

Ordinance No. _____

An ordinance amending the “Unified Development Code” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article 3, Use Standards, Section 3.1.5 Tables of Allowed Uses, relative to establishing short term rental units as an allowed use, establishing a residential short term rental exclusion zone, “RX”, in certain residential districts, and requiring a short term rental permit issued in accordance with the “Short Term Rental” Chapter of the Arlington City Code, to be adopted concurrently with this ordinance; through the amendment of Section 3.2.3. Commercial Uses, relative to providing use standards for short term rentals; through the amendment of Section 3.3.4 Use Tables for Accessory Uses and Structures relative to providing accessory use standards relative to short term rental exclusion zone, RX; through the amendment of Article 10, Review Procedures, Section 10.4.2 Zoning Map Amendments (Zone Changes) relative to including procedures for rezoning designated areas to the “RX”, short term rental exclusion zone; through the amendment of Article 12, Definitions, Section 12.3.3 Commercial Uses, relative to providing a definition for short term rental; 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, clusters of residents in various neighborhoods in Arlington have expressed a strong desire to not have short term rentals in their neighborhoods;

WHEREAS, the City of Arlington Planning and Development Office has found that the 428 unique Short Term Rental properties in the city represent approximately 1/3 of 1% of total housing inventory, yet are widely distributed across the city with more than 90% of Arlington census tracts having at least one STR;

WHEREAS, a study by the firm Host Compliance, commissioned by the City of Arlington, found 80% of short term rental operators in Arlington have only one property, 92% have two or fewer properties, and 29% of short term rental operations are of owner occupied homes;

WHEREAS, City of Arlington Code Compliance has found just 3.7% of short term rental properties in Arlington had 10 or more calls for service between Oct 2016 and Oct 2018 of which none included owner occupied short term rentals;

WHEREAS, STR opt out provisions in other Texas cities (e.g. Galveston) have been demonstrated to be effective at excluding short term rentals from neighborhoods where an overwhelming majority of residents prefer not to have them;

WHEREAS, the City of Arlington is a home rule city with the power to enact ordinances to protect the health, safety and welfare of its citizens, tourists, and visitors; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

THAT the “**Unified Development Code**” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended by the amendment of **Article 3, Use Standards, Section 3.1.5, Table of Allowed Uses, Subsection A., Residential Districts**, in its entirety and the same shall hereafter read as follows:

3.1.5. TABLE OF ALLOWED USES

A. Residential Districts

TABLE 3.1-1: Allowed Uses – Residential Districts <i>P = Permitted Use S = Specific Use Permit * = Supplemental Use Standards Apply</i>											
Use Category	Use Type	Residential									Supplemental Use Standards
		RX	RE	RS 20	RS 15	RS 7.2	RS 5	RM 12	RMF 22	VG	
RESIDENTIAL USES											
Household Living	Dwelling, duplex							P	P		
	Dwelling, live/work							p*	p*		3.2.1.A
	Dwelling, multi-family								p*		3.2.1.A
	Dwelling, single-family detached	P	P	P	P	P	P	P		P	
	Dwelling, townhouse							P	P		
	HUD-Code manufactured home Mobile home										
Group Living	Assisted living facility (≤6 residents)	P	P	P	P	P	P	P	P	P	
	Assisted living facility (≥7 residents)	S	S	S	S	S	S	S	P	S	
	Boarding house fraternity or sorority house private dorm								p*		3.2.1.B
	Community home for disabled persons	P	P	P	P	P	P	P	P	P	
	Foster family home	P	P	P	P	P	P	P	P	P	
	Foster group home	P	P	P	P	P	P	P	P	P	
	Independent senior living facility									p*	3.2.1.B
	Nursing home								p*	p*	3.2.1.B
PUBLIC AND INSTITUTIONAL USES											
Community	Art gallery or museum								P		

and Cultural Facilities	Domestic violence shelter								P		
	Government administration and civic buildings	P	P	P	P	P	P	P	P	P	
	Philanthropic institution (other than listed)	S	S	S	S	S	S	S	S	S	
	Religious assembly	P	P	P	P	P	P	P	P	P	
Educational Facilities	Public or private school	P	P	P	P	P	P	P	P	P	
Parks and Open Space	Cemetery									S	
	Community garden	P	P	P	P	P	P	P	P	P	
	Public park or playground	P	P	P	P	P	P	P	P	P	

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COMMERCIAL USES											
Agriculture	Animal production	P	P								
	Crop production	P	P								
Animal-related Services	Stables, commercial	S*	S*							S*	3.2.3.A
Lodging Facilities	Bed and breakfast inn	S*	S*	S	S*	S*	S*	S*	S*	S*	3.2.3.E
	Short Term Rental		P*	P*	P*	P*	P*	P*	P*	P*	3.2.1.E.5
Personal Services	Day care center					S	S	S	P		
Recreation and Entertainment, Indoor	Private club, lodge or fraternal organization								S		
Recreation and Entertainment, Outdoor	Country club	S	S	S	S	S	S	S	S	S	
	Golf course	P	P	P	P	P	P	P	P	P	
	Marina	S	S	S	S	S	S	S	S		
Retail (Sales)	Nursery garden shop or plant sales	S*	S*								3.2.3.I
INDUSTRIAL USES											

