



City of Fredericksburg

City Council and Planning and Zoning Commission Joint Special Meeting Agenda

Monday, June 19, 2023 ~ 5:30 PM
Lady Bird Golf Course-Cardinal Room
341 Golfers Loop
Fredericksburg, Texas 78624

Jeryl Hoover, Mayor
Tony Klein, Councilmember
Bobby Watson, Councilmember/Pro Tem

Randy Briley, Councilmember
Emily Kirchner, Councilmember
Clinton Bailey, City Manager

The City of Fredericksburg City Council will meet in a special session on Monday, June 19, 2023, at 5:30 PM. Link to City of Fredericksburg YouTube Channel (Fredericksburg, Texas USA - YouTube <https://www.youtube.com/c/FredericksburgTexasUSA>).

The City Council welcomes citizen participation and comments at all City Council Meetings on Agenda Items.

Comment Card for Written or Verbal Comments-submitted by 4:00 p.m. the day before the meeting.

- i. Complete the Comment Card online at www.fbgtx.org;
- ii. Make sure to check the appropriate box (verbal or written);
- iii. Only one (1) agenda item per Comment Card.

Sign up in person between 5:00 p.m. and 5:30 p.m. at the meeting location.

- i. Only one (1) agenda item per Comment Card;
- ii. Speakers will be limited to 3 minutes to speak. **Please Note:** The Mayor can reduce the number of minutes for any speaker during Public Comment on a single agenda item depending on the number of people who sign up for it.
- iii. Any citizen with handouts should provide them to the City Secretary before speaking. If you wish the City Council to receive your handouts for the meeting, please provide ten (10) copies; if not, the City Council will receive your handouts the following day.

NOTE: The City Council may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for discussion. An announcement will be made of the basis for the Executive Session discussion. The City Council may also publicly discuss any item listed on the agenda for Executive Session.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. BUSINESS ITEM

- A. Consider proposed Short Term Rental (STR) amendments to the Zoning Ordinance (Anna Hudson, Director of Development Services)
 - i. Discussion
 - ii. Legislative Update on STRs
 - iii. Next Steps

4. ADJOURN

CERTIFICATION

This is to certify that I, Shelley Goodwin, posted this Agenda at 3:05 p.m. on June 16, 2023, on the bulletin board of the City of Fredericksburg City Hall, 126 W. Main St., Fredericksburg, Texas.

A handwritten signature in blue ink, appearing to read "Shelley Goodwin", is written over a light gray rectangular background.

Shelley Goodwin, TRMC/CMC
City Secretary



CITY COUNCIL AGENDA MEMO

DEPARTMENT: Development Services

TO: Mayor & City Council Members

FROM: Garret Bonn, Assistant City Manager

MEETING DATE: June 19, 2023

CATEGORY: BUSINESS ITEM

CAPTION: Consider proposed Short Term Rental (STR) amendments to the Zoning Ordinance (Anna Hudson, Director of Development Services)

- i. Discussion
 - ii. Legislative Update on STRs
 - iii. Next Steps
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PRESENTATION:

SUMMARY:

The draft presented is based on two joint workshops with City Council and the Planning & Zoning Commission. The overall intent is to minimize negative impacts on neighborhoods while fostering good operating practices for STRs.

Some of the proposed changes include:

1. Special Exceptions -processed through the Zoning Board of Adjustment in lieu of City Council issuing Conditional Use Permits.
 - A. No new transfers. Permits for non-conforming properties could be transferred one time with a Special Exception
 - B. Density limits in R2 zone to 12.5% of units on a block. New permits beyond the allowed density require a Special Exception.
 - C. Expansion of occupancy would require a Special Exception
 - D. First floor STRs in the Historic Shopping District would require Special Exception
2. STR Permits would be good for 2 years
3. No more parking credit for on-street parking
4. Allows for suspension or revocation to be issued by City Council

BACKGROUND:

The Short Term Rental Ordinance was last amended in March of 2022. On November 9, 2022, Mayor Hoover commissioned a citizen-based task force to be seated for a 90-day period. The stated goal was to work to find consensus where possible and provide recommendations to the City to improve the overall management of Fredericksburg's short-term rentals (STR). The STR Task Force recommendations were presented to City Council at the March 7, 2023.

