

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING CHAPTERS 25-2 (ZONING) AND 25-12
2 (PROPERTY MAINTENANCE CODE) OF THE CITY CODE RELATING TO
3 SHORT-TERM RENTALS.

4 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

5 PART 1. City Code Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*) is
6 amended to read as follows:

7 § 25-2-789 SHORT-TERM RENTAL (TYPE 2) REGULATIONS.

- 8 (A) This section applies to a short-term rental use that:
- 9 (1) is rented for periods of less than 30 consecutive days;
- 10 (2) is not part of a multifamily use; and
- 11 (3) is not owner-occupied and is not associated with an owner-occupied
12 principal residential unit.
- 13 (B) A short-term rental use under this section may not:
- 14 (1) include the rental of less than an entire dwelling unit;
- 15 (2) operate without a license as required by Section 25-2-791 (*License*
16 *Requirements*); or
- 17 (3) operate without providing notification to renters as required by
18 Section 25-2-792 (*Notification Requirements*).
- 19 (C) A short-term rental use under this section may not be located on a lot that is
20 within 1,000 feet of a lot on which another short-term rental use is located.
- 21 (D) The requirement in Subsection (C) does not apply to an existing short-term
22 rental use if a license to operate the short-term rental use under this section
- 23 (1) was issued before January 1, 2016;
- 24 (2) is not suspended on or after January 1, 2016; and
- 25 (3) is renewed timely.
- 26

1 **PART 3.** City Code Section 25-2-791 (*License Requirements*) is amended to read
2 as follows:

3 **§ 25-2-791 LICENSE REQUIREMENTS.**

- 4 (A) This section applies to a license required under Section 25-2-788 (*Short-*
5 *Term Rental (Type 1) Regulations*), Section 25-2-789 (*Short-Term Rental*
6 *(Type 2) Regulations*), and Section 25-2-790 (*Short-Term Rental (Type 3)*
7 *Regulations*).
- 8 (B) To obtain a license, the owner of a short-term rental use must submit an
9 application on a form approved [~~provided for that purpose~~] by the director.
10 The application must include the following:
- 11 (1) a fee established by separate ordinance;
 - 12 (2) the name, street address, mailing address, and telephone number of
13 the owner of the property;
 - 14 (3) the name, street address, mailing address, and telephone number of
15 the [a] local [responsible] contact required by Section 25-2-796 (*Local*
16 *Contacts*) [for the property];
 - 17 (4) the street address of the short-term rental use;
 - 18 (5) proof of property insurance;
 - 19 (6) proof of payment of hotel occupancy taxes due as of the date of
20 submission of the application; [~~and~~]
 - 21 (7) a certification by property owner and, if applicable, property manager
22 about past violations of City Code or state law related to use of the
23 property;
 - 24 (8) if applicable, the fee required by Section 25-2-798 (*Non-Compliance*
25 *Fees*); and [any other information requested by the director.]
 - 26 (9) any other information requested by the director.
- 27 (C) The director shall issue a license under this section if:
- 28 (1) the application includes all information required under Subsection (B)
29 of this section;
 - 30 (2) the proposed short-term rental use complies with the requirements of
31 Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*), Section

1 25-2-789 (*Short-Term Rental (Type 2) Regulations*), or Section 25-2-
2 790 (*Short-Term Rental (Type 3) Regulations*);

3 (3) for a short-term rental use regulated under Section 25-2-789 (*Short-*
4 *Term Rental (Type 2) Regulations*), no more than 3% of the single-
5 family, detached residential units within the census tract of the
6 property are short-term rental (Type 2) uses as determined by the
7 Director under Section 25-2-793 (*Determination of Short-Term Rental*
8 *Density*); and

9 (a) the structure has a valid certificate of occupancy or compliance,
10 as required by Chapter 25-1, Article 9 (*Certificates of*
11 *Compliance and Occupancy*), issued no more than ten years
12 from the date the application is submitted to the director; or

13 (b) the structure has been determined by the building official not to
14 pose a hazard to life, health, or public safety, based on a
15 minimum life-safety inspection and;

16 (4) for a short-term rental use regulated under Section 25-2-790 (*Short-*
17 *Term Rental (Type 3) Regulations*), located in a non-commercial
18 zoning district, no more than 3% of the total number of dwelling units
19 at the property and no more than 3% of the total number of dwelling
20 units located within any building or detached structure at the property
21 are short-term rental (Type 3) uses as determined by the Director
22 under Section 25-2-793 (*Determination of Short-Term Rental*
23 *Density*); and

