

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTROVILLE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, SPECIFICALLY BY AMENDING ARTICLE I “GENERAL PROVISIONS”, SECTION 7 “SPECIAL DEFINITIONS NOTED AND RELATED TO USE REGULATIONS” BY ADDING DEFINITIONS; AND BY AMENDING ARTICLE II “USE REGULATION DISTRICTS”, SECTION 1 “USE OF LAND AND BUILDINGS” TO DEFINE THE DISTRICT REGULATIONS FOR SHORT-TERM RENTAL USE; AND CREATING A NEW CHAPTER 11 “SHORT-TERM RENTALS”, OF ARTICLE IV “SPECIAL USE REGULATIONS” ESTABLISHING REGULATIONS AND A PERMITTING REQUIREMENT FOR OPERATION OF A SHORT-TERM RENTAL; PROVIDING A PENALTY CLAUSE FOR VIOLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING A CUMULATIVE CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTROVILLE, TEXAS:

WHEREAS, the City of Castroville is authorized to regulate zoning pursuant to Texas Local Government Code Chapter 211; and

WHEREAS, pursuant to such statutory authority the City Council has adopted the Comprehensive Zoning Ordinance, which is published by the City as a separate document from the Code of Ordinances published by the Municode Corporation, and

WHEREAS, City Council deems it appropriate to amend the Comprehensive Zoning Ordinance, by creating a new Chapter 11, *Short-Term Rentals*, of Article IV, *Special Use Regulations*; and

WHEREAS, on the \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2018, the Planning and Zoning Commission conducted a properly advertised public hearing to receive citizen comments and testimony; and

WHEREAS, on the \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2018, the Planning and Zoning Commission made a recommendation to approve the amendment to the Comprehensive Zoning Ordinance; and

WHEREAS, on the \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2018, the City Council conducted a properly advertised public hearing to receive citizen comments and testimony regarding the proposed amendment.

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

**Section one.** Recitals adopted. City Council finds the above stated recitals to be true and correct and said recitals are adopted herein for all purposes.

**Section two.** Amendment to Article I. Article I, *General Provisions*, Section 7: *Special Definitions Noted and Related to “Use Regulations”* is hereby amended by inclusion of the substantive language as attached in **Exhibit “A”**, hereto, which is incorporated by reference herein for all purposes.

**Section three.** Amendment to Article II. Article II, *Use Regulation Districts*, Section 2: *Use of Land and Buildings* is hereby amended by inclusion of the substantive language as attached in **Exhibit “B”**, hereto, which is incorporated by reference herein for all purposes.

**Section two.** Adoption of new Article IV, Chapter 11. A new Chapter 11 (entitled “*Short-Term Rentals*”), of Article IV (entitled “*Special Use Regulations*”) is hereby adopted by inclusion of the substantive language as attached in **Exhibit “C”**, hereto, which is incorporated by reference herein for all purposes.

**Section four.** Directive to the City Secretary. The City Secretary is hereby directed and authorized to revise and republish the Comprehensive Zoning Ordinance to include **Exhibit “A”, Exhibit “B”, and Exhibit “C”** hereto.

**Section five.** Cumulative and Conflicts. This Ordinance shall be cumulative of all provisions of ordinances of the City of Castroville, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

**Section six.** Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section 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 phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Section seven.** Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

**PASSED AND APPROVED THIS \_\_\_\_th DAY OF \_\_\_\_\_, 2018.**

\_\_\_\_\_  
**TIMOTHY KELLEY, MAYOR**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**DEBRA HOWE, CITY SECRETARY**

\_\_\_\_\_  
**DNRBH&Z PC**

# EXHIBIT “A”

## ARTICLE I

### GENERAL PROVISIONS

#### Section 7. Special Definitions Noted and Related to “Use Regulations”

SHORT-TERM RENTAL - A privately owned dwelling, including but not limited to, a single-family dwelling, multiple family attached dwelling, apartment house, condominium, duplex, or any portion of such dwellings, rented by the public for consideration without the use of a lease contract, and used for dwelling, lodging or sleeping purposes typically for a period of less than thirty (30) consecutive days. This term shall be interchangeable with the term “Bed and Breakfast” for the purposes of regulation.

DRAFT

## Exhibit “B”

### ARTICLE II

#### USE REGULATION DISTRICTS

Section 1. Use of Land and Buildings

Schedule of Uses	R-A	R-C	H-E	C-F	C-G	C-H	I-I	P-D	M-H
Short-Term Rental							S		

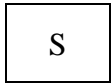
Legend



Designates use permitted in district indicated.



