



Woodcreek's
**Planning & Zoning
Commission**

**Report to City Council
regarding STR
Recommendations.**

RATIONALE FOR STR RECOMMENDATIONS BY P&Z

Greetings City Council,

At our March 1st P&Z meeting, our commission concluded work on Short Term Rentals (STRs) within the City of Woodcreek and submitted our recommendations to you for consideration. Council took up our recommendations at your meeting on March 8, 2023, but immediately went into executive session and returned only to make a motion instructing staff/city attorney to "set up a regulatory permitting process for residential short term rentals". Though we have no knowledge of your executive session, we too have had multiple executive sessions with two City Attorney's and can imagine the discussions were likely similar. Regardless, your response to our recommendation was unexpected and our concern is that we may not have provided you sufficient background to adequately express the rationale for our recommendations and for the documents we've created. To remedy this we've done our best to summarize our sentiment here. We ask that you review this supplemental information and to then reconsider your course of action, to be certain it is the best course for long-term management of STRs in Woodcreek.

Summary of Recommendations

It may have been our lack of experience formulating motions, but what we intended to recommend does not seem to have translated correctly into what was actually recommended and acted upon by City Council.

We intended the following:

1. Recommend that City Council amend current City Code §156.062 & §156.064 as per the Proposed Amendment dated 10/30/22.
2. Recommend that City Council finalize DRAFT - STR Ordinance 230113 as written by P&Z.
3. Recommend that City Council finalize the 1) STR Application, 2) STR FAQs, 3) STR Inspection Checklist, and 4) STR Maps drafted by P&Z.
4. Recommend that City Council prioritize enforcement plans and measures (establishing a municipal court) to enforce all city ordinances.

Of the six documents we prepared for you, it appears as though only one may actually have been presented / included in your Agenda Packet. We include all six with this report for your review.

Process Logic

We are all acutely aware that everything about STRs is contentious and prone to legal action. To that end we started our process with the assumption that our product would be legally challenged. Our premise then, was to create the most “legally robust” and “legally defensible” product for the long-term. We determined the best way for us (with limited legal experience) to go about this would be to review instances where STR regulations worked and instances where they failed. For the ones that failed, we should understand the issues that cause them to fail and then mitigate those issues in our product as best possible. There may be other issues, but at least we can defend against the ones that are known to have caused other cities to fail. And for the ones that worked, we should use those as a model to create our own.

A Model that Works

The model we chose for one that’s been working since 2019 is Arlington, Texas.

- Court upholds Arlington ban on most Airbnb and other short-term rentals (<https://www.dallasnews.com/news/2021/07/23/court-upholds-arlington-ban-on-most-airbnb-and-other-short-term-rentals/>)
- RAWNDA DRAPER, MARK SCOTT, MEGAN SCOTT, JEREMY FENCEROY, AND BRADLEY HERBERT, Appellants V. CITY OF ARLINGTON, TEXAS, AND W. JEFF WILLIAMS, MAYOR OF THE CITY OF ARLINGTON, Appellees (<https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=8a441c34-f0a5-4b39-a1c6-b6112520cfac&coa=coa02&DT=Opinion&MediaID=4cf743a9-fb56-4bc8-8667-ba77d5333b09>)

Indeed, you’ll see that our products looks strikingly similar (i.e. copied directly and then tweaked to meet the needs of Woodcreek) to those created by Arlington! This is a model that has worked, is currently working, and has survived legal challenge.

(https://www.arlingtontx.gov/city_hall/departments/planning_development_services/land_development/commercial_site_plan_public_improvements/short_term_rentals)

Models that did NOT Work

City Attorney Gordon addressed us at our P&Z meeting in January 2023. He indicated his hesitancy about prohibiting STRs. He provided us two cases from the Second and Third Court of Appeals that were favorable to STRs. At the same time, he conceded that our circuit court had not yet addressed the issue, it’s possible they could agree with our model, and that he’d be happy to “fight the good fight with us” if that was our recommendation (at least that’s the message I heard).

- From the Third Court of Appeals, the 2019 opinion in Ahmaad Zataari vs. City of Austin (<https://cases.justia.com/texas/third-court-of-appeals/2019-03-17-00812-cv.pdf?ts=1574860549>):
 - The Texas Constitution prohibits retroactive laws. The State contends that the ordinance provision terminating all type-2 operating licenses is retroactive because it “takes away the fundamental and settled property right” to lease one’s real estate under the most desirable terms. While disagreeing on the effect, the City conceded the ordinance retroactively cancels existing leases. Not all retroactive laws are

unconstitutional. The Court held the regulation operates to eliminate well-established and settled property rights that existed before the ordinance's adoption.

- **If we allow STRs now, we will have the same issue with “retroactive laws” and “retroactively canceling existing leases”.**
- **As of now, “well-established and settled property rights that existed before the ordinance’s adoption” does not apply to us as there are no STRs.**
- Further, for four years the City did not issue a single citation to a licensed short-term rental owner or guest for violating the City’s noise, trash, or parking ordinances. The purported public interest served by the ordinance’s ban on type-2 short-term rentals cannot be considered compelling.
 - **We must have enforcement**
 - **We have no citations/complaints because it is understood (by most) that STR’s are not currently allowed.**
- Based on the practices performed in Austin over the years, short-term rentals have a settled interest and place in the City. The City’s ordinance eliminates the right to rent property short term if the property owner does not occupy the property. As a result, the regulations are unconstitutionally retroactive.
 - **If we allow STRs now, we will face this same problem in the future when STRs here have a “settled interest in the place in the city”.**
- From the Second Court of Appeals, the 2019 opinion in City of Grapevine v. Ludmilla B. Muns, et al (<https://law.justia.com/cases/texas/second-court-of-appeals/2021/02-19-00257-cv-0.html>):
 - the City argued that STRs do not fit within the definition of a “single-family detached dwelling” under its zoning code because STRs are not occupied by a single-family but are occupied by groups of people. However, the City’s code defines the word “family” in such a way that it does not require that the people living as a “single housekeeping unit” be related by blood or marriage. It also has no duration of occupancy limit. As a result, by its own wording, the code does not prohibit STRs as long as the occupancy fall within the common and ordinary meaning of “family.”
 - **We have definitions in our code currently: 156.009 (see Definitions below)**
 - **Our definitions seem better prepared for a defense but could/should be refined with STRs in mind.**
 - This, along with the fact the court found that STRs were not expressly prohibited by the wording of the ordinance, creates a fact issue...
 - **The wording in our ordinance expressly ALOWS STR’s in SF4 and is meant to IMPLY that they are not allowed in other zones. Clearly this is legally insufficient which is why we need to expressly prohibit them now as was asked of us in April 2022.**

Definitions

- Definitions (<https://www.epa.gov/smartgrowth/codes-support-smart-growth-development>)
 - Unified Development Code — A single document that includes all development-related regulations, including zoning and subdivision regulation. We don't have this, but we should (instead of having definitions scattered in various ordinances).
 - Zoning Overlay — A set of zoning ordinances, optional or required, specifying land use and/or design standards for a designated portion of the underlying zoning within a defined district; typically used to keep architectural character and urban form consistent, make adjacent uses compatible, or accelerate the conversion of non-conforming land uses. (See Texas State Code Sec. 211.005 below.)
 - **We HAVE definitions.** § 156.009 - DEFINITIONS.
 - Dwelling (Single-Family) - A detached building having accommodations for occupancy by not more than one family.
 - Family - Any number of individuals living together as a single housekeeping unit, in which not more than three individuals are unrelated by blood, marriage, adoption or guardianship, and occupying a dwelling unit.
 - District - A zoned section or sections of the City for which regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.
 - Short Term Rental - A rental of a residential structure or part of a residential structure for fewer than 30 consecutive days.
 - Single-Family Dwelling - A building designed for or occupied exclusively by one household. See Single-Family, Detached.
 - § 110.02 - DEFINITIONS
 - Hotel - Any building or buildings in which members of the public may, for a consideration, obtain sleeping accommodations, including hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, bed and breakfast or other buildings where rooms are furnished for a consideration. The term does not include hospitals, sanitariums, nursing homes or dormitories or housing facilities owned or leased and operated by an institution of higher education or a private or independent institution of higher education, as defined by the State Education Code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution.
 - Our Draft STR Ordinance
 - **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".
 - We reference: "allowed by the most current copy of the International Residential Code on file in the office of the City Secretary" - we have a 2015 copy.