24 (a) the structure and the dwelling unit at issue have a valid
25 certificate of occupancy or compliance, as required by Chapter
26 25-1, Article 9 (*Certificates of Compliance and Occupancy*),
27 issued no more than ten years from the date the application is
28 submitted to the director; or

29 (b) the structure and the dwelling unit at issue have been
30 determined by the building official not to pose a hazard to life,
31 health, or public safety, based on a minimum life-safety
32 inspection;[-]

33 (5) for a short-term rental use regulated under Section 25-2-790 (*Short-*
34 *Term Rental (Type 3) Regulations*), located in a commercial zoning
35 district, no more than 25% of the total number of dwelling units at the
36 property and no more than 25% of the total number of dwelling units
37 located within any building or detached structure at the property are

1 short-term rental (Type 3) uses as determined by the Director under
2 Section 25-2-793 (*Determination of Short-Term Rental Density*); and

3 (a) the structure and the dwelling unit at issue have a valid
4 certificate of occupancy or compliance, as required by Chapter
5 25-1, Article 9 (*Certificates of Compliance and Occupancy*),
6 issued no more than ten years from the date the application is
7 submitted to the director; or

8 (b) the structure and the dwelling unit at issue have been
9 determined by the building official not to pose a hazard to life,
10 health, or public safety, based on a minimum life-safety
11 inspection;[-]

12 (6) if applicable, the Austin Water Utility determines the septic system
13 complies with Chapter 15-5 (*Private Sewage Facilities*); and

14 (7) the owner does not meet the standards described in Section 25-2-797
15 (*Repeat Offenses*).

16 (D) A license issued under this section:

17 (1) is valid for a maximum of one year from the date of issuance, subject
18 to a one-time extension of 30 days at the discretion of the director;

19 (2) may not be transferred by the property owner listed on the application
20 and does not convey with a sale or transfer of the property; and

21 (3) satisfies the requirement for a change of use permit from residential to
22 short-term rental use.

23 (E) Except as otherwise provided, a [A] license may be renewed annually if the
24 owner:

25 (1) pays a renewal fee established by separate ordinance;

26 (2) provides documentation showing that hotel occupancy taxes have
27 been paid for the licensed unit as required by Section 11-2-4
28 (*Quarterly Reports; Payments*) for the previous year; ~~and~~

29 (3) provides updates of any changes to the information required under
30 Subsection (B) of this section;[-]

31 (4) a certification by property owner and, if applicable, property manager
32 about past violations of City Code or state law related to use of the
33 property; and

1 (5) if applicable, pays the fee required by Section 25-2-797 (Non-
2 Compliance Fees).

3 (F) The director may deny an application to renew a license if the license for a
4 short-term rental is suspended as authorized under Section 25-12-213,
5 Section 1307(E) (License Suspension) [An advertisement promoting the
6 availability of short term rental property in violation of city code is prima
7 facie evidence of a violation and may be grounds for denial, suspension, or
8 revocation of a license].

9 (G) A violation of any of this Subpart is grounds to deny, suspend, or revoke a
10 license [Notwithstanding any provision of Section 25-2-791(F) to the
11 contrary, a person may advertise the availability of an unlicensed short term
12 rental and the advertisement is not grounds for license denial if the director
13 determines all of the following:

14 (a) ~~The person owns the property advertised or has obtained the~~
15 ~~owner's authorization to advertise the property for short term~~
16 ~~rental solely to gauge public interest in the property for short~~
17 ~~term rental use;~~

18 (b) ~~The advertisement does not depict or describe availability of the~~
19 ~~property for uses or occupancy that would violate code, except~~
20 ~~for the lack of a short term rental license; and~~

21 (c) ~~The property advertised is not in operation as short term rental].~~

22 **PART 4.** City Code Chapter 25-2, Subchapter C, Article 4, Division 1, Subpart C
23 (*Requirements for Short-Term Rental Uses*) is amended to add a new Section 25-2-794
24 (*General Requirements for Short-Term Rentals*), a new Section 25-2-795 (*Occupancy*
25 *Limits*), a new Section 25-2-796 (*Local Contacts*), a new Section 25-2-797 (*Repeat*
26 *Offenses*), a new Section 25-2-798 (*Non-Compliance Fees*), and a new Section 25-2-799
27 (*Prima Facie Evidence of a Violation*) to read as follows:

28 **§ 25-2-794 GENERAL REQUIREMENTS FOR SHORT-TERM RENTALS.**

29 (A) A licensee must maintain a register of guests, either in electronic, ink, or
30 typewritten form that includes the following information:

- 31 (1) the name and address of each guest and the total number of guests;
32 (2) the day, month, year and time of arrival of each guest; and
33 (3) the date that each guest is scheduled to depart.