Designates use prohibited in district indicated.



Indicates use may be approved as “Specific Use Permit”.

## EXHIBIT “C”

### Article IV. SPECIAL USE REGULATIONS

#### Section 11. Short-Term Rentals

##### (1) Purpose.

The purpose of this Article is to establish regulations for the use of privately owned dwellings as Short-Term Rentals, to minimize negative ancillary impact on surrounding properties, and to ensure the collection and payment of Hotel Occupancy Tax.

##### (2) Definitions.

As used in this Chapter, the following terms shall have the following meanings:

- a. City - The City of Castroville, Texas.
- b. Guest - The overnight occupants renting a Short-Term Rental Unit for a specified period and the daytime visitors of the overnight occupants.
- c. Local Contact Person - The Owner, Operator, or person designated by the Owner or the Operator, who shall be available twenty-four (24) hours per day for the purpose of responding to concerns or requests for assistance related to the Owner’s Short-Term Rental.
- d. Operator - The Owner or the Owner's authorized representative who is responsible for compliance with this Chapter while advertising and/or operating a Short-Term Rental.
- e. Owner - The person or entity that holds legal or equitable title to the Short-Term Rental property.
- f. Short-Term Rental - A privately owned dwelling, including but not limited to, a single-family dwelling, multiple family attached dwelling, apartment house, condominium, duplex, or any portion of such dwellings, rented by the public for consideration without the use of a lease contract, and used for dwelling, lodging or sleeping purposes typically for a period of less than thirty (30) consecutive days. This term shall be interchangeable with the term “Bed and Breakfast” for the purposes of regulation.
- g. Short-Term Rental Permit - A permit issued by the City authorizing the use of a privately-owned dwelling as a Short-Term Rental.
- h. Short-Term Rental Unit - One or more habitable rooms forming a single habitable division within a Short-Term Rental, or an entire undivided Short-Term Rental, which is advertised to be occupied, is occupied, or is intended to be occupied by a single party of Guests under a single reservation and/or single rental payment.

##### (3) Exemptions.

The following are not considered Short-Term Rentals for the purposes of this Chapter: hotel, motel, dormitory, public or private club, recreational vehicle park, hospital and medical clinic, nursing home or convalescent home, foster home, halfway house, transitional housing facility, any housing operated or used exclusively for religious, charitable or educational purposes, and any housing owned by a governmental agency and used to house its employees

or for governmental purposes.

(4) Short-Term Rental Permit required.

It shall be unlawful for any person or entity to rent, or offer to rent, any Short-Term Rental without a valid Short-Term Rental Permit issued under this Chapter.

(5) Short-Term Rental Permit Registration Fee and Application.

- a. An applicant shall submit an application for a Short-Term Rental Permit using a format and method promulgated by the City Administrator or his/her designee. The application form shall require, at a minimum, the following information from applicants:
  1. The name, address, email and telephone number of the Owner of the Short-Term Rental.
  2. The name, address, email and telephone number of the Operator of the Short-Term Rental.
  3. The name, address, email and twenty-four (24) hour telephone number of the Local Contact Person.
  4. The name and address of the Short-Term Rental.
  5. The number of bedrooms and the proposed overnight and daytime occupancy limit of the Short-Term Rental.
  6. A diagram showing the proposed layout of the property use and any on-site parking available for the Short-Term Rental.
- b. An applicant for a Short-Term Rental Permit shall pay to the City a Short-Term Rental Permit Fee of \$150 or other fee amount as amended from time to time as established by the City's Comprehensive Fee Schedule.
- c. A separate Short-Term Rental Permit application and permit fee must be submitted for each individual Short-Term Rental Unit. Each individual Short-Term Rental Unit shall be assigned a unique permit number upon permit issuance by the City.
- d. Prior to issuance of a Short-Term Rental Permit, and throughout the duration of such Short-Term Rental Permit the Operator shall allow on-site inspection of the Short-Term Rental Unit by the City's code enforcement official, to ensure compliance with the specific requirements of this Chapter and the requirements of the City Code in general. Fee for inspection shall be established by the City's Comprehensive Fee Schedule.
- e. A Short-Term Rental Permit issued under this Chapter shall be valid for a period of one calendar year from the date of issuance. Renewal of a Short-Term Rental Permit shall not require repayment of the initial Short-Term Rental Permit Fee unless, at the time of reapplication, the Short-Term Rental Permit has been expired for a period of thirty (30) days or more. The Short-Term Rental Permit shall expire immediately upon any change in Ownership of the Short-Term Rental Unit.
- f. The Owner has a duty to notify the City within twenty (20) calendar days, in writing, of any changes to information submitted as part of a Short-Term Rental Permit application under this Article.