- International Residential Code® (IRC®)
 - Internationally, code officials recognize the need for a modern, up-to-date residential code addressing the design and construction of one- and two-family dwellings and townhouses not more than three stories above grade. The International Residential Code is designed to meet these needs through model code regulations that safeguard the public health and safety in all communities, large and small.
 - This comprehensive, stand-alone residential code establishes minimum regulations for one- and two-family dwellings and townhouses using prescriptive provisions. It is founded on broad-based principles that make possible the use of new materials and new building designs.

Texas State Code

We were reminded several times that “State code overrides local codes”. We were also advised to reference State Code section 211 (<https://statutes.capitol.texas.gov/SOTWDocs/LG/htm/LG.211.htm>).

Specifically: Sec. 211.005. DISTRICTS.

(b) Zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality.

- **This was one of the justifications for restricting STRs to zones while disallowing them in others. If we allow one STR in SF1 (for example), we can't not allow another. If we allow NONE in SF1, but any in SF4, we are justified. This is what the City of Arlington did and it works (for them).**

Zoning Considerations (where STRs are and are not allowed)

We started out considering a complete ban on STRs everywhere. However, given that STRs are and have been allowed in SF4, disallowing them retroactively could present a “chink in the armor” of our legal defense. Furthermore, it was suggested to us that we would have a stronger legal defense by having selected zone(s) in the city where STRs are allowed as opposed to a blanket city-wide ban with no recourse for someone wanting to own an STR in Woodcreek. Just like Arlington.

The Woodcreek Apartment complex was selected to allow STRs with intention. To clarify this, allow me to use a home in SF4 as an example first. The owner of a home in SF4 may live in their home and/or lease their home. Should they elect to lease their home, they may select a long term lease or a short term lease and the owner becomes the Lessor. The Lessor signs a Lease Agreement with the Lessee (the tenant, or person leasing the home) detailing the terms of the lease. This Lease Agreement almost certainly has a clause that forbids the Lessee from leasing out the home themselves (subletting) to someone else. The OWNER may lease the property (as an STR), but by the terms of the Lease Agreement, the tenant may not lease the property to someone else (as an STR or otherwise).

This is the same for the Woodcreek Apartments. The Lease Agreement signed by the tenants living in the apartment forbids the tenant from leasing out the apartment to someone else. Here’s the clause:

Woodcreek Apartment Lease Agreement Excerpt:

17. Assignments and Subletting. You may not assign this Lease or sub- let your apartment. You agree that you won’t rent, offer to rent or license all or any part of your apartment to anyone else unless other- wise agreed to in advance by us in writing. You agree that you won’t accept anything of value from anyone else for the use of any part of your apartment. You agree not to list any part of your apartment on any lodging or short-term rental website or with any person or service that advertises dwellings for rent.

However, the OWNER of the apartment absolutely may lease out their unit(s) as an STR. This is exactly what they did in 2019. Business was slow, not all of the units were filled, so the owner designated one of their units as an STR and brought in a management company to oversee it. Once business picked back up they discontinued the STR and all units are currently listed for long-term rentals. But allowing STRs in the Woodcreek Apartments allows the owners to again elect to list their units as STRs should they want/need. It also bolsters the City of Woodcreek’s openness to allowing STRs, albeit in specified zones and under solid (and enforced!) regulation. Disallowing STR’s there could present an additional legal obstacle.

Amend current City Code §156.062 & §156.064 Now

Having “short-term rentals allowed” under the definition of SF4 within City Code §156.062 (as it is currently) implies (to everyone common person I’ve asked) that STRs must not be allowed in the other zones. Legal has told us that this interpretation is not correct: STRs ARE allowed in all zones unless the code specifies “short-term rentals are not allowed”.

There is NOTHING stopping STRs right now other than the erroneous assumption that STRs are not allowed anywhere except SF4.

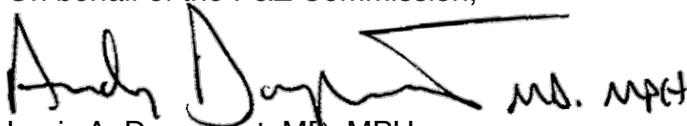
- Were I interested in my property being an STR’s I would establish myself as one right now and register for the hotel occupancy tax. This action would “settle my property right” as of now which would then have to be retroactively undone. I would advise everyone else to do the same so that they’ll “have the option” down the road if regulations ever do manifest.
- There is no rule that says this can’t be done now.
- There is no enforcement of any rules.

This was the basis for our recommendation to go ahead and change the wording now. At least it would then be clear.

SUMMARY

P&Z has been working on STR solutions for our city since at least 2019 (likely earlier!). Our current commission has made this issue our priority focus for the past 11 months. What we have produced and recommended to you has been put together thoughtfully, methodically, with legal consultation, with public input, and has been done to the best of our abilities. It is our opinion that these recommendations establish a clear and definitive position and process for STRs in Woodcreek that is as legally robust as possible. It is our hope that providing you some background information and rationale will allow you to reconsider your position or at least provide you the information to make an informed decision despite our recommendations.

On behalf of the P&Z Commission,

A handwritten signature in black ink, appearing to read "Andy Davenport", with the initials "ms. MPH" written to the right of the signature.

Louis A. Davenport, MD, MPH
P&Z Chairman



HISTORY OF SHORT TERM RENTAL PROCEEDINGS WITH P&Z

On September 12, 2019 the City Council discussed and took appropriate action on an Ordinance of the City Council of the City of Woodcreek, Texas repealing ordinance No. OO-65P Special Use Permit #4 – Island House and revoking the Special Use Permit of 155 Champions Circle (Woodcreek Section 4-A, Lot 1 8), Removing all references in the City of Woodcreek Zoning Code authorizing a Special Use Permit for 155 Champions Circle (Woodcreek Section 4-A, Lot 18), Providing for severability, Providing an effective date, and Providing for proper notice and an Open Meeting. This action concluded the only legally-sanctioned STR within the City of Woodcreek.

On October 12, 2021 the Planning and Zoning Commission discussed and took appropriate action on a referral from the City Council of the City of Woodcreek for Discussion and Take Appropriate Action on a Short-Term Rental Ordinance. After discussion, a motion was made by Vice-Chairperson Maldonado to refer this item to the City Council for them to do an official proposal and hear from citizens on this issue.

On April 20, 2022 the Planning and Zoning Commission was tasked to, "Discuss and Take Appropriate on the First Draft of Short Term Rental Regulations and Application Document". The topic was tabled and sent back to City Council asking for legal input.

On October 5, 2022 the Planning and Zoning Commission requested the presence of the City Attorney to provide the legal input requested at their 4/20/22 meeting. The City Attorney called in and would only speak in Executive Session. The Planning and Zoning Commission was directed to draft appropriate STR documents that were legally defensible and in coordination with legal review, to obtain Ordinance Review Committee input for conflict and integration to existing ordinances, and to hold a public hearing for input in order to then draft a "final" proposal to submit to City Council.