- 1 (B) A licensee or guest of a short-term rental may not use or allow use of sound
2 equipment that produces sound audible beyond the property line between
3 10:00 p.m. and 10:00 a.m..
- 4 (C) A licensee or guest of a short-term rental shall not make or allow another to
5 make noise or play a musical instrument audible to an adjacent business or
6 residence between 10:30 p.m. and 7:00 a.m..
- 7 (D) If a building permit prohibiting occupancy of the structure is active, no
8 person may occupy, for sleeping or living purposes, the structure until final
9 inspections have been passed and the building permit is closed.
- 10 (E) A licensee or operator may not advertise or promote a short-term rental
11 without including:
- 12 (1) the license number assigned by the City to the short-term rental; and
13 (2) a statement stating the applicable occupancy limit for the short-term
14 rental.
- 15 (F) An owner or a person in control of a property may not advertise or promote
16 the property as a short-term rental if it is not licensed by the director.
- 17 (G) A licensee or operator may not advertise or promote a short-term rental in
18 violation of the City Code or state law.
- 19 (H) A licensee or guest may not use or allow another to use the short-term rental
20 for a gathering between 10:00 p.m. and 7:00 a.m.
- 21 (I) A licensee or guest may not use or allow another to use the short-term rental
22 for an outside gathering of seven or more adults between 7:00 a.m. and
23 10:00 p.m.
- 24 (J) For purposes of this Section, gathering includes a wedding, bachelor party,
25 bachelorette party, concert, an event sponsored by a corporate entity, and
26 other similar events that are not sleeping.
- 27 (K) Unless a stricter limit applies, a maximum of ten adults may use a short-term
28 rental at one time.

29 **§ 25-2-795 OCCUPANCY LIMITS FOR SHORT-TERM RENTALS.**

- 30 (A) Unless a stricter limit applies, a maximum of two adults per bedroom plus
31 two additional adults may sleep in a short-term rental between 10:00 p.m.
32 and 7:00 a.m.

- 1 (B) Unless established through an inspection approved by the director, a short-
2 term rental is presumed to have two bedrooms.

3 **§ 25-2-796 LOCAL CONTACTS.**

- 4 (A) A licensee who does not reside within the Austin Metro Area must identify
5 an individual or individuals that can respond to emergency conditions.
- 6 (B) The individual or individuals described in subsection (A) must be present
7 within the Austin Metro Area and be available to respond within two hours
8 after being notified by a guest of the short-term rental or a City employee of
9 an emergency during any 24-hour period.
- 10 (C) If there is a change related to the local contact, the licensee must provide
11 updated or new information to the director in writing within three business
12 days.

13 **§ 25-2-797 REPEAT OFFENSES.**

- 14 (A) If the director finds that the licensee or operator failed to comply with
15 Sections 25-2-794(E), (G), (H), (I) or Section 25-2-795(A) at least twice in a
16 12-month period, the director may deny an application to renew a short-term
17 rental license for a period of 12 months.
- 18 (B) If the director finds that an owner or person in control of a property violated
19 Section 25-2-794(F) at least twice in a 12-month period, the director may
20 deny an application for a short-term rental license for a period of 12 months.
- 21 (C) A licensee may appeal the director's decision to deny an application in
22 compliance with the process in Section 25-12-213, Section 1308 (*Appeal*
23 *From License Suspension or Denial*).

24 **§ 25-2-798 NON-COMPLIANCE FEES.**

- 25 (A) If the director sends a property owner a notice of violation or cites a property
26 owner for operating a short-term rental without a license, the applicant shall
27 pay an additional fee set by separate ordinance.
- 28 (B) If the director sends a property owner a notice of violation or cites the
29 property owner for operating with an expired short-term rental license, the
30 applicant shall pay an additional fee set by separate ordinance.
- 31 (C) The fee described in this Section shall be based on the City's cost to enforce
32 the licensing requirements.
- 33

1 § 25-2-799 PRIMA FACIE EVIDENCE OF A VIOLATION.