- g. An application for Short-Term Rental Permit may be denied if the Owner has had a Short-Term Rental Permit suspended or revoked during the previous 365 calendar days. An applicant may appeal such a permit denial to the City Council using the same process as an appeal of a permit revocation in accordance with Section 10 of this Chapter.

(6) Short-Term Rental operational requirements.

- a. The Operator shall post the following information in a prominent location within the Short-Term Rental Unit, using a form promulgated by the City:
  - 1. The unique Short-Term Rental Permit number assigned to the Short-Term Rental Unit;
  - 2. Operator name and number;
  - 3. Local Contact Person name and number;
  - 4. The location of any on-site and off-site parking spaces available for Guests;
  - 5. The overnight and daytime occupancy limits;
  - 6. Instructions to Guests concerning disposal of garbage and handling of garbage containers;
  - 7. Notification that the Guests are responsible for compliance with all applicable laws, rules and regulations pertaining to the use and occupancy of the Short-Term Rental, and that Guests may be fined by the City for violations of this Article; and
  - 8. Notification that all functions such as weddings, parties or other similar gatherings which are beyond the typical occupancy for the property are prohibited at the Short-Term Rental, excepting Short-Term Rentals located in the Commercial Zoning Districts.
- b. During any period when a Short-Term Rental is occupied or intended to be occupied by Guests, the Local Contact Person shall be available twenty-four (24) hours per day for the purpose of responding to concerns or requests for assistance related to the condition, operation, or conduct of Guests of the Short-Term Rental. The Local Contact Person shall respond either in person or by phone within sixty (60) minutes of being notified of concerns or requests for assistance regarding the condition, operation, or conduct of Guests of the Short-Term Rental, and shall take immediate remedial action as needed to resolve such concerns or requests for assistance.

(7) Compliance with other laws.

The Owner, Operator, Local Contact Person, and Guests shall comply with all applicable laws, rules and regulations pertaining to the operation, use, and occupancy of a Short-Term Rental. The Owner shall not be relieved from any civil or criminal liability for a violation of this Article, regardless of whether such violation is committed by the Owner, Operator, Local Contact Person, or Guest of the Owner's Short-Term Rental.

Nothing in this Chapter shall be construed to relieve any person or Owner of any other applicable requirements of federal, state, or local law, rules, or regulations. Nothing in this Chapter shall be construed to provide any property owner with the right or privilege to violate any private conditions, covenants, and restrictions applicable to the Owner's

property that may prohibit the use of such Owner's property as a Short-Term Rental as defined in this Chapter.

(8) Notification of complaints.

Complaints related to the operation of a Short-Term Rental, including but not limited to complaints concerning noise, garbage, parking, and disorderly conduct by Guests, shall be reported to the Police Department of the City of Castroville.

(9) Compliance and Penalty Provision.

- a. It shall be unlawful for any person or entity to violate any provision of this Chapter. Proof that a violation of this Chapter occurred at a Short-Term Rental shall create a presumption that the Owner of said Short-Term Rental committed the violation.
- b. Any violation of this Chapter is a Class C misdemeanor offense, and upon conviction, shall be punished by a fine as set forth in Article XI of this Comprehensive Zoning Ordinance.
- c. Prosecution under this Chapter shall not require the pleading or proving of any culpable mental state.
- d. Penalties provided for in this Chapter are in addition to any other criminal or civil remedies that the City may pursue under federal, state, or local law.

(10) Permit Suspension or Revocation; Appeal.

Upon conviction for a violation of this Chapter, the City Administrator may suspend or revoke any Short-Term Rental Permit issued for the same Short-Term Rental where the violation occurred. The City Administrator shall notify an Owner of a suspension or revocation under this Section in writing, delivered by Certified Mail, Return Receipt Requested, and mailed to the address of the Owner as set forth on the most recent Short-Term Rental Permit application submitted to the City.

An Owner may appeal a notice of suspension or revocation under this Section by filing a written appeal with the City Administrator within ten (10) business days following the date said notice was deposited in the U.S. Mail. Following a timely filing of an appeal hereunder, the Owner may present evidence to the City Administrator related to the suspension or revocation under this Section. Following the City Administrator's final decision on appeal, the Owner may appeal an adverse decision of the City Administrator by filing a written appeal with the City Council within five (5) business days following the date of the City Administrator's final decision.