Transportation	Airport or landing field	S	S	S	S	S	S	S	S	S	
	Electric utility substation								P		
Utilities	Gas well	S	S	S	S	S	S	S	S	S	3.2.4.B
	Utility lines, towers or metering station	P	P	P	P	P	P	P	P	P	
	Telecommunication Facilities Building-mounted antennae and towers	P*	P*	P*	P*	P*	P*	P*	P*	P*	3.2.4.C
	Telecommunication Facilities Towers ≤75 ft Stealth towers ≤100 ft	S*	S*	S*	S*	S*	S*	S*	S*	S*	3.2.4.C
	Telecommunication Facilities Towers >75 ft Stealth towers >100 ft	S*	S*	S*	S*	S*	S*	S*	S*	S*	3.2.4.C

Further, **Article 3, Use Standards, Section 3.2.3, Commercial Uses**, is hereby amended to add **Subsection E.5** thereto, which shall read as follows:

5. Short Term Rental

- a. In districts other than RX zoned districts, a residential structure, or its accessory secondary living unit is eligible for a short-term rental permit issued by the Administrator, or designee, in accordance with the “Short-term Rental” Chapter.
- b. In RX zoning districts:
 - i. It shall be unlawful to operate a non-owner occupied short term rental in RX zoning districts. Properly permitted, non-owner occupied short term rentals established prior to passage of rezoning to RX shall be allowed to continue operations for 6 months after the zoning change effective date after which the operator must cease any further non-owner occupied short term rental operations.
 - ii. Owner occupied short term rentals shall be allowed to operate in RX zoning by the owner obtaining a permit in accordance with the short term rental Chapter, and having demonstrated to the Administrator that the dwelling used as a short term rental is also the owner’s primary residence.
 - iii. If a short-term rental permit is denied or revoked in accordance with the above-reference chapter, the provisions of Section 3.2 herein do not grant or imply any vested right to any landowner or operator of a short-term rental property.

Further, **Article 3, Use Standards, Section 3.3.4, Use Tables for Accessory Uses and Structures, Subsection A., Accessory Uses – Residential Districts**, is amended in its entirety and the same shall hereafter read as follows:

3.3.4. USE TABLES FOR ACCESSORY USES AND STRUCTURES

A. Accessory Uses – Residential Districts

TABLE 3.3-1: Accessory Uses – Residential Districts										
<i>P = Permitted Use S = Specific Use Permit * = Supplemental Standards Appl</i>										
Use Type	RX	RE	RS 20	RS 15	RS 7.2	RS 5	RM 12	RMF 22	VG	Use Standards
Accessory building (not listed below)	p*	p*	p*	p*	p*	p*	p*	p*	p*	3.3.6.A
Accessory use (not listed below)	P	P	P	P	P	P	P	P	P	
Alternative energy system	p*	p*	p*	p*	p*	p*	p*	p*	p*	3.3.6.B
Caretaker's quarters	p*	p*							P	3.3.6.C
Carport	p*	p*	p*	p*	p*	p*			p*	3.3.6.D
Community center (private)	S	S	S	S	S	S	S	P	S	
Garage apartment							p*	p*		3.3.6.F
Garage (private)	P	P	P	P	P	P	P	P	P	
Home-based business	p*	p*	p*	p*	p*	p*	p*	p*	p*	3.3.6.H
Secondary living unit	p*	p*	p*	p*	S*	S*	p*		p*	3.3.6.L
Swimming pool (private)	P	P	P	P	P	P	P	P	P	

Further, **Article 10, Review Procedures, Section 10.4.2, Zoning Map Amendments (Zoning Change)**, is hereby amended to add subsection **B.3, Short Term Rental Exclusion Zone**, which shall read as follows:

3. Short Term Rental Exclusion Zone

A zone change to a short term rental exclusion zone may be initiated by the following procedure:

- a. 75 percent of the dwelling units in the proposed zoning area must be single-family owner occupied structures;
- b. 75 percent of the property owners shall initiate a petition to rezone to RX;
- c. The petition shall identify the streets, street blocks, and boundary subject to the rezoning;
- d. The neighborhood must be similar in design and character;
- e. Gerrymandering is explicitly prohibited

- i. The area should represent a natural and distinct geographic area to the maximum extent possible
- ii. Petitioners may not exclude from the proposed zone select contiguous homes for the purpose of reaching the 75% threshold
- f. Dangerous and dilapidated structures as defined in the Municipal Code must not be present within the proposed boundary of the RX district.
- g. Commercial uses and non-owner occupied short term rentals are prohibited in RX;
- h. Existing short term rentals must cease non-owner occupied STR operations within 6 months of rezoning passing.

Further, **Article 12, Definitions, Section 12.3.3, Commercial Uses**, is hereby amended to add **Subsection E.8, Short-term rental**, which shall read as follows:

8. Short-term Rental

A residential premise, or portion thereof, used for lodging accommodations for 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 this code.

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 Arlington; 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.

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 Arlington 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 Arlington 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 Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, 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 July 1, 2019.

PRESENTED AND GIVEN FIRST READING on the ____ day of May, 2019, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the ____ day of June, 2019, by a vote of ____ ayes and ____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

W. JEFF WILLIAMS, Mayor

ATTEST:

ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY_____
GALEN GATTEN, Senior Attorney