FUNDING SOURCE:

FINANCIAL IMPACT:

The 88th Texas Legislature passed SB 929 that requires the City to give notice to owners and renters of any potential non-conforming uses created by zoning text & classification changes. The financial impact will depend on the number of non-conforming properties created and if the City chooses to require the non-conforming use to cease or if it is allowed to continue.

STAFF RECOMMENDATION:

COMMUNITY VISIONING/STRATEGIC INITIATIVES:

Business Visioning
Government Vision
Family Life Vision
Quality of Life Vision

ATTACHMENTS:

1. DRAFT STR Ordinance June 2023

APPROVAL/REVIEW:



Garret Bonn, Assistant City Manager

Date: June 16, 2023

William McKamie, City Attorney

Date: June 16, 2023



Shelley Goodwin, City Secretary

Date: June 16, 2023



Clinton Bailey, City Manager

Date: June 16, 2023

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; 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; AMENDING SECTION 2.100, "DEFINITIONS," OF APPENDIX B, "ZONING ORDINANCE," BY ADJUSTING DEFINITIONS RELATED TO 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 SECTION 3.510, "HSD: HISTORIC SHOPPING DISTRICT OVERLAY," TO REMOVE PROVISIONS RELATED TO SHORT-TERM RENTALS; AMENDING SECTION 7.863, "DESIGN STANDARDS," OF APPENDIX B, "ZONING ORDINANCE," TO REMOVE PARKING PROVISIONS RELATED TO SHORT-TERM RENTALS; 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") has 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 now seeks to repeal and replace those regulations; and

WHEREAS, the City Council has determined that the enforcement of such regulations will promote the public health, safety and welfare of its citizens, 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

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 while occupants are on the premises of the short-term rental. If called, the 24-hour contact must respond to such call within 20 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. A 24-hour contact must be authorized to make decisions regarding the premises and its occupants. f

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.

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 that 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. 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 not more 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. 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 eight 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 occupied by the owner, operator, or 24-hour contact and is not an accessory dwelling unit.

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.

(a) Permit Application; Fees

- i. A separate permit application must be submitted for each individual short-term rental.
- ii. 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.

(b) Permit Term; Renewals; Conditions

- i. 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.
- ii. Permits shall be valid for a term of two years.
- iii. 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(a); notwithstanding the foregoing, short-term rentals located in a zoning district where the short-term rental use is no longer permitted by right shall be subject to the regulations contained in section 20-221(d).
- iv. Upon issuance, each short-term rental shall receive a physical permit, indicating the permit number, property address, occupancy maximum, and expiration date, that shall be posted at or near the exterior front door of every short-term rental. The physical permit may be posted inside a front window at or near the exterior front door such that it is easily viewed from the exterior of the house.

(c) Inspections

- i. 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.
- ii. An owner 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.

- iii. Prior to permit renewal, the director may perform a renewal inspection of the short-term rental premises to determine compliance with all applicable codes, laws, and regulations.
- iv. Additional inspections shall be conducted in the following circumstances:
 - 1. Upon transfer of ownership;
 - 2. When complaints are filed regarding property conditions related to health and safety concerns; and
 - 3. When an owner or operator makes modifications to the short-term rental property that would increase or reduce the property's maximum occupancy, alter the property's evacuation plan, or otherwise affect the health and safety of any occupant.
- v. 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. If a property fails to pass an inspection, a re-inspection fee 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.

(d) Transfers of Ownership

- i. Except as explicitly noted in this article, a permit to operate a short-term rental is not transferable to another owner or location.
- ii. Upon transfer of more than 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, the new owner must submit a new permit application in accordance with this section 20-220 within ten (10) business days of closing on the property. For properties located in zoning districts where short-term rentals are no longer a permitted use, in the event the new owner fails to satisfy such ten (10) day requirement, the new owner may apply for a special exception to operate a short-term rental within ninety (90) days of closing in accordance with this article.
- iii. 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 who, on the effective date of this ordinance, is (1) legally operating pursuant to a permit within the R-1 zoning district on the

effective date of this ordinance, or (2) in possession of a formal vesting determination issued by the city manager may transfer the short-term rental permit to the subsequent purchaser of the short-term rental. The subsequent purchaser shall not be permitted to transfer this short-term rental permit to any other subsequent purchaser(s). 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. Vesting determinations shall not be provided to short-term rentals that seek to begin operations after the effective date of this ordinance.