On November 2, 2022 the Planning and Zoning Commission undertook discussions and consideration on a proposal to amend the City's Code of Ordinances concerning the use of short-term rentals (STR), including consideration of draft documents created by P&Z including a revision to current City Code §156.062 & §156.064, STR regulatory Ordinance, STR Application, STR Inspection Checklist ,STR Map, and STR Frequently Asked Questions (FAQs),

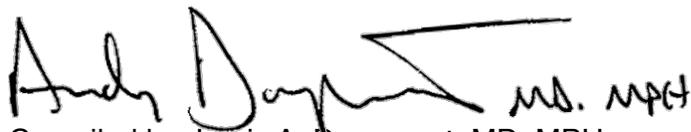
On December 1, 2022, City Engineer Brandon Melland of K. Friese & Assoc. submitted a report with feedback on proposed revisions to the Code of Ordinances concerning STRs and minimum lot sizes.

On January 4, 2023 the Planning and Zoning Commission held further discussions and consideration on proposed changes to the Code of Ordinances concerning STRs. City staff was instructed to prepare all necessary documents for the Commission to discuss and take possible action on a recommendation to City Council at the next regular meeting.

On February 8, 2023 the Planning and Zoning Commission received a report from the Ordinance Review Committee concerning minimum lot sizes and short-term rental regulations. The Commission heard, discussed and considered a proposed calendar for scheduling of public hearings by the Planning and Zoning Commission to be held Wednesday, March 1, 2023, and a final hearing by the City Council prior to the effective date of any proposed changes. The Commission voted to proceed with the public hearing after which a Final Report will be prepared recommending the proposed STR regulations/documents to the City Council for consideration.

On March 1, 2023 the Planning and Zoning Commission held a Public Hearing on the proposed regulation of short term rentals. Following the Public Hearing and discussion, the Commission voted to submit our recommendations unchanged but with an amendment requesting an expedited process for enforcement of all ordinances to City Council for consideration.

On March 8, 2023 City Council, upon reaching our recommendation, retired to Executive Session and returned with a motion that instructed staff/city attorney to "set up a regulatory permitting process for residential short term rentals". City Attorney Gordon made a brief statement that he's recommending against P&Z's proposal of prohibiting STRs anywhere at this time, and instead advising a step-by-step process that begins with creating regulations, allowing short term rentals everywhere, and gathering additional data. This plan was unanimously agreed upon by City Council.

A handwritten signature in black ink that reads "Andy Davenport" followed by "MD, MPH". The signature is fluid and cursive.

Compiled by: Louis A. Davenport, MD, MPH
P&Z Chairman

CITY LOGO REMOVED

**PLANNING & ZONING (P&Z) COMMISSION
§ 156.062 & § 156.064 PROPOSED AMENDMENT**

§ 156.062 CHART 1: RESIDENTIAL ZONING DISTRICTS.

(A) *General.*

- (1) All floor space is calculated exclusive of garage, porches, patios, driveways, terraces and other similar additions. Maximum building height for all structures is 30 feet.
- (2) Bi-level buildings shall have a minimum living area as calculated at the midpoint between the requirements of one and two stories.

(B) *Districts.*

- (1) *SF-1, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:
 - (a) Minimum square feet living area:
 1. One story: 1,500 square feet; and
 2. Second story: 500 square feet,
 - (b) Minimum setbacks:
 1. Front and back: 25 feet
 2. Interior sides: seven and one-half feet; and
 3. Side street: ten feet.
 - (c) Two-car garage, not less than 400 square feet (20x20).
 - (d) Short-term rentals are not allowed.**
- (2) *SF-2, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:
 - (a) Minimum square feet living area:
 1. One story: 1,000 square feet:
 2. Second story: 500 square feet
 - (b) Minimum setbacks:
 1. Front: 25 feet;
 2. Interior sides: seven and one-half feet; and
 3. Side street: ten feet.
 - (c) Two-car garage, not less than 400 square feet (20x20)
 - (d) Short-term rentals are not allowed.**
- (3) *SF-3, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:

- (a) Minimum square feet living area:
 - 1. One story: 1,000; and
 - 2. Second story: 200 square feet.
 - (b) Minimum setbacks:
 - 1. Front: ten feet;
 - 2. Rear: 15 feet;
 - 3. Interior lot lines: zero;
 - 4. Side street: five feet.
 - (c) Two-car garage, not less than 400 square feet (20x20)
 - (d) Short-term rentals are not allowed.**
- (4) *SF-4, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:
- (a) Minimum square feet living area: 900;
 - (b) Minimum setbacks: zero lot lines;
 - (c) No garage required; and
 - (d) Short-term rentals allowed.
- (5) *SF-5, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:
- (a) Minimum square feet living area: 1,000;
 - (b) Minimum setbacks:
 - 1. Front: 20 feet;
 - 2. Rear: 15 feet;
 - 3. Side: seven and one-half; and
 - 4. Side street: ten feet.
 - (c) One-car garage not less than 200 square feet (10x20).
 - (d) Short-term rentals are not allowed.**
- (6) *SF-6, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:
- (a) Minimum square feet living area: 1,000;
 - (b) Minimum setbacks:
 - 1. Front: 25 feet;
 - 2. Rear: 25 feet;
 - 3. Side: five feet; and
 - 4. Side street: ten feet.
 - (c) Two-car garage not less than 400 square feet (20x20).

(d) Short-term rentals are not allowed.

(7) *TH/C, Townhouse and Condominium Residence.* Multiple-dwelling units with one family per dwelling unit. Zoning can include single-family dwelling, duplex, townhouses, condominiums:

(a) Minimum square feet living area:

1. One story: 1,000 feet; and
2. Two story: 1,200 feet.

(b) Minimum setbacks:

1. Front and back: 25 feet;
2. Interior lot lines: seven and one-half feet; and
3. Side street: 15 feet.

(c) Two-car garage not less than 400 square feet (20x20).

(d) Short-term rentals are not allowed.

(8) *DU-1, Two-Family Duplex.* Two single-family dwelling units limited to no more than one building per lot occupied by no more than two families. Zoning can include single-family dwelling or two-family duplex:

(a) Minimum square feet living area per individual unit:

1. One story: 1,000 feet; and
2. Two story: 1,200 feet.

(b) Minimum setbacks:

1. Front and back: 25 feet;
2. Interior: seven and one-half feet; and
3. Side street: 15 feet.

(c) One car garage not less than 200 square feet (10x20) per individual unit

(d) Short-term rentals are not allowed.

(9) *4PLX, Four-Plex.* Four single-family dwelling units limited to no more than one building per lot occupied by no more than four families. Zoning can include single-family dwelling, two-family dwelling or four-family four-plex:

(a) Minimum square feet living area per individual unit: 800;

(b) Minimum setbacks:

1. Front and back: 25 feet;
2. Interior lot lines: seven and one-half feet; and
3. Side street: 15 feet.

(c) One-car garage per individual unit not less than 200 square feet (10x20).

(d) Short-term rentals are not allowed.

(10) *Multi-Family Residences.* (See § 156.064 of this chapter for additional information on multi-family residences.)

(11) *MF-1, Multi-Family Residence.* Maximum units per acre: 14.

- (13) *MF-2, Multi-Family Residence*. Maximum units per acre: 16.
- (14) *RR, Rural Residence District*. One-family dwelling with no more than one residence per lot occupied by no more than one family:
- (a) Minimum lot: one acre;
 - (b) Minimum square feet living area:
 - 1. One story: 1,500; and
 - 2. Two story: 2,000.
 - (c) Minimum setbacks:
 - 1. Front and back: 25 feet;
 - 2. Interior sides: seven and one-half; and
 - 3. Side street: 15 feet.
 - (d) Two-car garage not less than 400 square feet (20x20).

(d) Short-term rentals are not allowed.

