chapter 20, Article VII of the Code” and by deleting the provision that reads as follows:

“Short-term Rental, Condominium (Section 5.401).”

E. Section 3.205: “C-1.5: Medium Commercial,” is hereby amended by replacing the references to “Section 5.401” with “Chapter 20, Article VII of the Code” and by deleting the provision that reads as follows:

“Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401).”

- F. Section 3.210, “C-2: Commercial,” is hereby amended by replacing the references to “Section 5.401” with “Chapter 20, Article VII of the Code” and by deleting the provision that reads as follows:

“Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401).”

- G. Section 3.220, “CBD: Central Business District,” is hereby amended by replacing the references to “Section 5.401” with “Chapter 20, Article VII of the Code” and by deleting the provision that reads as follows:

“Short-term Rental, Condominium (Section 5.401).”

- H. Section 3.510, “HSD: Historic Shopping District Overlay,” of Appendix B, “Zoning Ordinance,” of the Fredericksburg Municipal Code is hereby amended by deleting the following provision:

“A Conditional Use Permit is required for any new construction of any type of STR use, or for conversion of any existing structure to any type of STR use, if located on the first floor, and the review and evaluation criteria of section 5.461 shall be used as applicable.”

- I. Section 3.800, “MU-1: Mixed Use – Infill,” is hereby amended by replacing the references to “Section 5.401” with “Chapter 20, Article VII of the Code” and by deleting the provision that reads as follows:

“Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401).”

- J. Section 3.810, “MU-2: Mixed Use – Corridor,” is hereby amended by replacing the references to “Section 5.401” with “Chapter 20, Article VII of the Code” and by deleting the provision that reads as follows:

“Short-term Rental, Condominium (With a STR permit and adherence to Section 5.401).”

- K. Section 6.110, “Continuance of a Nonconforming Use,” is hereby amended by deleting the following provision:

“A non-conforming short-term rental use shall not be considered voluntarily discontinued if the use is suspended for repairs, modifications, additions, or remodels, or if the owner of the property utilizes the property as their personal residence, for a period not to exceed 365 consecutive days.”

## **SECTION 9**

This Ordinance shall be cumulative of all provisions of ordinances and of the Fredericksburg Municipal Code, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

## **SECTION 10**

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

## **SECTION 11**

Any person, firm, or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-6 of the Fredericksburg Municipal Code. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

## **SECTION 12**

All rights and remedies of the City of Fredericksburg are expressly saved as to any and all violations of the provisions of the Fredericksburg Municipal Code, as amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance, but may be prosecuted until final disposition by the courts.

## **SECTION 13**

The City Secretary is hereby directed to publish the caption and penalty clause of this Ordinance in the official newspaper of the City as required by Section 3.12 of Article III of the Charter of the City of Fredericksburg.

**SECTION 14**

This Ordinance shall be in full force and effect from and after January 1, 2024, as provided by the Fredericksburg City Charter and the laws of the State of Texas.

PRESENTED AND PASSED this 7th day of November, 2023, at a regular meeting of the City Council of the City of Fredericksburg, Texas.

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Mayor

ATTEST:

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City Secretary