

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-2 AND 25-12
2 RELATING TO SHORT-TERM RENTALS.

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

4 PART 1. City Code Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*),
5 Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), 25-2-791 (*License*
6 *Requirements*), and 25-2-792 (*Notification Requirements*) are amended to read as
7 follows:

8 § 25-2-789 SHORT-TERM RENTAL (TYPE 2) REGULATIONS.

- 9 (A) This section applies to a short-term rental use that:
- 10 (1) is rented for periods of less than 30 consecutive days;
 - 11 (2) is not part of a multifamily residential use; and
 - 12 (3) is not owner-occupied and is not associated with an owner-occupied
13 principal residential unit.
- 14 (B) A short-term rental use under this section may not:
- 15 (1) include the rental of less than an entire dwelling unit;
 - 16 (2) operate without a license as required by Section 25-2-791 (*License*
17 *Requirements*);
 - 18 (3) operate without providing notification to renters as required by
19 Section 25-2-792 (*Notification Requirements*); or
 - 20 (4) include a secondary dwelling unit or secondary apartment except as
21 provided by Sections 25-2-774(C)(6) (*Two Family Residential Use*)
22 and 25-2-1463(C)(6) (*Secondary Apartment Regulations*).
- 23 (C) If a license for a short-term rental (Type 2) use meets the requirements for
24 annual renewal under Section 25-2-791(E) (*License Requirements*), the
25 property is subject to an inspection every three years by the building official
26 to determine if the structure poses a hazard to life, health, or public safety.
- 27 (D) A short-term rental (Type 2) use may not be located on a lot that is within
28 1000 feet of a lot on which another short-term rental (Type 2) use is located
29 unless the license:

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- 1 (1) was issued on or before November 23, 2015;
- 2 (2) is not suspended after November 23, 2015; and
- 3 (3) is renewed timely.

§ 25-2-790 SHORT-TERM RENTAL (TYPE 3) REGULATIONS.

- 4 (A) This section applies to a short-term rental use that:
 - 5 (1) is rented for periods of less than 30 consecutive days; and
 - 6 (2) is part of a multifamily residential use.
- 7 (B) A short-term rental use under this section may not:
 - 8 (1) include the rental of less than an entire dwelling unit;
 - 9 (2) operate without a license as required by Section 25-2-791 (*License*
 - 10 *Requirements*); or
 - 11 (3) operate without providing notification to renters as required by
 - 12 Section 25-2-792 (*Notification Requirements*).
 - 13

§ 25-2-791 LICENSE REQUIREMENTS.

- 14 (A) This section applies to a license required under Section 25-2-788 (*Short-*
- 15 *Term Rental (Type 1) Regulations*), Section 25-2-789 (*Short-Term Rental*
- 16 *(Type 2) Regulations*), and Section 25-2-790 (*Short-Term Rental (Type 3)*
- 17 *Regulations*).
- 18
- 19 (B) To obtain a license, the owner of a short-term rental use must submit an
- 20 application on a form approved [~~provided for that purpose~~] by the director.
- 21 The application must include the following:
 - 22 (1) a certification by the property owner and, if applicable, property
 - 23 manager that the property is not subject to outstanding City Code or
 - 24 state law violations [~~a fee established by separate ordinance~~];
 - 25 (2) the name, street address, mailing address, and telephone number of
 - 26 the owner of the property;
 - 27 (3) the name, street address, mailing address, and telephone number of
 - 28 the [a] local [responsible] contact required by Section 25-2-796 (*Local*
 - 29 *Contacts*) [~~for the property~~];
 - 30 (4) the street address of the short-term rental use;
 - 31 (5) proof of property insurance;

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1 (6) proof of payment of hotel occupancy taxes due as of the date of
2 submission of the application; and

3 (7) any other information requested by the director.

4 (C) Except as provided in subsection (G), the director shall issue a license under
5 this section if:

6 (1) the application includes all information required under Subsection (B)
7 of this section;

8 (2) the proposed short-term rental use complies with the requirements of
9 Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*), Section
10 25-2-789 (*Short-Term Rental (Type 2) Regulations*), or Section 25-2-
11 790 (*Short-Term Rental (Type 3) Regulations*);

12 (3) for a short-term rental use regulated under Section 25-2-789 (*Short-*
13 *Term Rental (Type 2) Regulations*), no more than 3% of the single-
14 family, detached residential units within the census tract of the
15 property are short-term rental (including Type 2 and Type 1 second
16 dwelling unit or secondary apartment) uses as determined by the
17 Director under Section 25-2-793 (*Determination of Short-Term Rental*
18 *Density*); and