- (15) *PUD, Planned Unit Development*. Planned unit development with planned diverse land uses, such as housing, recreation and shopping in one contained development, and allowing for cluster development and alternative design standards. Minimum site areas: inside City, ten acres recommended.

- (16) *MH-1, Manufactured Housing Subdivision*.

- (a) Minimum lot: 7,200 feet;
- (b) Minimum square feet living area: 1000;
- (c) Minimum setbacks:
 - 1. Front and back: 25 feet;
 - 2. Interior lot lines: seven and one-half feet; and
 - 3. Side street: 15 feet.

- (d) Property and areas of the City zoned MH-1 may be planned, used, approved, platted and occupied as a manufactured housing subdivision with lots sold and conveyed to individual lot owners. Land and areas of the City zoned MH-1 and having an approved subdivision plan may be used for manufactured housing.

(e) Short-term rentals are not allowed.

- (17) *Personal care facility*. See § 156.065 of this chapter.

(Ord. 00-65N, 6-1-2005; Ord. 19-255, 3-13-2019)

§ 156.064 CHART 3: MULTI-FAMILY REQUIREMENTS, MF-1 AND M-2 ZONES.

(A) *Purpose.*

- (1) To provide a buffer use between the high traffic of RR12, which makes development of land abutting RR12 unattractive for single-family housing, and the single-family development of interior land; and
- (2) To permit higher density development of property not suitable for single-family development, but to protect adjacent single-family development from any negative impact of the higher density use.

(B) *Permitted uses.*

- (1) Single-family homes, duplex units, four-plex units or apartment complexes meeting the minimum requirements of this zone. All uses within this zone shall require approval of a site plan by the Planning and Zoning Commission and City Council prior to the issuance of a building permit; and
- (2) Use of the land for purposes secondary to the primary residential use, such as swimming pools, basketball courts or similar uses, shall require that adjacent property be sheltered from noise and light resulting from said uses. Review of said shelter shall be a part of the site review required before a building permit is granted.

(3) Short-term rentals allowed.

- (C) *Requirements.* The intent of the following requirements is to require yard setbacks which are directly related to the height of the buildings developed on the property and thereby to mitigate the effect of higher buildings upon adjacent single-family properties.

% masonry required	55%
Front yard (on primary access street)	25' or the height of the closest building on the property, whichever is greater
Maximum density	
MF-1	14 units per acre
MF-2	16 units per acre
Maximum height	2 stories or 30', whichever is less
Maximum impermeable coverage	55%
Minimum floor area per unit	
1 BR	500 sq. ft.
2BR	850 sq. ft.
3 BR	1,000 sq. ft.
Parking spaces required/units	
1 BR	1.5
2 BR	2.5
Rear yard (abutting single-family residential property)	25' or the height of the closest building on the property, whichever is greater

Rear yard (not abutting single-family residential property)	25' or ½ the height of the closest building on the property, whichever is greater
Side yard (abutting single-family residential property)	15' or the height of the closest building on the property, whichever is greater
Side yard (abutting street)	15' or the height of the closest building on the property, whichever is greater
Side yard (not abutting single-family residential property)	7.5' or ½ the height of the closest building on the property, whichever is greater

(Ord. 00-65N, 6-1-2005; Ord. 19-255, 3-13-2019)

DRAFT



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.

1.

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.

2.

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.

3.

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.

4.

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.

5.

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.

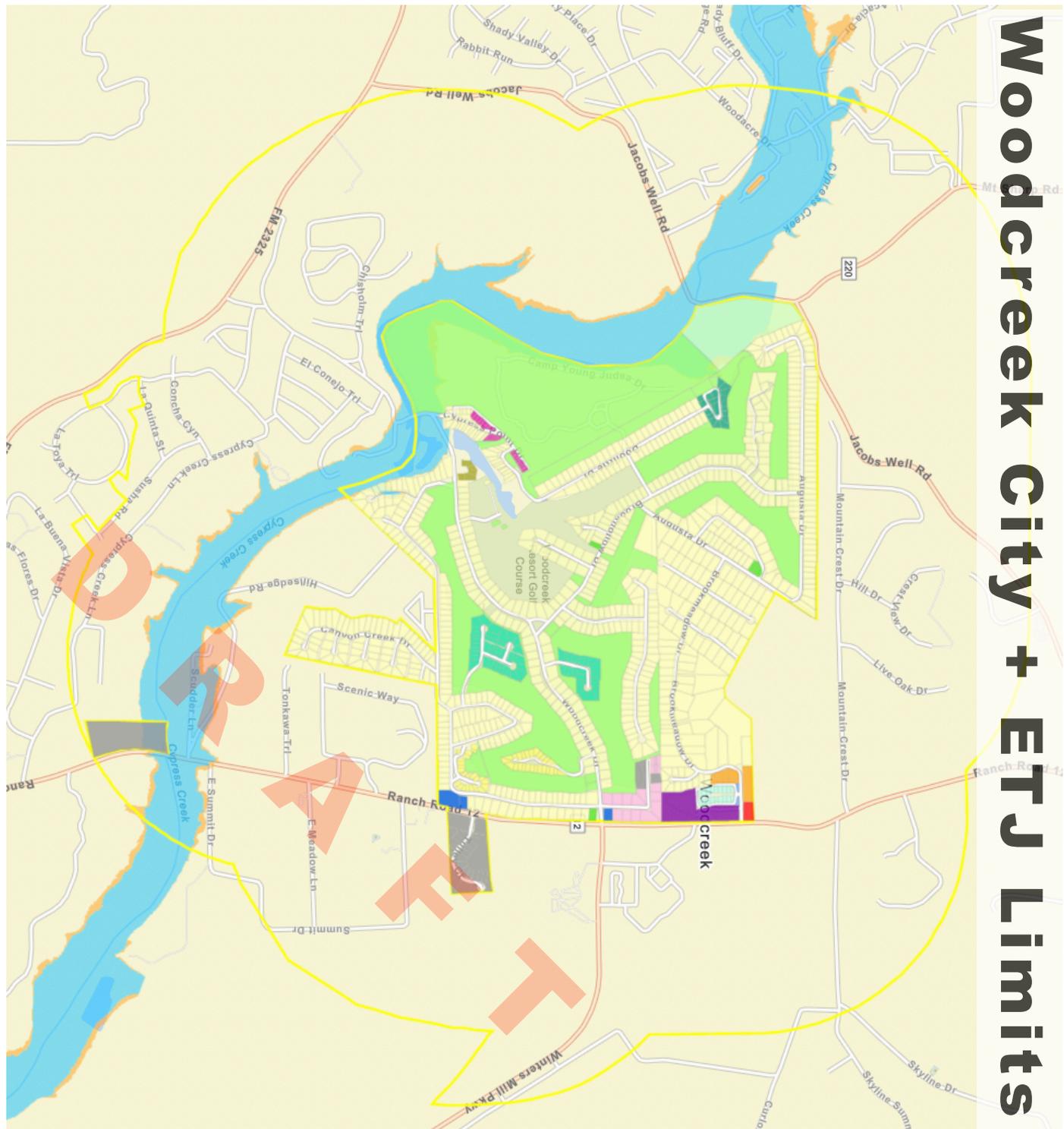
6.

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.

7.

This ordinance shall become effective on January 1, 2023.

Woodcreek City + ETJ Limits



 City of Woodcreek City Limits

 City of Woodcreek Zoning 2019

 Single Family 1

 Single Family 2

 Single Family 3

 Single Family 6

 Townhouse/Condo

 Four Plex

 Planned Development District

 Recreational

 Single Family 5

 Single Family 4

 Two-Family Duplex

 Utility

 Government

 Multi-Family

 Public Park

 Greenbelt

 Natural Preserve

 Neighborhood Comm.

