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## MEETING NOTICE

The Planning and Zoning Commission of the City of Woodcreek, Texas will conduct a meeting at Woodcreek City Hall, 41 Champions Circle, Woodcreek, Texas. The meeting will be held on Wednesday, March 01, 2023 at 5:00 PM.

All attendees are encouraged to wear face coverings when a minimum of six-foot social distancing cannot be maintained. Smoking is not allowed anywhere on the property of City Hall.

The public may watch this meeting live at the following link:

<https://www.microsoft.com/microsoft-teams/join-a-meeting>; Meeting ID: 250 625 889 337; Passcode: 9RpMZp

A recording of the meeting will be made and will be available to the public in accordance with the Texas Public Information Act upon written request. This notice, as amended, is posted pursuant to the Texas Open Meetings Act (Vernon's Texas Codes Ann. Gov. Code Chapter 551).

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The City of Woodcreek is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call the City Secretary's Office at 512-847-9390 for information. Hearing-impaired or speech disabled persons equipped with telecommunications devices for the deaf may call 7-1-1 or may utilize the statewide Relay Texas program at 1-800-735-2988.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

It is anticipated that members of other City Boards, Commissions, Panels and/or Committees may attend the meeting in numbers that may constitute a quorum of the other City Boards, Commissions, Panels and/or Committees. Notice is hereby given that this meeting, to the extent required by law, is also noticed as a meeting of the other City Boards, Commissions, Panels and/or Committees of the City, whose members may be in attendance. The members of the City Boards, Commissions, Panels and/or Committees may participate in discussions on the items listed on this agenda, which occur at this meeting, but no action will be taken by those in attendance unless such action item is specifically listed on an agenda during a regular or special meeting for the respective Board, Commission, Panel and/or Committee subject to the Texas Open Meetings Act.

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The City Council may retire to Executive Session any time during this meeting, under Texas Government Code, Subchapter D. Action, if any, will be taken in open session.

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

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Any citizen shall have a reasonable opportunity to be heard at any and all meetings of the Governing Body in regard to: (1) any and all matters to be considered at any such meeting, or (2) any matter a citizen may wish to bring to the Governing Body's attention. No member of the Governing Body may discuss or comment on any citizen public comment, except to make: (1) a statement of specific, factual information given in response to the inquiry, or (2) a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting per Texas Local Government code Sec. 551.042

Citizen comments will be allowed at the beginning of every meeting, or alternatively, before an item on the agenda upon which the citizen wishes to speak is to be considered. All citizens will be allowed to comment for **three (3) minutes** per person and shall be allowed more time at the Mayor or Chair's discretion. In addition, citizens may pool their allotted speaking time. To pool time, a speaker must present the names individuals present in the audience who wish to yield their three(3) minutes. Citizens may present materials regarding any agenda item to the City Secretary at or before a meeting, citizens attending any meeting are requested to complete a form providing their name, address, and agenda item/concern, but are not required to do so before speaking and presenting it to the City Secretary prior to the beginning of such meeting. Comments may only be disallowed and/or limited as per Government Code § 551.007(e).

Submit written comments by email to [woodcreek@woodcreektx.gov](mailto:woodcreek@woodcreektx.gov) by **NOON**, the day prior to the meeting. Please include your full name, home or work address, and the agenda item number. Written comments will be part of the official written record only.

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# AGENDA

## CALL TO ORDER

## ROLL CALL and ESTABLISH QUORUM

## PUBLIC COMMENTS

## CONSENT CALENDAR

## REPORTS FROM OFFICERS AND COUNCIL LIAISONS

Report by Planning and Zoning Liaison.

Report by City Manager.