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

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

26 (4) for a short-term rental use regulated under Section 25-2-790 (*Short-*
27 *Term Rental (Type 3) Regulations*), located in a non-commercial
28 zoning district, no more than 3% of the total number of dwelling units
29 at the property and no more than 3% of the total number of dwelling
30 units located within any building or detached structure at the property
31 are short-term rental (Type 3) uses as determined by the Director
32 under Section 25-2-793 (*Determination of Short-Term Rental*
33 *Density*); and

34 (a) the structure and the dwelling unit at issue have a valid
35 certificate of occupancy or compliance, as required by Chapter
36 25-1, Article 9 (*Certificates of Compliance and Occupancy*),₂

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1 issued no more than ten years before the date the application is
2 submitted to the director; or

3 (b) the structure and the dwelling unit at issue have been
4 determined by the building official not to pose a hazard to life,
5 health, or public safety, based on a minimum life-safety
6 inspection;

7 (5) for a short-term rental use regulated under Section 25-2-790 (*Short-*
8 *Term Rental (Type 3) Regulations*), located in a commercial zoning
9 district, no more than 25% of the total number of dwelling units at the
10 property and no more than 25% of the total number of dwelling units
11 located within any building or detached structure at the property are
12 short-term rental (Type 3) uses as determined by the Director under
13 Section 25-2-793 (*Determination of Short-Term Rental Density*); and

14 (a) the structure and the dwelling unit at issue have a valid
15 certificate of occupancy or compliance, as required by Chapter
16 25-1, Article 9 (*Certificates of Compliance and Occupancy*),
17 issued no more than ten years before the date the application is
18 submitted to the director; or

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

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

25 (7) the property is not subject to outstanding City Code or state law
26 violations;

27 (8) the owner pays the fee established by separate ordinance;

28 (9) the owner does not meet the standards described in Section 25-2-797
29 (*Repeat Offenses*); and

30 (10) if applicable, the owner pays the fee required by Section 25-2-798
31 (*Non-Compliance Fees*).

32 (D) A license issued under this section:

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

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- 1 (2) may not be transferred by the property owner listed on the application
2 and does not convey with a sale or transfer of the property; and
- 3 (3) satisfies the requirement for a change of use permit from residential to
4 short-term rental use.
- 5 (E) Except as otherwise provided in Subsection (F), a [A] license may be
6 renewed annually if [the owner]:
- 7 (1) the licensee pays a renewal fee established by separate ordinance;
- 8 (2) the licensee provides documentation showing that hotel occupancy
9 taxes have been paid for the licensed unit as required by Section 11-2-
10 4 (*Quarterly Reports; Payments*) for the previous year; [and]
- 11 (3) the licensee provides updates of any changes to the information
12 required under Subsection (B) of this section;[-]
- 13 (4) the property is not subject to outstanding City Code or state law
14 violations;
- 15 (5) the licensee or operator does not meet the standards described in
16 Section 25-2-797 (*Repeat Offenses*);
- 17 (6) if applicable, the structure is determined by the building official not to
18 pose a hazard to life, health, or public safety; and
- 19 (7) if applicable, the owner pays the fee required by Section 25-2-798
20 (*Non-Compliance Fees*).
- 21 (F) The director may deny an application to renew a license if, on to the date the
22 renewal application was submitted, the license for a short-term rental was
23 suspended as authorized under Section 1307 (*License Suspension*) of Section
24 25-12-213 (*Local Amendments to the International Property Maintenance*
25 *Code*) [An advertisement promoting the availability of short term rental
26 property in violation of city code is prima facie evidence of a violation and
27 may be grounds for denial, suspension, or revocation of a license].
- 28 (G) After November 23, 2015, the director may not issue a license to operate a
29 short-term rental use described in Section 25-2-789 (*Short-Term Rental*
30 *Type 2 Regulations*) except for an application received prior to September
31 17, 2015. In any event, the director may not issue a license pursuant to an
32 application received after November 12, 2015.
- 33 (H) The limitation in subsection (G) does not apply to an annual renewal
34 authorized in subsection (E).

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1 (I) A violation of any provision of the City Code or other applicable law is
2 grounds to deny, suspend, or revoke a license.

