

**ORDINANCE NO. 2021-O-11A**

**AN ORDINANCE AMENDING CHAPTER 5, AMUSEMENTS, ENTERTAINMENTS AND TEMPORARY USES, ARTICLE IV, TEMPORARY USES, SECTION 5.79, TEMPORARY USE TYPES, TO ADD SECTION 5.79(11) SHORT TERM RENTALS AND AMENDING SECTION 5.80, SUPPLEMENTAL TEMPORARY USE STANDARDS, ADDING SUBSECTION 5.80, SUBSECTION (C), SHORT TERM RENTAL STANDARDS; ESTABLISHING THE REQUIREMENTS FOR THE ISSUANCE, MAINTENANCE AND RENEWAL OF SHORT TERM RENTAL PERMITS, AND PROVIDING FOR THE REVOCATION OF SAME; PROVIDING PENALTIES UP TO \$2000.00 FOR VIOLATIONS TO THIS ORDINANCE; PROVIDING FOR FINDINGS OF FACT, SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE THEREFORE.**

**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 neighborhoods, and further advance the City Council’s objective of preserving and protecting 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 enforcement of temporary 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 residential properties that are permitted by the City with additional standards that protect adjoining residential properties; and

**WHEREAS**, the City Council supports the requirement of an annual short-term rental permit that can be suspended or revoked in the event of repeated nuisance violations related to noise, trash, parking, or due to failure of the permittee to comply with the licensing requirements; 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 Marble Falls;

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARBLE FALLS, TEXAS:**

**SECTION 1.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Marble Falls and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2.** Chapter 5, Amusements, Entertainments and Temporary Uses, Article IV, Temporary Uses, Section 5.79, Temporary Use Types, is amended to add Section Subsection 5.79(11) Short Term Rentals which shall read as follows:

(11) Short-term rental (STR) which means rental of a residential premise, or portion thereof, for lodging accommodations to occupants for a period of less than thirty (30) consecutive days.

**SECTION 3.** Chapter 5, Amusements, Entertainments and Temporary Uses, Article IV, Temporary Uses, Section 5.80, Temporary Use Standards, is amended to add Subsection 5.80(c) Short Term Rental Standards which shall read as follows:

(c) Short Term Rental Standards.

(1) Location standards. Short Term Rentals must meet all applicable zoning requirements applicable to the zoning district in which it is located and as required by this Chapter.

(2) Purpose and Applicability. The purpose of these requirements related to Short Term Rentals 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 rentals on residential property. The intent is to preserve the neighborhood character of residential subdivisions within the City of Marble Falls and to minimize adverse impacts to the housing supply caused by the conversion of residential units to tourist or transient use.

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

b. 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.

(3) Permit Application. Except as provided in this Article, every complete application for a short-term rental permit shall include the following information with such detail and in a form approved by the City Manager:

a. The name, address, contact information and authenticated signature for the owner of the premises;

- b. The name, address and contact information of the operator, agent if any, and designated local responsible party as required in Section (4) below;
- c. The City registration number for Hotel Occupancy Tax;
- d. A plot plan of the premises identifying the location of parking spaces to be used in conjunction with the short-term rental;
- e. A dimensioned floor plan of the proposed short-term rental identifying bedrooms, other living spaces and emergency evacuation routes;
- f. Proof of insurance as required in Section (5) below;
- g. The name and contact information for the property owner's association, if any, of which the premises is covered by the dedicatory instruments;
- h. A copy of the proposed host rules for the short-term rental; and
- i. Such certifications deemed necessary and proper to ensure compliance with the requirement of this Article.

(4) **Responsible Local Party.** 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 a call from the City. 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 Article.

(5) **Insurance.** 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 City. Proof of insurance shall be required at the time of application and notice of cancelation of insurance must be made to the City within 30 days.

(6) **Inspection.** 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 fees established by Appendix C, Master Fee Schedule.

(7) **Fees.** Fees will be charged to reimburse the City for all costs associated with the administration of this Article as set out in Appendix C, Master Fee Schedule, City's Code of Ordinances.