## SPECIAL ORDERS

## UNFINISHED BUSINESS AND GENERAL ORDERS

## REGULAR CALENDAR

1. Public Hearing to Consider Recommending to City Council The Adoption of An Ordinance Amending Various Sections of Chapter 155, "Subdivisions", of The Code of Ordinances, City of Woodcreek, Texas, The Same Being Known As The Subdivision Ordinance, For The Purpose of Implementing An Amendment Increasing Minimum Lot Size Requirements For Wastewater and Water Connections For New Subdivision Applications.
2. Discuss and Take Possible Action on The Recommendation to City Council The Adoption of An Ordinance Amending Various Sections of Chapter 155, "Subdivisions", of The Code of Ordinances, City of Woodcreek, Texas, The Same Being Known As The Subdivision Ordinance, For The Purpose of Implementing An Amendment Increasing Minimum Lot Size Requirements For Wastewater and Water Connections For New Subdivision Applications.
3. Public Hearing to Consider Recommending to City Council The Adoption of An Ordinance Amending Chapter 156, "Zoning", of the Code of Ordinances, City of Woodcreek, Texas, The Same Being Known As The Zoning Ordinance, Specifically Section 156.026, to Be Titled "Short-Term Rentals" (STR) For the Purpose of Implementing Regulations For Zoning Districts in Which STRs Will Be Prohibited: SF-1, SF-2, SF-3, SF-5, SF-6, TH/C, DU-1, 4PLX and RR; With Regulations Concerning Inspections, Fees and Permits Required For Authorized STR Use in Districts SF-4, MF-1 and MF-2.
4. Discuss and Take Possible Action On Recommending to City Council The Adoption of An Ordinance Amending Chapter 156, "Zoning", of the Code of Ordinances, City of Woodcreek, Texas, The Same Being Known As The Zoning Ordinance, Specifically Section 156.026, to Be Titled "Short-Term Rentals" (STR) For the Purpose of Implementing Regulations For Zoning Districts in Which STRs Will Be Prohibited: SF-1, SF-2, SF-3, SF-5, SF-6, TH/C, DU-1, 4PLX and RR; With Regulations Concerning Inspections, Fees and Permits Required For Authorized STR Use in Districts SF-4, MF-1 and MF-2.

## ANNOUNCEMENTS

## ADJOURN

## POSTING CERTIFICATION

I certify that the above notice was posted on the **24th day of February, 2023 at 6:00 PM**

By: 

**Suzanne J. MacKenzie, City Secretary**

PLANNING & ZONING (P&Z) COMMISSION  
DRAFT - STR ORDINANCE - 221017

**Ordinance No. XX-XXXX**

**An ordinance creating the “Short-term Rental” Regulation within Chapter 156: Zoning, of the Code of Ordinances City of Woodcreek Texas, 2022 (156:066 - Short Term Rentals); providing regulations for residential property rented for time periods of less than a month; providing for a fine of up to \$2,000.00 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date**

WHEREAS, the increase in the number of persons or entities desiring to rent their residential properties has led to the proliferation of transient and vacation rental uses within neighborhoods previously planned, approved and constructed for use as single-family residences; and

WHEREAS, the use of single-family residences by individuals for short periods of time may negatively impact the residential character of many neighborhoods by reducing communication and accountability between permanent residents by partially substituting permanent residents with transient visitors; and

WHEREAS, the regulation of the use and operation of such “short-term rental” property is intended to prevent the further erosion of pre-existing and stable single-family Zoning Districts, and further advance the City Council’s objective of

championing great neighborhoods; and

WHEREAS, the rise of substitute land uses for residential property contributes to the shortage of affordable housing, both ownership and long-term rental; and

WHEREAS, the Residential Requirements and Limitations did not allow the use of property zoned residential to be used for transient, short-term stays for less than 30 days in any zone excepting SF-4; and

WHEREAS, the enforcement of land use regulations in residential property poses unique enforcement difficulties and merits a stand-alone ordinance to provide clear rules for such rentals; and

WHEREAS, the City Council reviewed and studied a variety of possible regulations for short-term rentals, and determined that said temporary use should be restricted to nonresidential, mixed-use and multi-family zoning use districts (Multi-Family), and to the single-family zoning use district (SF-4) designed specifically to support the Quicksand at Woodcreek Golf Resort of the City of Woodcreek; and

WHEREAS, the requirement of an annual short-term rental permit that could be suspended or revoked in the event of repeated nuisance violations related to noise, trash, parking, etc.; 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 of Woodcreek;

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

1.