3 **§ 25-2-792 NOTIFICATION REQUIREMENTS.**

4 (A) The director shall provide a packet of information with each license
5 summarizing the restrictions applicable to short-term rental use, including:

- 6 (1) the name and contact information of the local [~~responsible~~] contact
7 designated in the application;
- 8 (2) occupancy limits applicable under Section 25-2-795 (Occupancy
9 Limits for Short-Term Rentals) [~~25-2-511 (Dwelling Unit Occupancy~~
10 ~~Limit)~~];
- 11 (3) restrictions on noise applicable under Section 25-2-794 (General
12 Requirements for Short-Term Rentals) [~~Chapter 9-2 (Noise and~~
13 ~~Amplified Sound)~~], including limitations on the use of amplified
14 sound;
- 15 (4) parking restrictions;
- 16 (5) trash collection schedule;
- 17 (6) information on relevant burn bans;
- 18 (7) information on relevant water restrictions;
- 19 (8) information on applicable requirements of the Americans with
20 Disabilities Act; and
- 21 (9) other guidelines and requirements applicable to short-term rental uses.

22 (B) The licensee [~~owner~~] or operator of a short-term rental use must:

- 23 (1) provide renters a copy of the information packet under Subsection (A)
24 of this section; and
- 25 (2) post the packet conspicuously in the common area of each short-term
26 [~~dwelling rental~~] unit included in the registration.

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- 1 (C) The director shall mail notice of the contact information for the local
2 [responsible] contact to all properties within 100 feet of the short-term rental
3 use, at the licensee's [owner] or operator's expense.

4 **PART 2.** City Code Chapter 25-2, Subchapter C, Article 4, Division 1, Subpart C
5 (*Requirements for Short-Term Rental Uses*) is amended to add new Sections 25-2-794,
6 25-2-795, 25-2-796, 25-2-797, 25-2-798, and 25-2-799 to read as follows:

7 **§ 25-2-794 GENERAL REQUIREMENTS FOR SHORT-TERM RENTALS.**

- 8 (A) A licensee must maintain a register of guests, either in electronic, ink, or
9 typewritten form that includes the following information:
- 10 (1) the name and address of each guest and the total number of guests;
11 (2) the day, month, year and time of arrival of each guest; and
12 (3) the date that each guest is scheduled to depart.
- 13 (B) A licensee or guest of a short-term rental may not use or allow use of sound
14 equipment that produces sound audible beyond the property line between
15 10:00 p.m. and 10:00 a.m..
- 16 (C) A licensee or guest of a short-term rental shall not make or allow another to
17 make noise or play a musical instrument audible to an adjacent business or
18 residence between 10:30 p.m. and 7:00 a.m..
- 19 (D) If a building permit prohibiting occupancy of the structure is active, no
20 person may occupy, for sleeping or living purposes, the structure until final
21 inspections have been passed and the building permit is closed.
- 22 (E) A licensee or operator may not advertise or promote or allow another to
23 advertise or promote a short-term rental without including:
- 24 (1) the license number assigned by the City to the short-term rental; and
25 (2) the applicable occupancy limit for the short-term rental.
- 26 (F) An owner, or a person in control of a dwelling, may not advertise or
27 promote, or allow another to advertise or promote, the dwelling as a short-
28 term rental if the dwelling is not licensed by the director as a short-term
29 rental.
- 30 (G) A licensee or operator may not advertise or promote or allow another to
31 advertise or promote a short-term rental in violation of the City Code or state
32 law.

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- 1 (H) A person must obtain a license to operate a short-term rental before a
2 property may be used as a short-term rental.

3 **§ 25-2-795 OCCUPANCY LIMITS FOR SHORT-TERM RENTALS.**

- 4 (A) In this section:

- 5 (1) ADULT means a person 18 years of age or older.
6 (2) DOMESTIC PARTNERSHIP means adults living in the same
7 household and sharing common resources of life in a close, personal,
8 and intimate relationship.
9 (3) UNRELATED means not connected by consanguinity, marriage,
10 domestic partnership, or adoption.

- 11 (B) Unless a stricter limit applies, not more than two adults per bedroom plus
12 two additional adults may be present in a short-term rental between 10:00
13 p.m. and 7:00 a.m.

- 14 (C) A short-term rental is presumed to have two bedrooms, except as otherwise
15 determined through an inspection approved by the director.

- 16 (D) A licensee or guest may not use or allow another to use a short-term rental
17 for an assembly between 10:00 p.m. and 7:00 a.m.

- 18 (E) A licensee or guest may not use or allow another to use a short-term rental
19 for an outside assembly of more than six adults between 7:00 a.m. and 10:00
20 p.m.

- 21 (F) For purposes of this section, an assembly includes a wedding, bachelor or
22 bachelorette party, concert, sponsored event, or any similar group activity
23 other than sleeping.