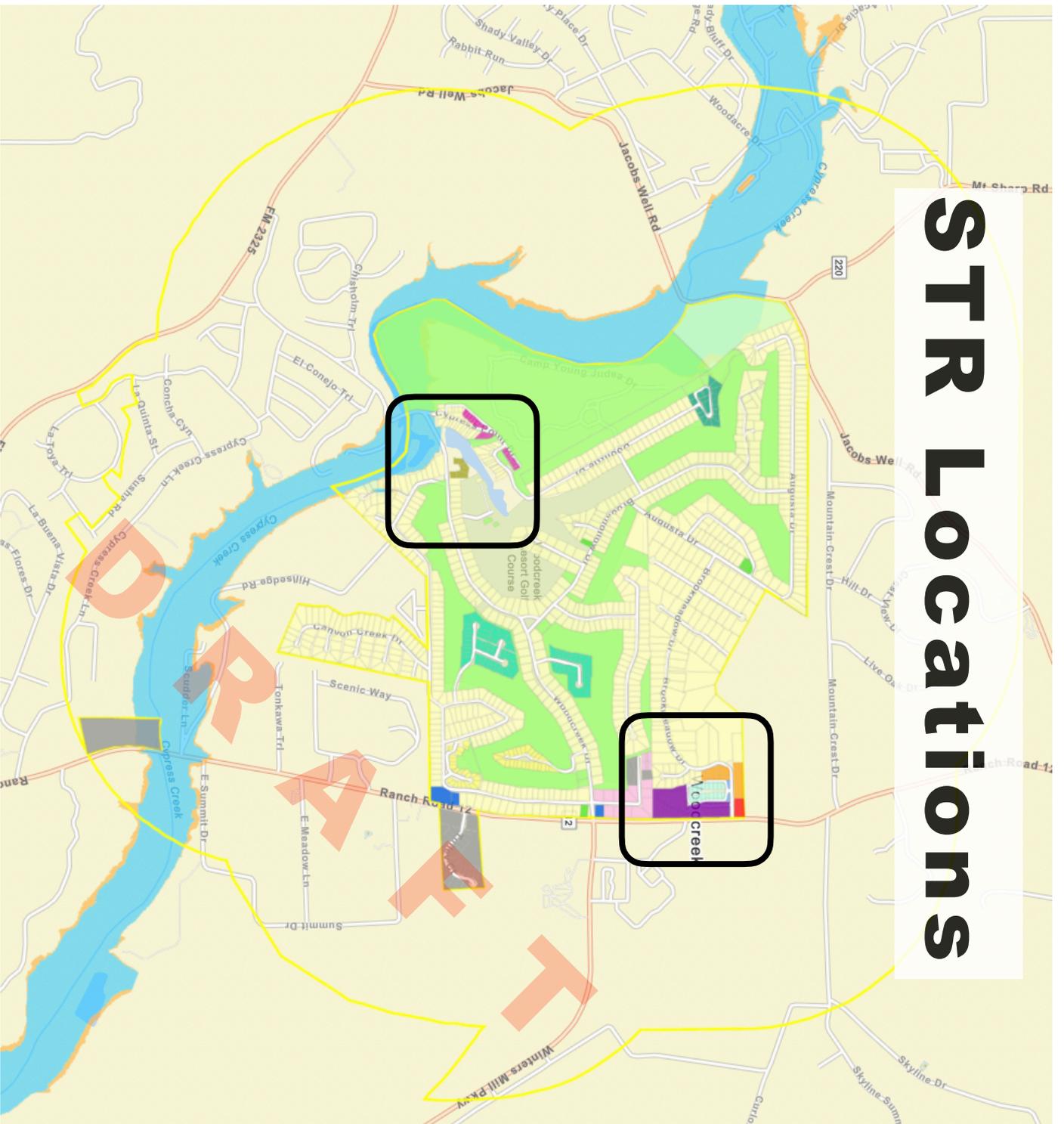
 City of Woodcreek ETJ Boundary

 Proposed Cypress & Blanco Rivers 100 and 500 year FEMA Flood Zones (ABFE layer)

 100

 500

STR Locations



 City of Woodcreek City Limits

 City of Woodcreek Zoning 2019

 Single Family 1

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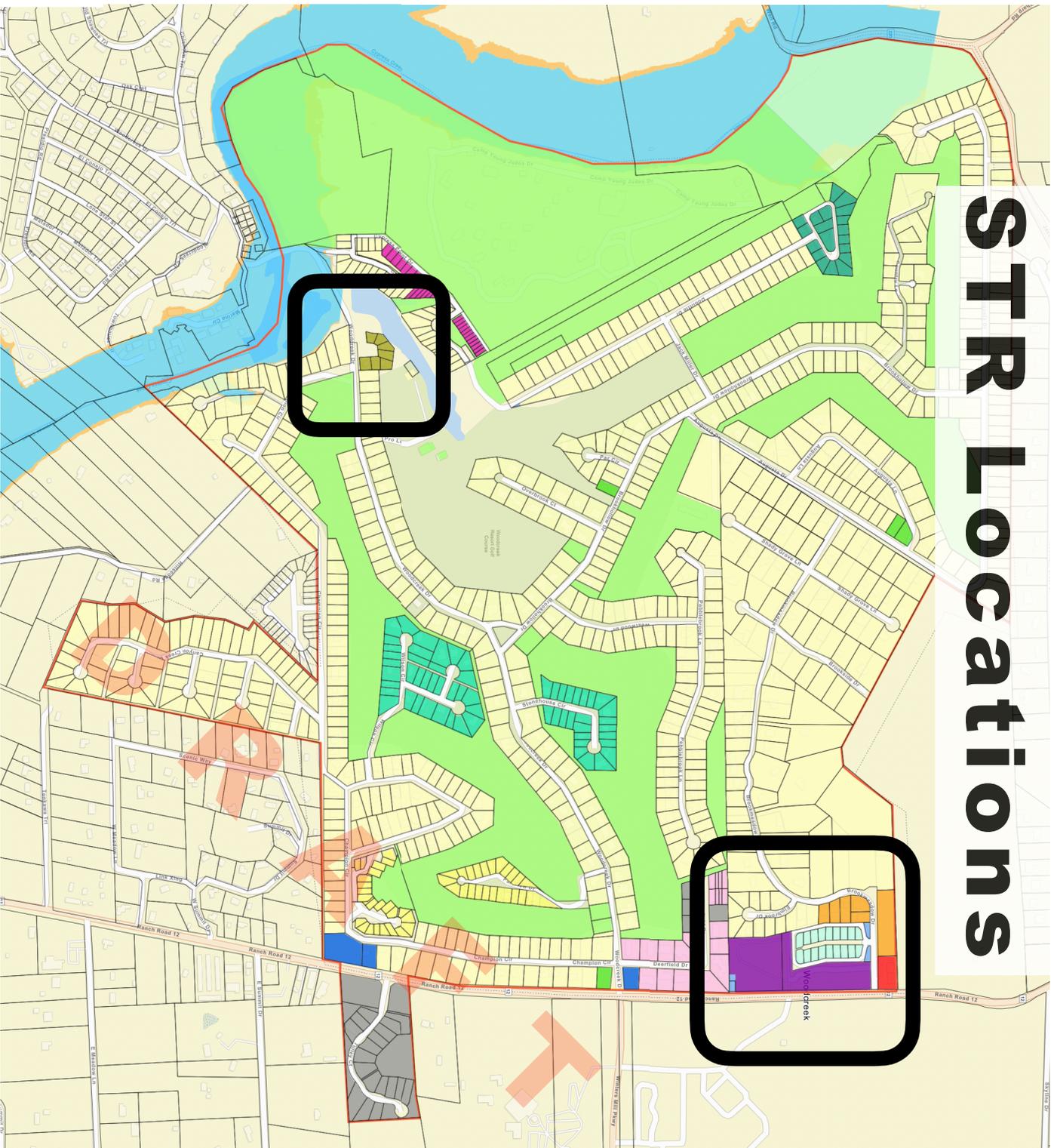
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 100