That the **“Short-term Rental”** Regulation within Chapter 156: Zoning, of the Code of Ordinances City of Woodcreek Texas, 2022 (156:066 - Short Term Rentals), is hereby established and shall read as follows:

## ARTICLE I

### GENERAL PROVISIONS

#### Section 1.01 Title

This Regulation within Chapter 156: Zoning, of the Code of Ordinances City of Woodcreek Texas, 2022 (156:066 - Short Term Rentals) is hereby designated and shall be known and referred to as the “Short-term Rental” Regulation of the Code of Ordinances City of Woodcreek.

#### Section 1.02 Purpose

The purpose of this Regulation is to safeguard the life, health, safety, welfare, and property of the occupants of residential dwelling units, the neighbors of said occupants, and the general public, through the regulation of short-term rental residential property. The intent of this Section is to preserve the neighborhood character of residential zones within the City of Woodcreek and to minimize adverse impacts to the housing supply caused by the conversion of residential units to tourist or transient use.

#### Section 1.03 Applicability

The provisions of this Regulation shall apply to all existing and future residential properties, both primary and accessory structures, and any portions thereof.

Short-term Rentals shall only be permitted in Zones SF-4, and “Multi-Family”. Short-term Rentals are prohibited in any floodway located within the city limits, regardless of zoning district.

## ARTICLE II DEFINITIONS

### Section 2.01 Definitions

***Administrator*** means the Director of the department designated by the City Manager to enforce and administer this Regulation, including the Director’s designees.

***Advertise*** means the act of drawing the public’s attention to a short-term rental in order to promote the availability of the residence for use as a short-term rental. Said advertising may be found in any medium, including but not limited to, newspaper, magazine, brochure, website, or mobile application.

***Bedroom*** means the living area(s) of the dwelling unit that is designed and furnished for sleeping and which has proper egress as required by the International Residential Code.

***Booking Service*** means any reservation and/or payment service provided by a person or entity that facilitates a short-term rental transaction between an Owner and a prospective Occupant, and for which the person or entity collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment services provided for the short-term rental transaction.

**Hosting Platform** means a person or entity that participates in the short-term rental business by providing, and collecting or receiving a fee for, Booking Services through which an Owner may offer premises for an occupant on a short-term basis. Hosting Platforms usually, though not necessarily, provide Booking Services through an online platform that allows an Owner to advertise the premises through a website provided by the Hosting Platform and the Hosting Platform conducts a transaction by which potential occupants arrange their use and their payment, whether the would-be occupant pays rent directly to the Owner or to the Hosting Platform.

**Occupant** means any individual person living, sleeping or possessing a building, or portion thereof. A person is not required to be paying rent, providing in-kind services, or named in any lease, contract or other legal document to be considered an occupant.

**Owner** means any person, agent, operator, firm, trust, corporation, partnership, or any other legal entity who has a legal or equitable interest in the property; or who is recorded in the official records of the county as holding title to the property; or who otherwise has control of the property, including the guardian of the estate of any such person, and the executor of the estate of such person if ordered to take possession of real property by a court.

**Premises** means property, a lot, plot or parcel of land, including any structures or portions of structures thereon.

**Short-term rental (STR)** means a residential premise, or portion thereof, used for lodging accommodations to occupants for a period of less than thirty (30) consecutive days. The definition of short-term rental does not include a Bed and Breakfast as defined in the Unified Development Code as, “A private, owner-occupied residence that offers sleeping accommodations to not more than 10 lodgers. A bed and breakfast home is not a single-family house”.

## ARTICLE III

### GENERAL REGULATIONS

#### Section 3.01 Unpermitted short-term rentals prohibited

- A. It shall be unlawful for any owner or person to rent, lease, advertise, or otherwise permit or allow any residential premises to be operated or used as an unpermitted Short-term Rental.
- B. It shall be an affirmative defense to a violation of this Regulation that the occupant is a party to the sale of the premises and was occupying the premises pursuant to a written post-closing occupancy agreement.