- 2 (A) An advertisement promoting the availability of short-term rental property in
3 violation of any City Code or state law requirement is prima facie evidence
4 of a violation and is cause to issue an administrative citation for a violation
5 of Sections 25-2-794(E),(F), or (G).
- 6 (B) A visual inspection of more than six adults at a short-term rental is prima
7 facie evidence of and is cause to issue an administrative citation for a
8 violation of Sections 25-2-794(I) and 25-2-795(A).
- 9 (C) A visual inspection of more than ten adults at a short-term rental is prima
10 facie evidence of and is cause to issue an administrative citation for a
11 violation of Section 25-2-794(K).

12 **PART 5.** Sections 1301 (*Inspections*) and 1307 (*License Suspension*) of City Code
13 Section 25-12-213 (*Local Amendments to the International Property Maintenance Code*)
14 are amended to read as follows:

15 1301 Inspections.

16 The code official shall make inspections to determine the condition of short-term
17 rentals, boarding houses, hotels, rooming houses and bed and breakfast establishments
18 located within the City, to ensure compliance with this chapter and other applicable laws.
19 For the purpose of making inspections, the code official or the code official's
20 representative may enter, examine, and survey, at all reasonable times, all buildings,
21 dwelling units, guest rooms, and premises on presentation of the proper credentials. The
22 owner or operator of a short-term rental, boarding house, hotel, rooming house, or bed
23 and breakfast establishment, or the person in charge, shall give the code official free
24 access to the building, dwelling unit, partial unit, guest room and its premises, at all
25 reasonable times, for the purpose of inspection, examination, and survey.

26 1307 License Suspension.

- 27 (A) Except as provided in subsections (D) and (E), w[~~W~~] whenever the code
28 official finds on inspection of the physical premises or review of applicable
29 records of any boarding house, hotel, rooming house, short-term rental, or
30 bed and breakfast establishment that conditions or practices exist that violate
31 any provision of the International Property Maintenance Code, City Code, or
32 any rule or regulation adopted under this Code, or that the establishment has
33 failed to comply with any provision, prohibition, or requirement related to
34 the registration, reporting, collection, segregation, accounting, disclosure, or
35 payment of local hotel occupancy taxes, the code official shall give written
36 notice to the owner of the property and the operator of the boarding house,

1 hotel, rooming house, short-term rental, or bed and breakfast establishment
2 that unless the violations are corrected by an identified deadline, the license
3 shall be suspended.

4 (B) At the end of the time provided for correction of the violation(s), the code
5 official shall re-inspect the location or records of the boarding house, hotel,
6 rooming house, short-term rental, or bed and breakfast establishment and, if
7 the conditions or practices have not been corrected, shall suspend the license
8 and give written notice to the licensee that the license has been suspended.

9 (C) On receipt of notice of suspension, the licensee shall immediately stop
10 operation of the boarding house, hotel, rooming house, short-term rental, or
11 bed and breakfast establishment, and no person may occupy for sleeping or
12 living purposes any rooming unit therein, except that the code official may
13 allow continued occupancy by the property owner of a short-term rental use
14 subject to Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*). The
15 notice required by this subsection shall be served in accordance with the
16 notice provisions of applicable law.

17 (D) The code official may immediately suspend a license if the code official
18 determines that the license was issued in error. A suspension is effective
19 until the code official determines that the licensee has complied with the
20 requirements of the City Code or any rule or regulation adopted under this
21 Code. The code official shall give written notice to the owner of the property
22 and the operator of the establishment that the license is suspended.

23 (E) If a short-term rental is the subject of repeated substantiated violations of
24 applicable law during the license period, the code official may suspend the
25 short-term rental license. The code official must give notice to the licensee
26 of an intent to suspend a license issued under this subsection.

27 (F) In determining whether to suspend for repeated violations as described in
28 subsection (E), the code official shall consider the frequency of any repeated
29 violations, whether a violation was committed intentionally or knowingly,
30 and any other information relevant to the degree to which a licensee has
31 endangered the public health, safety, or welfare.

32 **PART 6.** City Code Section 25-2-511(D) is amended to remove “short-term rental use.”

33 **PART 7.** This ordinance takes effect on _____, 2015.

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PASSED AND APPROVED

_____, 2015

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§
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Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
Interim City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

DRAFT