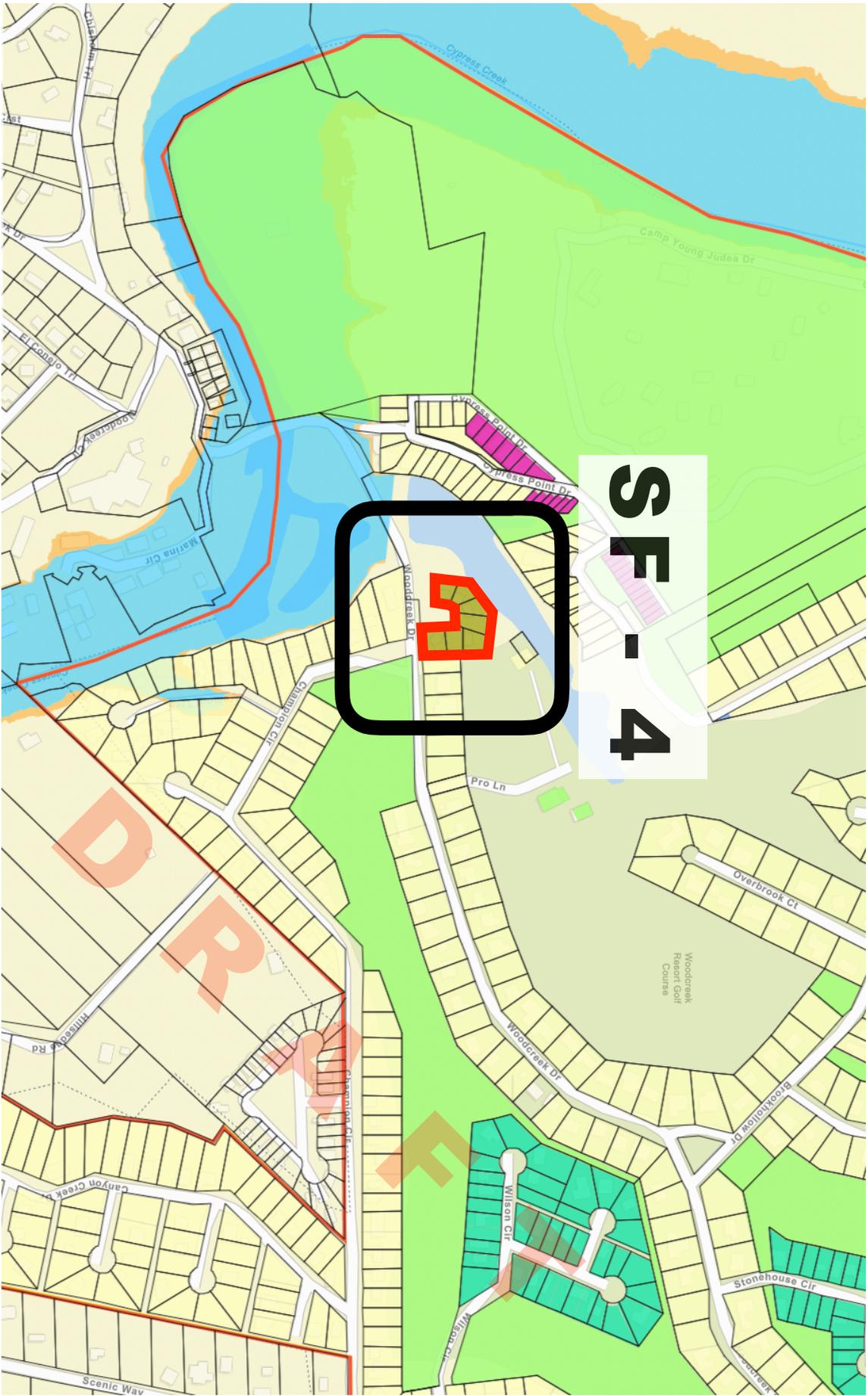
 500

STR Locations

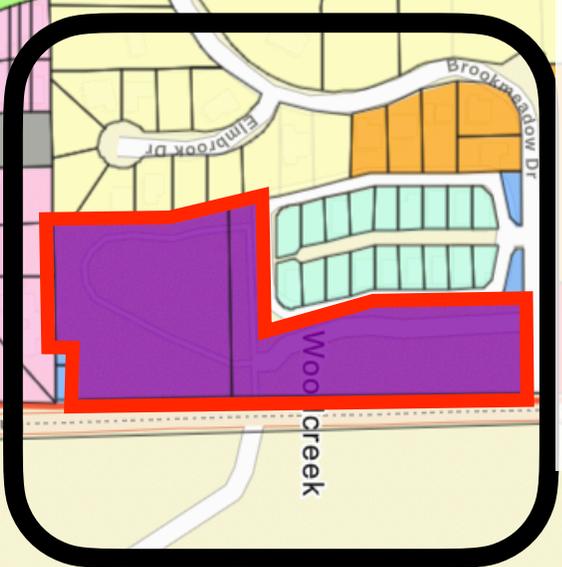


-  City of Woodcreek City Limits
-  City of Woodcreek Zoning 2019
-  Single Family 1
-  Single Family 2
-  Single Family 3
-  Single Family 6
-  Townhouse/Condo
-  Four Plex
-  Planned Development District
-  Recreational
-  Single Family 5
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-  Natural Preserve
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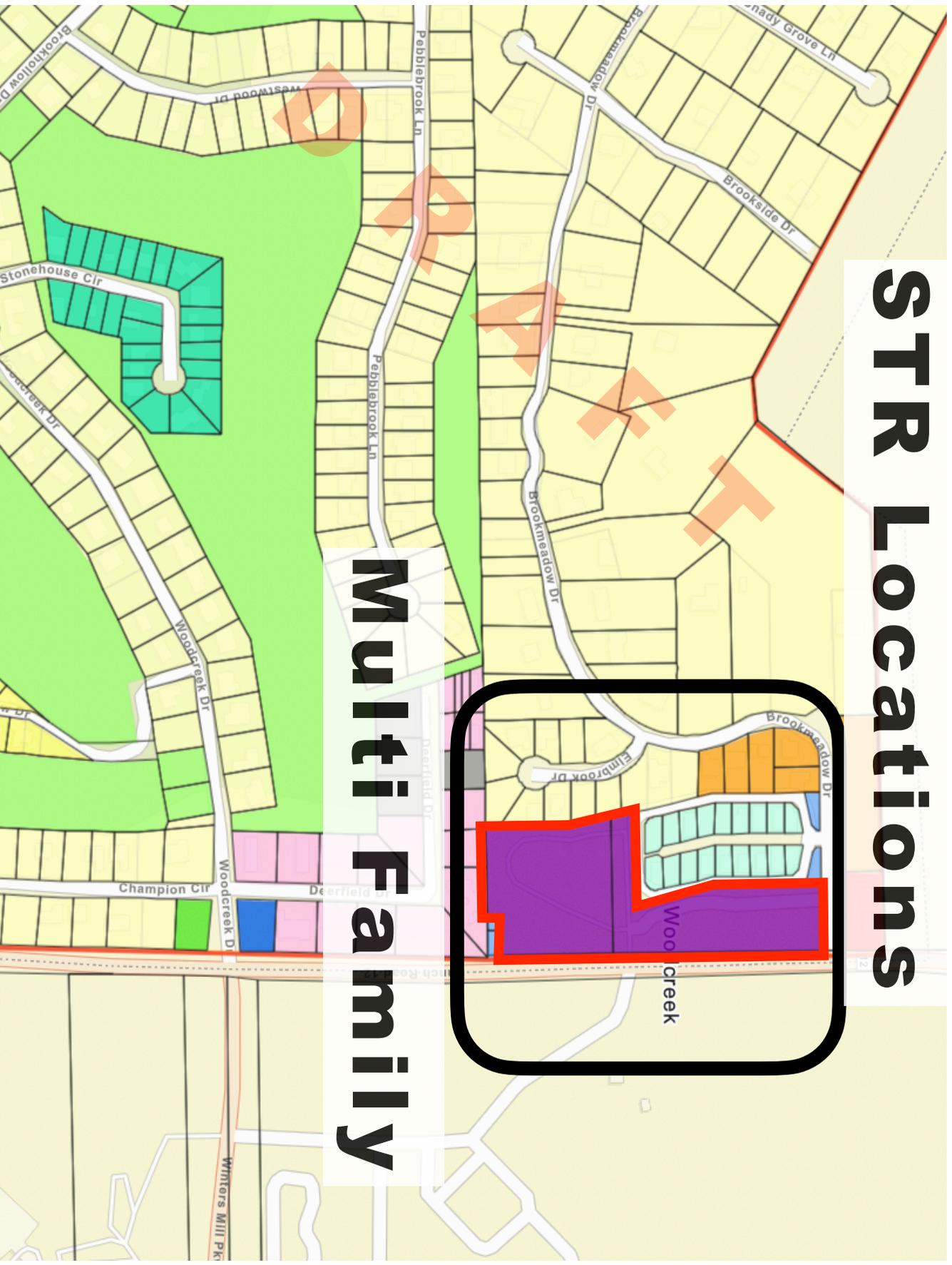
STR Locations