#### Section 3.02 Requirements for hosting platforms

- A. All Hosting Platforms shall provide the following information in a notice to any owner listing a Short-term Rental located within the City of Woodcreek through the Hosting Platform's service. The notice shall be provided prior to the owner listing the premises and shall include the following information: THE "SHORT-TERM RENTAL" REGULATION OF THE WOODCREEK CITY CODE PROHIBITS THE SHORT-TERM RENTAL OF RESIDENTIAL PREMISES WITHIN THE CITY OF WOODCREEK WITHOUT AN ACTIVE SHORT-TERM RENTAL PERMIT.
- B. Notwithstanding any other provision of this Regulation, nothing shall relieve any owner, person, occupant, or Hosting Platform of the obligations imposed by the applicable provisions of state law and the Woodcreek City Code, including but not limited to, those obligations imposed by the Tax Code. Further, nothing in this Regulation shall be construed to limit any remedies available under the applicable provisions of state law and the Woodcreek City Code.



### **Section 3.03 Short-term rental permit required**

An owner who desires to use its premises as a short-term rental must have a valid, active short-term rental permit from the city prior to using, allowing the use of, or advertising the use of said premises as a short-term rental. Upon application to the City, a short-term rental permit shall be approved by Administrator, or designee, if the application satisfies all the conditions of this Regulation, the “Taxation” Chapter, the “General Design Principles and Objectives” Chapter, and all pertinent Chapters of the Woodcreek City Code. The Administrator may place reasonable conditions on a short-term rental permit to ensure compliance with the provisions of this Regulation.

### **Section 3.04 Expiration of permit; renewals**

A short-term rental permit shall expire on the last day of the month one year after the date of issuance. No short-term rental permit may be renewed without a completed renewal application submitted by the owner and payment of the renewal fee. If the renewal application satisfies all the conditions of this Regulation and all other applicable City Code provisions, an application for the renewal of a short-term rental permit shall be approved by the Administrator, or designee. The Administrator may place reasonable conditions on a short-term rental renewal permit to ensure compliance with the provisions of this Regulation.

### **Section 3.05 Requirements of application**

- A. Except as provided in this Regulation, every complete application for a short-term rental permit shall include the following information with such detail and in a form approved by the Administrator:
1. The name, address, contact information and authenticated signature for the owner of the premises;
  2. The name, address and contact information of the operator, agent if any, and designated local responsible party as required in Section 3.06;

3. The City registration number for Hotel Occupancy Tax;
  4. A plot plan of the premises identifying the location of parking spaces to be used in conjunction with the short-term rental;
  5. A dimensioned floor plan of the proposed short-term rental identifying bedrooms, other living spaces and emergency evacuation routes;
  6. Proof of insurance as required in Section 3.07;
  7. The name and contact information for the property owner's association, if any, of which the premises is covered by the dedicatory instruments;
  8. A copy of the proposed host rules for the short-term rental; and
  9. Such certifications deemed necessary and proper to ensure compliance with this Regulation.
- B. An application for a short-term renewal permit may be filed beginning thirty (30) days prior to expiration of a current permit. Every complete application for a short-term rental renewal permit shall include updates, if any, to the information contained in the original permit application or any subsequent renewals. The permit holder shall sign a statement affirming that there is either no change to such information, or that any updated information is accurate and complete. The Administrator may require such certifications deemed necessary and proper to ensure continuing compliance with this Regulation.
- C. An application for a short-term rental renewal permit submitted after the expiration of the most immediate permit for the premises shall be treated as an application for a new permit as described in subsection A of this Regulation.
- D. If a complete application for a short-term renewal permit is submitted less than thirty (30) days prior to expiration of the current permit, the Administrator in his or her sole discretion may grant a

one-time extension of the current permit not to exceed ten (10) days.

### **Section 3.06 Designation of local responsible party required**

An owner must designate the name and contact information of a local responsible party who can be contacted regarding immediate concerns and complaints from the public. Said individual must be available to be reached in person or by phone at all times while occupants are on the premises of a short-term rental. If called, a local responsible party must be able to and shall be present at the premises within one (1) hour of call. A local responsible party must be authorized to make decisions regarding the premises and its occupants. A local responsible party may be required to, and shall not refuse to, accept service of citation for any violations on the premises. Acceptance of service shall not act to release owner of any liability under this Regulation.

### **Section 3.07 Proof of insurance required**

It shall be unlawful for the owner of premises operating as a short-term rental to operate without host protection or other liability insurance commensurate with the operations of the short-term rental that provides coverage of up to \$1 million per occurrence. A certificate of insurance must be on file with the Administrator. Proof of insurance shall be required at the time of application and notice of cancelation of insurance must be made to the Administrator within 30 days.

