CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-30

AN ORDINANCE CREATING A NEW CHAPTER 80 "SHORT-TERM RENTAL UNITS"; REQUIRING PERMITTING FOR SHORT-TERM RENTAL UNITS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES NOT TO EXCEED $2,000.00; ORDERING PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT

WHEREAS, the increase in the number of persons or entities desiring to rent their residential properties has led to an increase in vacation rental uses within neighborhoods; and

WHEREAS, the regulation of the use and operation of such "short-term rental" properties is intended to limit any impact of such uses on other properties and uses, and further advance the City's objective of promoting and preserving great neighborhoods, as cited within the City's Comprehensive Plan (*Kerrville 2050*); and

WHEREAS, based upon community input at a "town hall" style meeting, input from the Planning and Zoning Commission, as well previous Council discussion, staff has drafted regulations to address concerns while also continuing for the City to authorize such use; and

WHEREAS, based upon input from citizens, operators, and the Short-Term Rental Committee, City Council believes that a stand-alone ordinance is needed to provide clear rules for such rentals and to register with the City currently operating short-term rental units based upon their right to use their property for this purpose pursuant to the City's Zoning Code (Ch. 60, City's Code of Ordinances) or because they were operating as a pre-existing (grandfathered) use prior to the adoption of the current Zoning Code; and

WHEREAS, the requirement of an annual short-term rental permit that can be suspended or revoked in the event of repeated nuisance violations incentivizes operators of short-term rental properties to assure their renters' compliance with the law and City ordinances, and provides a means for the City to protect the welfare of its citizens living in proximity of properties not being responsibly managed; and

WHEREAS, City Council desires to establish rules and regulations relating to the operation of short-term rentals; and

WHEREAS, City Council finds that regulating the short-term rental of residential property is necessary for the health, safety, and welfare of the general public, the promotion of consistent land uses and development, and the protection of landowners and residents of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. A new Chapter 80 "Short-Term Rental Units" of the Code of Ordinance of the City of Kerrville, Texas, is created to add the language that is underlined (added) as follows:

"**Chapter 80 - SHORT-TERM RENTAL UNITS**

Sec. 80-1. - Purpose of Chapter.

The purpose of the regulations set forth in this chapter is to provide a procedure to allow the rental of private residences to visitors on a short-term basis, while ensuring that such use does not create adverse impacts to residential neighborhoods. Additionally, this chapter is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of a structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

Sec. 80-2. - Definitions. As used in this chapter, the following definitions apply:

Department means the department(s) designated by the City Manager to enforce and administer this chapter.

Designated operator means the operator of a short-term rental unit who must be able to respond to a City employee or guest of a short-term rental unit within a reasonable amount of time from such contact.

Director means the director of the department(s) designated by the City Manager to enforce and administer this chapter and includes representatives, agents, or department employees designated by the director(s).

Permittee means a person or legal entity issued a short-term rental unit permit.

Owner means an individual person, proprietorship, partnership, corporation, association, or other legal entity.

Short-term rental unit means a facility used for the purpose of providing short-term lodging for compensation (*i.e.*, less than 30 days), which may also be occupied concurrently as the residence for the owner, operator, or manager of the property, or providing separate lodging units such as cabins, guest homes, or similar residential-scale structures.

Zoning Code means the City's Zoning Code, as found within Chapter 60 of the City's Code of Ordinances.

Sec. 80-3. - Permit required.

It is unlawful to operate a short-term rental unit:

(1) Without a short-term rental unit permit;

(2) In violation of this chapter or any other applicable City ordinance or law; or

(3) Without having a valid conditional use permit, if required by the Zoning Code.

Sec. 80-4. - Permit application and review.

(a) To obtain an annual permit to operate a short-term rental unit, a person must submit an application to the director on a form provided for that purpose and pay the nonrefundable permit fee. The applicant must be the owner or designated operator of the short-term rental unit. If the owner or designated operator is not an individual, an authorized officer or agent of the owner or operator must submit the form. The application must contain the following information before it is considered complete and subject to review:

(1) The name, street address, mailing address, email address, and telephone number of the owner and the designated operator of the short-term rental unit. Where the applicant is the owner, the owner must assign a "Designated Operator" who may be the owner. The designated operator must be able to respond to the director or guest of a short-term rental unit within a reasonable time of such contact. The owner and designated operator may be the same or separate persons or entities.

(2) If the owner or designated operator is a legal entity, the application shall list the names of all partners, directors, members, and officers, as applicable.

(3) A scaled site plan which includes property lines, parking spaces, and fences.

(4) Applicant agrees to pay all ad valorem taxes and occupancy taxes, including fees, fines, and penalties owed to the City in connection with real property used to operate the short-term rental unit.