STR Locations



Multi Family





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

Application must be completed fully, signed, and submitted with all required documents and fees attached.

Requirements Checklist

- | | |
|---|---|
| <input type="checkbox"/> No External Signage | <input type="checkbox"/> Sample Informational Brochure |
| <input type="checkbox"/> Working Smoke Alarms | <input type="checkbox"/> General Liability Insurance ² |
| <input type="checkbox"/> Working Carbon Monoxide Alarms | <input type="checkbox"/> Maximum Number of Occupants Permitted ³ |
| <input type="checkbox"/> Working Fire Suppression System (Sprinkler) | <input type="checkbox"/> Floor Sketch Plan with Room Dimensions / Evacuation routes |
| <input type="checkbox"/> Working Fire Extinguisher (5lbs., ABC rated) | <input type="checkbox"/> Site Plan or Survey Showing Parking Areas/ Spaces ⁴ |
| <input type="checkbox"/> 24/7 Contact Individual | <input type="checkbox"/> Pet Policy |
| <input type="checkbox"/> Proof of Hotel Occupancy Tax Compliance ¹ | |

- V.T.C.A., Tax Code Chapter 351*
- Commercial General Liability Insurance Policy with limits of \$1,000,000 per occurrence.*
- Occupancy limit – no more than two adults per bedroom plus two additional adults with a maximum of 10 person’s total, including adults and children.*
- Vehicle limits: There shall be no more than four vehicles, without encroaching onto streets, sidewalks or alleys; other public rights-of-way or public property.*

Property Address _____
of the Short-Term Rental: _____

Property Owner Information

Name _____

Mailing Address _____

Telephone # _____ Cellphone # _____

24-Hour Contact # _____

Email Address _____

Operator/Designated Local Individual - 24-hour/day Contact

Name _____

Mailing Address _____

Telephone # _____ Cellphone # _____

24-Hour Contact # _____

Email Address _____

I certify that I am the property owner or authorized Agent. I will provide an informative brochure to guests that includes my 24-hour contact information and a local 24-hour contact number who can be on site within 1 hour, pertinent neighborhood information (such as noise and curfew restrictions, trash collection schedules) and information to assist guests in case of emergencies. I understand that I shall include the correct limits of guests and vehicles when advertising the property as a short-term rental based on the Ordinance and will include the prohibition against the use of the property for having a party in any advertisement, listing or other publication offering the premises for rent and will include the permit number assigned to the property by the City of Woodcreek as a short-term rental in all advertisements. I understand that a Certificate of Occupancy will be issued upon completion of the inspection. I confirm that I have met and will continue to comply with the standards and other requirements of the City's STR ordinance _____. I understand that my application is not complete until I have submitted the completed application form, all required documents, paid all applicable fees, and passed all necessary inspections.

Date of Application Signature

CITY LOGO REMOVED

PLANNING & ZONING (P&Z) COMMISSION
DRAFT - INSPECTION CHECKLIST - 221017

Short-term rentals (STRs) are regulated by the City of Woodcreek through Ordinance XX-XXXX. Prior to operation, the owner of an STR must have a valid permit from the City, and a City inspection will be performed once an application for permit has been submitted. The following items will be used as a checklist during the performance of this inspection. Additional information regarding STRs may be found on the City's website at https://library.municode.com/tx/woodcreek/codes/code_of_ordinances?nodet=TITXVLAUS_CH156ZO.

LIFE SAFETY:

1. All exterior egress doors must be fully functioning. Locks that require a key or special knowledge to unlock from the inside are prohibited (such as a double cylinder deadbolt). *Section R311.2, International Residential Code (IRC)*
2. At least one window or exterior door from each bedroom must be operable for emergency escape and rescue purposes. The window opening shall be at least 5.0 sq. ft. on the ground floor and at least 5.7 sq. ft. on all other floors. *Section R310, IRC*
3. Smoke alarms are required in each bedroom, in the immediate vicinity outside of each bedroom, and on all habitable floors. Smoke alarms may be powered by the main electrical system or battery powered. Smoke alarms must not have exceeded manufacturer's life expectancy. *Section R314, IRC*
4. If the STR contains gas appliances or has an attached garage, carbon monoxide alarms are required outside of each bedroom. Carbon monoxide alarms shall be powered

by the main electrical system or battery powered. *Section R315, IRC*

5. A properly maintained and fully charged fire extinguisher (minimum 2A:10B:C) shall be provided in a readily visible location. *Section 906, International Fire Code*
6. If fire sprinklers are installed, they must be properly functioning and have been inspected and labeled within the past 12 months by an approved fire sprinkler contractor. *Chapter 4, NFPA 25*
7. All stairs and handrails (both exterior and interior) must be maintained, in good working order, and defect free. *Section R311.7, IRC*

MECHANICAL, ELECTRICAL, AND PLUMBING:

1. The electrical panel shall be complete (no missing breakers, filler plates, or cover) and properly fused and labeled. The panel shall be readily visible and not concealed in any manner. A clear working space of 30" wide by 36" deep is required around the panel from the floor to a height of 6'-6". *Section E3405.2, IRC*
2. No temporary wiring may be used (other than approved extension cords), all outlet covers shall be in place, and no electrical wiring may be exposed. *Section E3909.1, IRC; Section E4002.13, IRC*
3. Receptacles in bathrooms and kitchens shall be GFCI protected. *Section E3902.1, IRC; E3902.6, IRC*
4. The temperature & pressure relief valve on all water heaters shall discharge to the exterior of the building or other approved location. *Section P2804.6.1, IRC*

5. Water heaters shall not be located in any bedroom or bathroom. *Section M2005.2, IRC*
6. Every habitable room shall be provided with heating facilities capable of maintaining a temperature of at least 68° F. Space heaters are not allowed to be used to meet this requirement. *Section R303.10, IRC*

OPERATION:

1. The property address must be posted in a location visible from the street with each number not less than 4" in height. *Section R319, IRC*
2. A floor plan indicating fire exits and escape routes must be posted in a visible location. *Section 3.05, Ordinance XX-XXXX*
3. The name and contact information of the local responsible party who can be contacted at all times while occupants are on the premises shall be provided. *Section 3.06, Ordinance XX-XXXX*
4. A copy of the host rules shall be displayed on site in a readily available location. At a minimum, host rules shall include:
 - Restrictions on the number of occupants
 - Limits on parking
 - Trash pickup days and rules
 - Prohibitions on special events
 - Limits on noise
 - Curfew times (Section 3.20, Ordinance XX-XXXX)
5. Property must be free of any outstanding property maintenance violations.