### **Section 3.08 Inspection required**

No permit or renewal permit shall be approved for a short-term rental until the City has inspected the premises and found the premises to be in compliance with minimum health and safety requirements for use and occupancy. If a premises fails to pass an inspection, a re-inspection fee may be charged for each subsequent inspection in accordance with the fee established by resolution.

### **Section 3.09 Permit fees**

A fee established by resolution of the City Council will be charged to reimburse the City for all costs associated with the administration of this Regulation.

### **Section 3.10 Hotel occupancy taxes; Request for occupancy history**

It shall be unlawful for an owner of premises used for a short-term rental to fail to pay hotel occupancy taxes required under State law and the Taxation Chapter of the Woodcreek City Code. Upon request of the Administrator or the City Manager of the City of Woodcreek, the owner of a premises used as a short-term rental shall remit, within 30 days, an accounting of all occupants who rented the premises and the hotel occupancy taxes paid therefor. It shall be unlawful for a person to fail to provide said information requested in a timely manner.

### **Section 3.11 Short-term rental permit nontransferable**

A short-term rental permit is non-transferable and shall not be assigned nor transferred to another person or entity. Any attempt to transfer a permit or attempt to use another person's permit may be grounds for revocation of said permit.

### **Section 3.12 Restrictions on number of occupants**

- A. It shall be unlawful for an owner or person to rent, allow, provide, or advertise for more than two (2) persons per bedroom, plus two (2) additional persons, when using the premises as a short-term rental.
- B. Regardless of the number of bedrooms at the premises, it shall be unlawful:
  1. For more than ten (10) persons (including children), to occupy a short-term rental at any one time; or
  2. For the owner or operator to allow, suffer or permit the number of occupants living, sleeping within or possessing a

short-term rental to exceed the maximum occupancy shown on the short-term rental permit or renewal permit.

- C. A visual inspection of more than ten (10) persons by a city employee at the premises either in person or through recorded media is prima facie evidence of and shall be probable cause to issue a citation for a violation of this Regulation.

### **Section 3.13 Parking restrictions**

The maximum amount of motor vehicles allowed at a short-term rental shall be limited to the number of available off-street parking spaces. It shall be unlawful for an owner or person to permit, allow or advise occupants to park more vehicles on the premises than the available off-street parking spaces, or to suffer or permit parking of vehicles on an unapproved surface. It shall be unlawful for an occupant of a short-term rental to park a motor vehicle on a residential street near a short-term rental. It shall be unlawful for an occupant of a short-term rental, or an owner thereof to allow an occupant, to park or occupy a motor home, recreational vehicle, boat, commercial vehicle, or otherwise prohibited motor vehicle on the premises of a short-term rental or on a residential street near a short-term rental. Existing Parking Ordinances shall apply to and supersede this Regulation.

### **Section 3.14 Minimum stay required**

It shall be unlawful for an owner to rent or lease a short-term rental for a period of less than 24 hours.

### **Section 3.15 Physical conversion of premises prohibited**

- A. It shall be unlawful for an owner or person to convert a garage to living space, remodel, renovate, enlarge or otherwise modify premises to add additional bedrooms for use as a Short-term Rental.

2. It shall be unlawful for an owner or person to pave or otherwise cover pervious soil to create additional on-premise parking without prior approval from the City of Woodcreek.

### **Section 3.16 Noise restrictions**

Excessive noise or other disturbance outside the short-term rental is prohibited in accordance with § 97.03 - GENERAL PROHIBITIONS; QUIET HOURS. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.

It shall be unlawful for an owner or occupant of a short-term rental to use or allow the use of amplified sound equipment in accordance with § 97.04 - RESTRICTIONS ON AMPLIFIED SOUND.

### **Section 3.17 On-premise curfew requirements**

It shall be unlawful for an owner or person to allow the congregation of occupants outside at the premises between the hours of 10:00 p.m. and 9:00 a.m. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.

### **Section 3.18 Trash pickup requirements**

It shall be unlawful for an owner or occupant to place, or allow to be placed, trash on the premises before 7:00 PM the evening prior to scheduled pickup or on a day not scheduled for pickup by the City or its authorized solid waste transportation vendor.