- 24 (G) A short-term rental use may not be used by more than:

- 25 (1) ten adults at one time, unless a stricter limit applies; or
26 (2) six unrelated adults.

27 **§ 25-2-796 LOCAL CONTACTS.**

- 28 (A) A licensee of a short-term rental use who does not reside within the Austin
29 Metro Area must identify an individual or individuals to serve as local
30 contacts and respond to emergency conditions.

- 31 (B) A local contact designated under subsection (A) must be present within the
32 Austin Metro Area and be available to respond within two hours after being

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1 notified of an emergency by a guest of the short-term rental, by a City
2 employee, or by an individual entitled to notice of the contact information
3 under Section 25-2-792(C) (*Notification Requirements*), during any 24-hour
4 period.

- 5 (C) If there is a change related to a local contact, the licensee must provide
6 updated or new information to the director in writing within three business
7 days.

8 **§ 25-2-797 REPEAT OFFENSES.**

9 (A) If the director finds that the licensee or operator failed to comply with
10 Section 25-2-794 (*General Requirements for Short-Term Rentals*) or Section
11 25-2-795 (*Occupancy Limits for Short-Term Rentals*) at least twice in a 12-
12 month period, the director may deny an application to renew a short-term
13 rental license for a period of 12 months.

14 (B) If the director finds that an owner or person in control of a property violated
15 Section 25-2-794 (*General Requirements for Short-Term Rentals*) at least
16 twice in a 12-month period, the director may deny an application for a short-
17 term rental license for a period of 12 months.

18 (C) If a property is the subject of repeated substantiated violations of City Code
19 or state law during a 24-month period prior to applying for a license or
20 renewing a license to operate a short-term rental, the director may deny the
21 short-term rental license based on:

- 22 (1) the frequency of any repeated violations;
23 (2) whether a violation was committed intentionally or knowingly; and
24 (3) any other information that demonstrates the degree to which the
25 owner or occupant has endangered public health, safety, or welfare.

26 (D) A licensee may appeal the director's decision to deny an application in
27 compliance with the process in Section 1308 (*Appeal From License*
28 *Suspension or Denial*) of Section 25-12-213 (*Local Amendments to the*
29 *International Property Maintenance Code*).

30 **§ 25-2-798 NON-COMPLIANCE FEES.**

31 (A) A person that submits an application for a short-term rental license shall pay
32 an additional fee if the application is submitted after the director sends a
33 notice of violation, or cites the person for operating a short-term rental
34 without a license.

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1 (B) A person that submits a request to renew a short-term rental license shall pay
2 an additional fee if the request is submitted after the director sends a notice
3 of violation or cites the person for operating with an expired short-term
4 rental license.

5 (C) The fee described in this Section shall be set by separate ordinance and be
6 based on the City's cost to enforce the licensing requirements.

7 **§ 25-2-799 PRIMA FACIE EVIDENCE OF A VIOLATION.**

8 (A) An advertisement promoting the availability of a short-term rental in
9 violation of any City Code or state law requirement is prima facie evidence
10 of a violation and is cause to issue an administrative citation for a violation
11 of Sections 25-2-794(E),(F), or (G) (*General Requirements for Short-Term*
12 *Rentals*).

13 (B) A visual inspection of more than six adults by a city employee at a short-
14 term rental is prima facie evidence of and is cause to issue an administrative
15 citation for a violation of Sections 25-2-795(B), (E), and (G)(2) (*Occupancy*
16 *Limit for Short-Term Rentals*).

17 (C) A visual inspection of more than ten adults by a city employee at a short-
18 term rental is prima facie evidence of and is cause to issue an administrative
19 citation for a violation of Section 25-2-795(G)(1) (*Occupancy Limits for*
20 *Short-Term Rentals*).

21 **PART 3.** Subsection (D) of City Code Section 25-2-511(*Dwelling Unit Occupancy*
22 *Limit*) is amended to read:

23 (D) Except as provided in Subsection (E), for a conservation single family
24 residential, single family attached residential, single family residential, small
25 lot single family, duplex residential use, or two-family residential use [~~or~~
26 ~~short-term rental use~~] not more than four unrelated adults may reside on a
27 site, in the following zoning districts:

- 28 (1) Lake Austin Residence District (LA) Zoning District;
- 29 (2) Rural Residence District (RR) Zoning District;
- 30 (3) Single Family Residence Large Lot (SF-1) Zoning District;
- 31 (4) Single Family Residence Standard Lot (SF-2) Zoning District;
- 32 (5) Family Residence (SF-3) Zoning District;
- 33 (6) Single Family Residence Small Lot (SF-4A) Zoning District;

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- (7) Single Family Residence Condominium (SF-4B) Zoning District;
- (8) Urban Family Residence (SF-5) Zoning District; and
- (9) Townhouse and Condominium Residence (SF-6) Zoning District.