(e) Public Information; City Database

- i. All permits issued under this article constitute public information, subject to the terms of the Public Information Act.
- ii. A database of permitted short-term rentals shall be maintained on the city's website and shall identify the property address, occupancy maximum, permit number, and permit date of each short-term rental permitted to operate in the city. The owner or operator may also consent to the inclusion of the 24-hour contact's information on this database.
- iii. The physical permit issued in accordance with subsection (b)(4) shall contain an identifier that links to the database described herein, for reference by the city, the public, and emergency services organizations.

Sec. 20-222 Regulations

(a) Maximum stay; minimum stay. It shall be unlawful for an owner to rent or lease a short-term rental for a period of more than thirty (30) days or less than one (1) night.

(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 in order to increase the occupancy maximum for a short-term rental.

(c) Parking restrictions. Parking is restricted to the number of off-street parking spaces associated with the residential structure, either in the driveway and garage or by location or number assigned to a specific unit. 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 only permitted for a maximum of 2 vehicles deep.

(d) Life Safety.

i. The short-term rental must be equipped with:

1. Working smoke alarms, meeting the requirements of Section 92.254 of the Texas Property Code, with a minimum of one on each floor level and one in each room used as a bedroom; and
2. A minimum of one working carbon monoxide detector on each floor or level; and
3. A minimum of one 2A:10B:C type fire extinguisher (a standard five-pound extinguisher) properly mounted within seventy-five (75) feet of all portions of the structure on each floor.

ii. All gas appliances shall be properly ventilated outside the home.

iii. Emergency escape openings shall comply with the city's currently adopted International Residential Code (IRC), with at least one emergency escape opening for each bedroom opening directly to the outdoors.

iv. An evacuation plan shall be posted in each bedroom.

v. Any room that does not comply with this subsection (e) 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) Access to basic sanitation. Each bedroom of a residence or portion of a residence used as a short-term rental must provide interior access to a bathroom, such that an occupant shall have access to a bathroom without exiting the residence, regardless of whether such bathroom is private or shared.

(f) 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 of all relevant city codes and occupants' liability for violations of same. In addition, the following shall be unlawful:

- i. 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;

- ii. Conduct that would violate the city trash ordinance contained in chapter 32 of the code;
- iii. Operating exterior string and flood lights during residential night-time hours (from 10:00 p.m. to 7:00 a.m.) in violation of chapter 5, article XV of the code, in residential zoning districts or planned unit developments with residential uses;
- iv. 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.

(g) Signage. All signs must comply with the City of Fredericksburg Sign Ordinance, as applicable, set forth in Chapter 29 of the Code of Ordinances. 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 of Ordinances, provided that such sign is not more than two square feet in area and is attached to the structure.

(h) Food Service. Only overnight guests may be served meals except in zones permitting restaurant use. Such meals shall be limited to continental-type breakfast consisting of 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.

(i) 24-Hour Contact. An owner 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 while occupants are on the premises of the short-term rental. If called, the 24-hour contact must respond to such call within 20 minutes, and shall either resolve the issue or be present at the premises within one (1) hour of receiving a call from the director. A 24-hour contact must be authorized to make decisions regarding the premises and its occupants.

(j) 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, parking plan, and a street-view image of the front of the property.

(k) House 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 landscaped areas;

- (3) 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) List of HOA rules, if applicable;
 - (7) 24-hour contact name and phone number;
 - (8) Operator contact name and phone number;
 - (9) Property cleanliness requirements;
 - (10) Flooding hazards and evacuation routes, as well as information on the emergency siren system and other safety features;
 - (11) Emergency and non-emergency numbers; and
 - (12) Notice that failure to conform to city ordinances constitutes a violation of the code for which an occupant may be cited.
- (l) Hotel occupancy taxes. In accordance with chapter 41, article IV, the owner and/or operator of the short-term rental property shall register with the city finance department to pay hotel occupancy taxes 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.
- (m) Request for occupancy history. Upon request of the director, the owner of a premises used as a short-term rental shall remit, within thirty (30) days, an accounting of all rental activity and the hotel occupancy taxes paid therefor.
- (n) Density limitation for short-term rental properties in R-2. Short term rentals in the R-2 zoning district shall be limited to no more than one-eighth (12.5 percent) of the total number of residential units on the block. A property owner may apply for a special exception to this limitation in accordance with section 20-223. Notwithstanding the foregoing, at least one short-term rental shall be permitted per block in R-2, regardless of density. Further, a short-term rental in R-2 that was lawfully in existence on the effective date of this article shall be considered a nonconforming use and shall not be subject to the density limitations set forth in this subsection. A short-term rental shall be considered lawfully in existence on the effective date of this article if the owner provides written confirmation from the city finance department indicating that, prior to the effective date of this article, the property was registered for payment of hotel occupancy tax and the tax account was not in arrears.
- (o) 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.