(5) The maximum number of guests that will stay at the short-term rental unit pursuant to section 80-11.

(6) Completion of a form provided by the City wherein the applicant swears and affirms that the short-term rental unit includes the following, in working condition and in accordance with this chapter and the City's fire code: smoke detectors, fire extinguisher, and adequate exits to an exterior area in each bedroom. Attached to the form, the applicant shall include the sketch referred to in section 80-9.

(7) A statement that, by filing this application, the applicant swears and affirms under penalty of perjury that, to the best of the applicant's knowledge, all information contained in the application is true and correct and that the application is complete and includes all information required to be disclosed under this section.

(b) When a conditional use permit is required, such permit must be issued prior to the issuance of a short-term rental unit permit.

Sec. 80-5. - Length of permit; renewal.

(a) A short-term rental unit permit is intended as an annual permit, to begin on January 1 and to terminate at 11:59 pm on December 31. An initial permit may be issued for a lesser amount of time so as to eventually align with the standard permit dates. A permit may be renewed by applying in accordance with section 80-14.

(b) Short-term rental units with a valid conditional use permit or that are allowed by right per the Zoning Code, as of October 15, 2022 are required to obtain a permit under the provisions of this chapter on or before June 1, 2023.

Sec. 80-6. - Permit Fees.

(a) The annual fee for a permit to operate a short-term rental unit is as determined from time to time by City Council.

(b) The City will not refund a permit fee.

Sec. 80-7. - Issuance or denial of permit.

Upon payment of the fee and the submission of a complete application, the director shall issue an annual permit to operate a short-term rental unit to the applicant, to include the number of authorized guests, if the director determines that:

(1) The applicant has complied with all requirements within this chapter;

(2) The owner of the short-term rental unit does not own or operate another permitted unit in the City for which the permit is currently suspended or has been revoked; and

(3) The applicant has not knowingly made a false statement as to a material matter in the application for a permit.

Sec. 80-8. - Notification of Change of Information.

The permittee shall notify the department within 10 days after any material change in the contact information contained in the application for a permit.

Sec. 80-9. - Operational Standards.

Each permittee shall ensure guests' health, safety, comfort, and protection from hazards and shall comply with the following:

(1) City zoning and building codes; federal, state, and City adopted fire codes and applicable standards; federal, state, and city health and safety codes;

(2) Smoke alarms must be installed and operational in compliance with the City's fire code to include installation within each sleeping room, immediately outside of each sleeping area, and on each story of the building, including any basement or attic;

(3) Pathways and stairways must remain unobstructed;

(4) Post, in a conspicuous place within the short-term rental unit, a sketch of the floor plan, which identifies sleeping areas, maximum number of guests, evacuation route(s), and location of fire extinguisher(s).

(5) Maintain the property and its premises in a clean and sanitary condition;

(6) The permittee shall comply with the City's occupancy tax requirements as found within the City's Code of Ordinances;

(7) The designated operator shall provide guests via a posted "guest notification" form within the short-term rental unit and/or email such form with the following information: the name and contact information of the owner and/or designated operator; emergency information, to include phone numbers for police and fire; and the occupancy limits; and

(8) The occupancy limit shall be included in all marketing materials, advertisements, and online listings for the short-term rental unit.

Sec. 80-10. - Emergency precautions.

The permittee shall provide fire escapes and exits that are maintained in good repair and accessible at all times in accordance with applicable fire codes, as amended.

Sec. 80-11. - Additional requirements and restrictions for Short-Term Rental Units.

(a) *Parking.*

(1) The requirements of this subsection do not apply to properties: (a) located within the Downtown Arts and Cultural Zoning District; or (b) whose designated operator provides evidence to the City that their property was in use as a short-term rental unit prior to October 1, 2019.

(2) A minimum of one (1) off-street parking space is required per bedroom.

(3) Required parking spaces must be improved in accordance with the City's design standards prior to issuance of a permit, such standards found within the City's Design Standards.

(b) *Signs.*

(1) In R-E, R-1, R-1A, R-2, and RT zoning districts, no sign shall be permitted on the premises except a non-illuminated nameplate not to exceed three total

square feet in size and attached to the structure or fence or free-standing, but where free-standing, not to exceed three feet (3.0') in height.

(2) In commercial zoning districts, signage shall comply with the requirements of Chapter 92 (sign code) of the City's Code of Ordinances unless operating prior to October 1, 2019.

(c) *Lighting*. If the property is residentially zoned, all lighting must be directed toward the establishment and not at adjacent properties.