### **Section 3.19 Advertising, promoting or allowing of special events prohibited**

- A. It shall be unlawful for an owner or occupant to advertise or promote a special event, or allow the advertising and promotion of a special event (e.g. banquet, wedding, reception, reunion, bachelor or bachelorette party, concert, or any similar activity that would assemble large numbers of invitees) to be held on the premises (i.e.

utilize the premises as a ‘banquet hall’ as defined in the Unified Development Code).

- B. It shall be unlawful for an owner or occupant to allow, suffer or permit a banquet hall or special event as described to be held on the premises.

### **Section 3.20 Notice to occupants of short-term rentals**

An owner or person operating a short-term rental shall provide a notice of instructions (also known as “host rules”) to occupants staying at the premises in a form developed by the Administrator. The notice shall instruct the occupants as to all applicable city regulations pertaining to short-term rentals. These include, but are not limited to:

- (A) Maximum number of occupants.
- (B) Location of required off-street parking, other available parking, and prohibition of parking on landscaped areas.
- (C) Quiet hours, curfews, and noise restrictions.
- (D) Restrictions of outdoor facilities.
- (E) 24-hour designated local contact person and phone number.
- (F) Property cleanliness requirements.
- (G) If pets are allowed, a pet policy that includes responsibility for noise, waste removal and disposal, and damages.
- (H) Trash pick-up requirements, including location of trash cans.
- (I) Flooding hazards and evacuation routes. Including information on the emergency siren system.
- (J) Emergency numbers.
- (K) Notice that failure to conform to the occupancy and parking requirements is a violation of the City Code and occupant or visitor can be cited.
- (L) Other useful information about the community.

### **Section 3.21 Permit to be displayed**

A copy of the approved short-term rental permit shall be posted at a conspicuous location inside the front entrance(s) to the short-term rental.

### **Section 3.22 Use of assigned permit number required**

It shall be unlawful for an owner or person to advertise a short-term rental in any medium, including but not limited to newspaper, magazine, brochure, website, or mobile application without including the current permit number assigned by the Administrator.

### **Section 3.23 Use of unauthorized permit number prohibited**

It shall be unlawful for an owner or person to use, advertise or promote or allow the use, advertisement or promotion of a short-term rental using a permit number not assigned to the owner or person, or to a different address, or to a different dwelling unit.

## **ARTICLE IV**

### **ADMINISTRATIVE PROCEDURES**

#### **Section 4.01 Revocation of permit**

- A. Grounds. Any permit issued hereunder may be revoked by the Administrator if the permit holder has:
- (1) received more than two citations for violations of this Regulation or any other provision of this Code of Ordinances within the preceding 12-month time period; or
  - (2) failed or refused to comply with an express condition of the permit and remains in non-compliance ten (10) days after being notified in writing of such non-compliance; or



- (3) knowingly made a false statement in the application; or
- (4) otherwise become disqualified for the issuance of a permit under the terms of this Article.
- B. Notice. Notice of the revocation shall be given to the permit holder in writing, with the reasons for the revocation specified in the notice, served either by personal service or by certified United States mail to their last known address. The revocation shall become effective the day following personal service or if mailed, three (3) days from the date of mailing.
- C. Appeal; hearing. The permit holder shall have ten (10) days from the date of such revocation in which to file notice with the Administrator of their appeal from the order revoking said permit. The Administrator shall provide for a hearing on the appeal in accordance with the provisions of this Article.
- D. One-Year Waiting Period. In the event an owner's short-term rental permit is revoked by the Administrator, no second or additional permit shall be issued for a short-term rental on the premises for at least one year of the date such permit was revoked.

**Section 4.02 Administrative appeals of denial or revocation of permit**

- A. Upon denial or revocation of a permit, the Administrator, or his designee, shall notify the applicant or permit holder, in writing, of the reason for which the permit is subject to denial or revocation. To contest the denial or revocation of a permit, the applicant or permit holder shall file a written request for a hearing with the Administrator within ten (10) days following service of such notice. If no written request for hearing is filed within ten (10) days, the denial or revocation is sustained.