(a) Transfer of nonconforming short-term rental permit in the R-1 Zoning District. In order to obtain a permit for a short-term rental described by 20-221(d)(ii) where a property owner has not completed a transfer within ten (10) business days, a property owner may apply to the zoning board of adjustment for a special exception in accordance with section 5.500 of the code. The board may consider factors such as the following:

- i. Whether operation as a short-term rental in this location will not adversely impact the residential quality of the surrounding neighborhood;
- ii. 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);
- iii. Whether such operation will substantially impact nearby streets;
- iv. Which type of short-term rental, as defined in section 20-220, the applicant seeks to operate;
- v. Whether other short-term rentals are already operating in close proximity to the applicant's property.

(b) Expanded occupancy maximum. In order to obtain a permit for a short-term rental described by 20-222(b), a property owner may apply to the zoning board of adjustment for a special exception in accordance with section 5.500 of the code. The board may consider factors such as the following:

- i. Whether operation with a higher occupancy limit will not adversely impact the residential quality of the surrounding neighborhood;
- ii. 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);
- iii. Whether such operation will substantially impact nearby streets;
- iv. Which type of short-term rental, as defined in section 20-220, the applicant seeks to operate;
- v. Specific property characteristics of the short-term rental like lot size or significantly large square footage.

(c) R-2 density limitation. In order to obtain a permit for a short-term rental that would exceed the density limitation of section 20-222(n), a property owner may apply to the zoning board of adjustment for a special exception in accordance with section 5.500 of the code. A property is eligible for this special exception if [list threshold requirements]. The board may consider factors such as the following:

- i. Whether operation as a short-term rental in excess of the density limitation will not adversely impact the residential quality of the neighborhood in which the property is located;
- ii. 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);
- iii. Whether such operation will substantially impact nearby streets, including whether the property provides only limited off-street parking;
- iv. Whether the applicant seeks to operate an entire residence as a short-term rental or whether the short-term rental use is limited to a portion of the residence;
- v. Whether the applicant occupies the premises as their primary residence or uses it as an investment property; and
- vi. Whether other short-term rentals in excess of the density limitation are already operating on that block.

(d) HSD: Historic Shopping District Overlay. In order to obtain a permit for a short-term rental that would involve such use on the first floor of any new construction or converted existing structure located in the HSD overlay, a property owner may apply to the zoning board of adjustment for a special exception in accordance with section 5.500 of the code. The board may consider factors such as the following:

- i. Whether operation as a short-term rental in the HSD will not adversely impact the commercial quality of the area;
- ii. Whether such operation will substantially impact nearby streets, including whether the property provides only limited off-street parking;
- iii. Whether the applicant seeks to operate an entire structure as a short-term rental or whether the short-term rental use is limited to a portion of the structure;
- iv. Whether other short-term rentals have obtained a special exception to operate in the HSD on that block.

Sec. 20-224 Enforcement; Repeat Offenses; Suspension; Denial.

(a) Enforcement.

- i. 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.
- ii. Any violation of this article may be addressed through one of the following methods:
 1. Adjudicated under the administrative adjudication process for violations of ordinances as set forth in chapter 2, article VII of the code, provided said violation is described in Texas Local Government Code section 54.032, as amended; or
 2. Prosecuted in the municipal court in accordance with section 1-6 of the code.
- iii. Failure to timely remit applicable hotel occupancy tax is a violation under this article and shall result in a 60-day permit suspension if all applicable tax is not paid within ninety (90) days of the issuance of a delinquency notice.
- iv. 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.

(b) Repeat Offenses.