(d) *Occupancy*. The maximum number of persons allowed to sleep within any short-term rental unit shall be as provided by the City's building codes, as amended (Ch. 26, Code of Ordinances). Such building codes limit the occupancy for short-term rental units as the occupancies include sleeping accommodations where the occupants are primarily transient in nature; that is, the length of stay is less than 30 days and as such, occupants are not as familiar with the building to recognize potential hazards or to be able to use the means of egress effectively. Maximum occupancy under this section is only applicable to the number of persons that are renting the short-term rental unit for a specified period of occupancy, and excludes any other person visiting the occupants at the location.

Sec. 80-12. - Warning, suspension, revocation, or denial of a permit.

(a) The director, who believes the public interest will be adequately served under the circumstances, may issue a written warning to the permittee if it is found that:

(1) The permittee or guest has violated or failed to meet any of the provisions of this chapter or conditions of the permit which does not pose a serious threat to public health, safety, or welfare; or

(2) The permittee or guest has violated any federal, state, or City law, or regulation pertaining to the use of the property as a short-term rental unit;

Where the director issues a warning, the warning shall provide notice to the permittee that he or she has no less than ten (10) days to come into compliance with this chapter.

(b) The director may immediately revoke or suspend the permit, or deny either the issuance or renewal thereof, if it is found that:

(1) The police chief or fire chief, or designees, has determined that the short-term rental unit would pose a serious threat to public health, safety, or welfare; or

(2) The applicant has knowingly made a false statement of material fact on an application for a short-term rental unit permit.

(c) A short-term rental unit for which the permit has been suspended or revoked may not admit any new guests during the time the permit is suspended or revoked.

(d) In lieu of suspending a permit for a short-term rental unit permit, the director, at his or her sole discretion, may enter into a compliance agreement with a permittee if the director determines that the compliance agreement would eliminate the noncompliance that would otherwise justify a suspension or revocation, result in prompt future inspections, and elevate one or more conditions at the short-term rental unit permit to the standards of this chapter.

(e) The director shall send a written statement of the reasons for the denial, suspension, or revocation, to include the date such suspension or revocation is to begin, the duration of the suspension, and the permittee's right to appeal by certified mail, return receipt requested, to the permittee.

(f) A permittee whose permit is suspended may not be granted a new permit or renewal of an existing permit to operate any existing or additional short-term rental unit permit during the suspension period.

(g) A permittee commits an offense if he or she operates or owns a short-term rental unit permit that admits guests during the time that the suspension of the permit is in effect.

Sec. 80-13. - Notice to applicant/permittee; appeals.

(a) A permittee may appeal a decision to deny, revoke, or suspend a permit to the City Council. Appeals shall be submitted to the City Secretary in writing within 45 days following the date the applicant or permittee receives the decision. A hearing on the denial, suspension, or revocation will be scheduled for the next regular meeting of the City Council following the expiration of 10 days. Council will render a decision on the appeal within thirty days of the hearing. A permittee shall not operate the short-term rental unit during the appeal process.

(b) At the appeal hearing on a denial of an initial permit application, the appealing party must present evidence clearly indicating that the director was incorrect in determining that the stated grounds for the permit denial existed.

(c) At the appeal hearing on a permit suspension, revocation, or refusal to renew, the director must present evidence clearly indicating that the stated grounds for such action existed.

Sec. 80-14. - Expiration and renewal of permit.

(a) All annual permits to operate a short-term rental unit expire at 11:59 pm on December 31. Permits issued within the calendar year will likewise expire on this date.

(b) A permittee must apply for renewal at least 15 days before the expiration of the annual permit on a form provided by the director. The permittee must update the information contained in the original permit application required under this chapter if any of the information has changed. The permittee shall sign a statement affirming that there is either no change in the information contained on the original permit application and any subsequent renewal applications or that any information that has been updated is accurate and complete and pay the annual fee.

(c) The director shall follow the procedures set forth in this chapter when determining whether to renew a permit.

Sec. 80-15. - Violations; penalty.

(a) A permittee or any other person who violates any provision of this chapter, or who fails to perform a duty required by this chapter, commits an offense.

(b) An offense under this chapter is punishable by a fine not to exceed $2,000.00.

(c) A separate offense occurs each day or part of a day that the violation is committed, continued, or permitted.

(d) The remedies and procedures in this section and in other laws are cumulative law, and the use of any particular remedy or procedure does not prevent the application or enforcement of any other law."

SECTION TWO. The City Secretary is authorized and directed to send this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the new Chapter 80 as adopted herein, to correct any typographical errors, and to index, format, number, and letter the paragraphs to the existing Code, as appropriate.

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7, or its successor section, of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS ($2,000.00).

SECTION SIX. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by law as an alternative method of publication.

SECTION SEVEN. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 08 **day of** November**, A.D., 2022.**

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 13 **day of** December**, A.D., 2022.**

Judy Eychner, Mayor

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

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