- B. The appeal shall be conducted within twenty (20) days of the date on which the notice of appeal was filed with the Administrator.
- C. The hearings provided for in this Regulation shall be conducted by the Administrator or a designated hearing officer at a time and place designated by the Administrator or the hearing officer. Based upon the recorded evidence of such hearing, the Administrator or the designated hearing officer shall sustain, modify or rescind any notice or order considered at the hearing. A written report of the hearing decision shall be furnished to the applicant or permit holder requesting the hearing.
- D. After such hearing, an applicant or permit holder whose permit was denied or revoked by the Administrator may appeal to the City Appeal Officer or Commission designated by the City Manager to hear such appeals.
- E. An appeal shall not stay the denial or suspension of the permit unless otherwise directed by the Administrator.

#### **Section 4.03 Appeals of Administrator decision**

- A. All appeals to the City Appeal Officer or Commission must be made in writing and received no less than ten (10) days after any final decision made by the Administrator or the designated hearing officer in accordance with above.
- B. The City Appeal Officer or Commission shall schedule the appeal hearing within twenty (20) days from receipt of the appellant or permit holder's appeal request.
- C. If the City Appeal Officer or Commission finds by preponderance of the evidence that the denial or revocation of the permit was necessary to protect the health, safety, or welfare of the general public, the City Appeal Officer or Commission shall affirm the denial or revocation of appellant's application or permit.

- D. The City Appeal Officer or Commission may consider any or all of the following factors when reaching a decision on the merits of the appeal:
1. The number of violations, convictions, or liability findings;
  2. The number of previous permit revocations;
  3. The number of repeat violations at the same location;
  4. The degree to which previous violations endangered the public health, safety or welfare; and
  5. Any pending action or investigation by another agency.
- E. After the hearing, the City Appeal Officer or Commission shall issue a written order. The order shall be provided to the appellant by personal service or by certified mail, return receipt requested.
- F. The City Appeal Officer or Commission may affirm or reverse the denial or revocation of the permit. If affirmed, the order issued must state that the appellant is not eligible to receive a new permit for a short-term rental on the premises sooner than one year after the date of the order. If reversed, the permit shall be reinstated immediately, in the case of a revocation, or the permit shall be issued within three (3) business days, in the case of a denial.
- G. The determination of the City Appeal Officer or Commission shall be final on the date the order is signed.
- H. An appeal to the City Appeal Officer or Commission does not stay the effect of a denial or revocation or the use of any enforcement measure unless specifically ordered by the Administrator or the City Appeal Officer or Commission.

## ARTICLE V

### ENFORCEMENT

#### Section 5.01 Discontinuance

- A. The owner of a short-term rental use that was not registered with the City of Woodcreek for hotel occupancy tax prior to January 01, 2023, and who is unable to obtain a permit for said use or fails or refuses to obtain a permit for the use following the effective date of this Regulation, shall discontinue the short-term rental use no later than July 1, 2023.
- B. The owner of a short-term rental use that was registered with the City of Woodcreek for hotel occupancy tax prior to January 01, 2023, and who is unable to obtain a permit for said use or fails or refuses to obtain a permit for the use following the effective date of this Regulation, shall discontinue the short-term rental use no later than April 30, 2023.
- C. If the permit for a short-term rental use is not renewed, the owner shall discontinue the use no later than the date on which the existing permit or any extension thereof expires.

### **Section 5.02 Penalties**

- A. A person who violates any provision of this Regulation by performing an act prohibited or by failing to perform an act required is guilty of a misdemeanor. Each day on which a violation exists or continues to exist shall be a separate offense.
- B. If the definition of an offense under this Regulation does not prescribe a culpable mental state, then a culpable mental state is not required. Such offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents (\$500.00). Although not required, if a culpable mental state is in fact alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).

- C. If the definition of an offense under this Regulation prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).
- D. Prima facie proof of violation of this section is established if it is shown that visual inspection was made by a code enforcement officer, building inspector, fire inspector or police officer at a unit. Establishment of a prima facie level of proof in this subsection does not preclude a showing of violations of a dwelling by a person in any other manner.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Woodcreek; and this ordinance shall not operate to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Woodcreek in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Woodcreek in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Woodcreek.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Woodcreek, Texas, in compliance with the provisions of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective on January 1, 2023.