- i. Violations of this article shall be classified as follows:
 1. Minor violations shall include violations related to parking, solid waste, vegetation or brush, lighting, and other miscellaneous code violations.
 2. Major violations shall include violations related to occupancy, noise, unresponsive 24-hour contact, non-remittance of hotel occupancy tax, advertisements, and unpermitted operations. Three minor violations shall constitute one major violation.

- ii. 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 sixty (60) days.
- iii. If the director finds that a property is the subject of five 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.
- iv. If a permit is referred to City Council for review more than two times within a 24-month period and the property ownership has not changed, City Council may suspend the permit for a period between ninety (90) and one hundred eighty (180) days, based on 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.

(c) Upon receiving an application for permit renewal, the director shall consider the number and duration of permit suspensions, as well as the frequency of violations, when deciding whether to approve or deny an application. If a permit has been suspended within the preceding calendar year pursuant to subsection 20-224(b)(iv) and the owner or operator has not changed, the director may deny an application for renewal. A permit applicant may appeal the director's decision to deny an application in accordance with the process set forth in section 20-225 of this article.

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 manager or a designee shall, not later than the 10th day after the date the notice of appeal is filed, hear the appeal, and may affirm, modify, or reverse an application denial. The city manager or designee shall give written notice of a decision on an appeal to the appellant.

(d) An appellant who seeks judicial review of the city manager's review on appeal must file a petition with a court of competent jurisdiction not later than the 30th day after receipt of the notice of the decision.

Sec. 20-226 Applicability to Existing Operations; Nonconforming Uses; Discontinuance of Operations.

(a) The regulations identified herein shall apply uniformly to existing and new short-term rentals.

(b) The owner and/or operator of a property used as a short-term rental that 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 health and safety regulations following the effective date of this article shall discontinue the short-term rental use within sixty (60) days of the notice of permit denial. The density limitation of section 20-222(n) shall not bar such owner and/or operator from obtaining a permit if all other requirements and standards of section 20-222 are met.

(c) All legally nonconforming short-term rental uses shall be subject to the nonconforming use provisions for residential districts 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 repair or renovation, or for the property owner's use as a primary residence, and the property owner notified the department of such suspension of use before the expiration of the voluntary discontinuance period described by subsection 20-226(c).

SECTION 3

Section 2.100, "Definitions," of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code is amended by adding the definition of short-term rental as follows:

"SHORT-TERM RENTAL. 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 not more 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.”

SECTION 4

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 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 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 is identified as a permitted use, and shall otherwise comply with all regulations identified in chapter 20, article VI:

	R-1	R-1-A	R-2	R-3	R-4	R-5	RURAL RESIDENTIAL	C-1	C-1.5	C-2	CBD	MU-1	MU-2
STR-ADU	P		P	P				P	P	P	P	P	P
STR-B&B	P		P	P				P	P	P	P	P	P
STR- FACILITY				P				P	P	P	P	P	P

STR- UNOCCUPIED			P (except in HO)	P					P	P	P	P	P	P
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(b) The zoning board of adjustment is authorized to hear applications for special exceptions in order to allow short-term rental operations subject to this section 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 variance procedures outlined in sections 5.600-5.690 shall be utilized for special exceptions to the extent applicable. Special exceptions may be granted only in the following instances:

- (1) For the transfer of a nonconforming short-term rental permit in the R-1 Zoning District in accordance with the requirements specified in chapter 20, article VII of the code.
- (2) For a short-term rental permit with an expanded occupancy maximum in accordance with the requirements specified in chapter 20, article VII of the code.
- (3) For a short-term rental permit exceeding the density limitation defined for the R-2 zoning district, in accordance with the requirements specified in chapter 20, article VII of the code.
- (4) For a short-term rental permit 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, in accordance with the requirements specified in chapter 20, article VII of the code.”

SECTION 7

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.”

SECTION 8

Section 6.110, "Continuance of a Nonconforming Use," of Appendix B, "Zoning Ordinance," of the Fredericksburg Municipal Code 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

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 on-street parking allowances for the following STR use classifications: short-term rental, unoccupied; short-term rental, accessory; short-term rental, B&B; and short-term rental, condominium. Clarify that tandem parking is only allowed to stack 2 vehicles.

SECTION 10

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 11

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 12

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 13

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 14

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 15

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

PRESENTED AND PASSED this ____ day of _____, 2022, at a regular meeting of the City Council of the City of Fredericksburg, Texas.

Mayor

ATTEST:

City Secretary