PART 4. The table in City Code Section 25-2-491(C) (*Permitted, Conditional, and Prohibited Uses*) is amended to replace the existing reference to “Short-Term Rental” with “Short-Term Rental (Types 1 and 3)” and to reflect the following:

Short-Term Rental (Type 2) is a permitted use in the following base districts:

- central business (CBD)
- downtown mixed use (DMU)
- planned unit development (PUD)
- general-retail – mixed use (GR-MU)
- commercial services – mixed use (CS-MU)
- commercial services – vertical mixed use (CS-V)
- general retail – vertical mixed use (GR-V).

PART 5. City Code Chapter 25-2, Article 7 (*Nonconforming Uses*) is amended to add a new Section 25-2-950 (*Short-Term Rental Type 2*) to read as follows:

§ 25-2-950 DISCONTINUANCE OF NONCONFORMING SHORT-TERM RENTAL (TYPE 2) USES.

A person shall discontinue a nonconforming short-term rental use that is regulated under Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), not later than the earlier of:

- (1) April 1, 2022; or
- (2) if the license for a short-term rental use is not renewed, the date on which the existing license expires.

PART 6. Section 202.1 (*Supplemental and Replacement Definitions*) of City Code Section 25-12-213 (*Local Amendments to the International Property Maintenance Code*) is amended to add a new definition “short-term rental” to read as follows:

202.1 Supplemental and Replacement Definitions.

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1 SHORT-TERM RENTAL. The use of a residential dwelling unit or accessory
2 building, other than a unit or building associated with a group residential use, on a
3 temporary or transient basis in accordance with Chapter 25-2, Subchapter C, Article 4,
4 Division 1, Subpart C (*Requirements for Short-Term Rental Uses*). The use does not
5 include an extension for less than 30 consecutive days of a previously existing rental
6 agreement of 30 consecutive days or more. The use does not include a rental between
7 parties to the sale of that residential dwelling unit.

8 **PART 7.** Section 1301 (*Inspections*), and Section 1307 (*License Suspension*) of City
9 Code Section 25-12-213 (*Local Amendments to the International Property Maintenance*
10 *Code*) are amended to read as follows

11 1301 Inspections.

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

22 1307 License Suspension.

- 23 (A) Except as provided in subsections (D) and (E), w[~~W~~] whenever the code
24 official finds on inspection of the physical premises or review of applicable
25 records of any boarding house, hotel, rooming house, short-term rental, or
26 bed and breakfast establishment that conditions or practices exist that violate
27 any provision of the International Property Maintenance Code, City Code, or
28 any rule or regulation adopted under this Code, or that the establishment has
29 failed to comply with any provision, prohibition, or requirement related to
30 the registration, reporting, collection, segregation, accounting, disclosure, or
31 payment of local hotel occupancy taxes, the code official shall give written
32 notice to the owner of the property and the operator of the boarding house,
33 hotel, rooming house, short-term rental, or bed and breakfast establishment
34 that unless the violations are corrected by an identified deadline, the license
35 shall be suspended.
- 36 (B) At the end of the time provided for correction of the violation(s), the code
37 official shall re-inspect the location or records of the boarding house, hotel,

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1 rooming house, short-term rental, or bed and breakfast establishment and, if
2 the conditions or practices have not been corrected, shall suspend the license
3 and give written notice to the licensee that the license has been suspended.

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

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

18 (E) If a short-term rental is the subject of two or more substantiated violations of
19 applicable law during the license period, the code official may suspend the
20 short-term rental license. The code official must give notice to the licensee
21 of a notice of intent to suspend a license issued under this subsection.

22 (F) In determining whether to suspend a license as described in subsection (E),
23 the code official shall consider the frequency of the substantiated violations,
24 whether a violation was committed intentionally or knowingly, and any
25 other information that demonstrates the degree to which a licensee has
26 endangered public health, safety, or welfare.

27 **PART 8.** Council directs the City Manager to set a public hearing to be held on the same
28 date as the public hearing required in Ordinance No. 20151112-078 so that the Council
29 may consider amending the effective date for Parts 4 and 5 this ordinance along with any
30 revisions.

31 **PART 9.** Parts 4 and 5 of this ordinance take effect on April 1, 2017, and the remaining
32 parts of this ordinance take effect on _____, 2016.

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PASSED AND APPROVED

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_____, 2016

Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

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