(8) **Hotel Motel Tax.** 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 requirements of the City. Upon request of the City, 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.

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

(10) Occupancy. 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.

a. Regardless of the number of bedrooms at the premises, it shall be unlawful:

1. For more than twelve (12) 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.

b. A visual inspection of more than twelve (12) persons by a city employee at the premises is prima facie evidence of and shall be probable cause to issue a citation for a violation of this Article.

(11) Parking. The maximum number of motor vehicles allowed at a short-term rental shall be limited to the number of available off-street parking spaces and on street parking spaces immediately fronting the premises. 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 and on street parking spaces, or to suffer or allow parking of vehicles on an unimproved surface. It shall be unlawful for an occupant of a short-term rental to park a motor vehicle on a residential street not fronting the short term rental premises. 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. 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.

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

(13) Special Events. 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 without issuance of a Special Event Permit as described by Article III, Special Event of this Code of Ordinances. It shall be unlawful for an owner or occupant to allow, suffer or permit a special event as described to be held on the premises without obtaining a Special Event Permit from the City.

(14) **Trash.** 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 trash pickup or on a day not scheduled for pickup by the City or its authorized solid waste transportation vendor.

(15) **Notice to Occupants.** 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 City. The notice shall instruct the occupants as to all applicable city regulations pertaining to short-term rentals. These include, but are not limited to, occupancy restrictions, limits on parking, trash pickup, and the prohibition of special events.

(16) **Permit Display.** 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.

(17) **Amplified Sound.** It shall be unlawful for an owner or occupant of a short-term rental to use or allow the use of amplified sound equipment that produces sound audible beyond the property line of the premises between the hours of 10:00 p.m. and 9:00 a.m.

(18) **Advertising and Permit Number Requirement.** 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 City.

(19) **Unauthorized Use of Permit Number.** 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.

(20) **Revocation of Permit.** These provisions are in addition to the procedures and requirements set out in Article IV, Temporary Uses.

a. Any permit issued hereunder may be revoked by the City if the permit holder has:

1. Received more than two citations for violations of this chapter 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 became 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 City of their appeal from the order revoking said permit. The City Council 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 City, no second or additional permit shall be issued for a short-term rental on the premises for one year from the date such permit was revoked.

(21) Short Term Rental Unlawful Without Permit. It shall be unlawful for any owner person, firm, corporation, agent or employee to rent, lease, advertise, or otherwise permit or allow any residential premises to be operated or used as an unpermitted Short-term Rental. Provided however, that it shall be an affirmative defense to a violation of this Article 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.

(22) Penalties and Enforcement. A person, occupant, firm, corporation, agent or employee who violates any provision of this Article by performing an act prohibited or by failing to perform an act required is 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). Each day on which a violation exists or continues to exist shall be a separate offense.

#### **SECTION 4. CUMULATIVE**

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Marble Falls; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

#### **SECTION 5. ENFORCEMENT**

In addition to the penalties set out in this Ordinance, a violation of this Ordinance shall be enforced in accordance with General Penalties provision in Section 1-9 of the City Code of Ordinances.

#### **SECTION 6. SAVINGS**

The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance

or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

**SECTION 7. SEVERABILITY**

If any provision, section, sentence, clause or phrase of this ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Marble Falls in adopting, and of the Mayor in approving this ordinance, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation

**SECTION 8. REPEALER**

The provisions of this ordinance shall be 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 or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

**SECTION 9. EFFECTIVE DATE**

This ordinance shall take effect January 1, 2022.

**SECTION 10. NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** this 16<sup>th</sup> day of Nov., 2021.

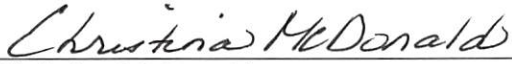
**EFFECTIVE DATE:** January 1, 2022.

**CITY OF MARBLE FALLS**



By: Richard Westerman  
Richard Westerman,  
Mayor

**ATTEST:**

  
\_\_\_\_\_  
Christina McDonald,  
City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Patty L. Akers,  
City Attorney