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PLANNING & ZONING (P&Z) COMMISSION
DRAFT - FAQs - 221017

Frequently Asked Questions

SHORT-TERM RENTALS

1. **What is a short-term rental?**

A short-term rental, or STR, is any portion of a residential premises used for lodging accommodations for occupants for a period of less than thirty (30) consecutive days. It may include the entire dwelling unit, one room in the dwelling unit, or just a bed or couch within the unit. An STR does not include a Bed and Breakfast as defined in the Unified Development Code.

2. **Do I need a permit to operate a short-term rental in Woodcreek?**

Yes. Starting January 1, 2023, the owner/operator of a short-term rental must apply for and obtain a permit to operate the STR.

3. **Is there a fee for a short-term rental permit?**

A non-refundable fee of \$500 is paid at the time you submit a permit application or apply for a renewal permit. Your application will not be reviewed until the fee is paid.

4. **Are there any restrictions on where short-term rentals can be located?**

Yes. Ordinance No. XX-XXX authorizes an STR as an allowed land use only within the following zoned districts: SF-4 (single-family), Multi-Family, non-residential, and mixed-use zoned districts. STRs are prohibited in all other zoned districts within the City.

5. **My proposed short-term rental is located within a Planned Development (PD) zoning district. Are STRs allowed in a PD?**
Most residential planned developments have low housing densities and are not appropriate locations for a short-term rental. However, if the ordinance that established the PD allows for a housing density of 12 units per acre or greater, an STR will be permitted.

6. **Since STRs are allowed in non-residential zoning districts, does that mean I can conduct a short-term rental in my office building or warehouse?**
No. A short-term rental must be conducted within a residential structure. In addition, a new residential structure cannot be built in a non-residential zoning district for the purpose of conducting an STR.

7. **I began operating a short-term rental before the City of Woodcreek adopted the STR ordinances. Do I still need to obtain an STR permit?**
Yes. Short-term rentals existing prior to the January 1, 2023 effective date are not “grandfathered.” All the requirements for permitting, location and rules of operation apply to both new and existing STRs.

8. **My STR is also my principal residence. Do the short-term rental ordinances still apply to me?**
Yes. Unlike some cities, the short-term rental ordinances in Woodcreek do not distinguish between an owner-occupied STR and an investor-owned STR. It doesn't matter whether you live in your STR, or you are an absentee owner living in another state, or you are a corporation that buys homes for the sole purpose of operating them as STRs. The location, permitting and operational rules apply equally to all situations.

9. **How do I apply for a short-term rental permit?**
All applications for STR permits will be processed at City Hall. There you can apply and provide documents necessary for the City to review

your application.

10. I live in an apartment. Can I use my apartment as a short-term rental?

An apartment may be used as an STR if the landlord agrees and it meets all other requirements of City ordinances. During the application process, you will be asked to declare whether the proposed short-term rental is a single-family unit or a multi-family unit. If the proposed STR is part of a multi-family building, you will be required to provide documentation that the landlord consents to the use of the premises for a short-term rental. The apartment must be located within Woodcreek's Multi Family zone where STR's are authorized.

11. Why does the City need to see a copy of the host rules for my STR?

Although the City has adopted regulations related to STR operation, it is your responsibility as the host to convey those regulations and other information to your guests. Host rules for every STR must include contact information for the Local Responsible Party and provide occupants with notice of the City's regulations on parking, noise, curfew, and trash, and the penalties for violating those regulations.

12. Is there a cap on the number of short-term rental permits that the City will issue?

No. All properties in the eligible zoning districts have the same opportunity to receive a short-term rental permit. There is no maximum on the number of STR permits that may be approved in a neighborhood, census tract or any other geographical area within the city, provided the area is within the eligible zoning districts.

13. I notice that my STR permit is valid for only one year. How do I renew my permit?

Thirty to sixty days prior to the expiration of your STR permit, you will

receive a reminder from the City that it is time to renew. To renew, return to City Hall and complete a renewal application. You will be asked to provide the same documents as the initial application, with updates, if any. The fee for a renewal permit is \$500.

14. My hosting platform offers liability insurance coverage for my STR operation. Is that coverage acceptable?

Yes, provided it satisfies the requirement to maintain coverage of \$1 million per occurrence and the insurer is licensed to conduct business in the State of Texas. To be accepted, a certificate of coverage is required. Promotional materials or screenshots from the hosting platform's website are not sufficient. The certificate must include the name of the carrier, limits of liability, and effective dates, and the certificate must be submitted with all other documentation at the time of application.

15. I received a notice that my insurance coverage has lapsed. What should I do?

You are required to maintain liability coverage while your STR permit is active. You should present to City Hall to update information about your insurance renewal and provide the renewal certificate of coverage. Failure to provide current insurance information may result in revocation of the STR permit.

16. Since I own the property where my STR is located, don't I have the right to conduct a short-term rental regardless of the City's ordinances, rules and regulations?

The ordinances adopted by the City Council regulating STRs, draw a reasonable balance between the rights of property owners who wish to conduct an STR and the rights of nearby property owners who may be impacted by operations of the STR. This is no different than every other parcel of land in the City. Depending upon where the parcel is located, some uses are appropriate, while others are not.

17. How many persons may occupy my short-term rental unit at one time?

A maximum occupancy will be established during the review of your permit application. Occupancy is a factor of the number of bedrooms and is calculated as follows: Two persons per bedroom, plus two additional persons. For example, a three-bedroom STR would have a maximum occupancy of (2 persons x 3 bedrooms) + 2 persons = 8 persons maximum. Regardless of the size of the STR, the maximum occupancy cannot exceed 10 persons. Allowing more persons to occupy the STR than the maximum will subject the owner/operator to a citation.

18. Is my short-term permit transferable in the event I sell my house or move my STR operation to another location?

No. An STR permit is both owner and location specific. The permit is non-transferable and non-assignable. A new permit will be required for the new owner of the house and you must obtain a new permit for a different location. Any attempt to transfer a permit or attempt to use another person's permit may be grounds for revocation of a permit.

19. Why does the City of Woodcreek require an inspection of the premises to receive a permit?

The City is concerned for the safety of your guests and wants to be sure guests are aware of the rules for operating an STR. All short-term rentals must be equipped with basic emergency systems such as smoke detectors, multiple ways to exit rooms in the event of fire, and a fire extinguisher. The STR must be free of potential hazards like exposed electrical wiring or unapproved modifications to a breaker box. The Code Compliance Officer inspecting the premises will also expect to see a copy of your host rules posted for your guests to let them know about restrictions on noise, parking, curfew, and trash disposal. A complete STR inspection checklist can be provided by City Hall.

20. **If I cannot use my premises for a short-term rental unit, may I lease it for longer than 30 days?** The City of Woodcreek does not regulate the long-term leasing of residential premises. No permit is required. However, as with a short-term rental, be sure to review all city ordinances for any special covenants and restrictions that govern the use of your premises.
21. **The host platform that I use for listing my short-term rental already collects hotel occupancy tax when someone books my unit. Do I still need to register with the City of Woodcreek for hotel occupancy tax?** Yes. Some of the host platforms such as Airbnb have contracts with the State of Texas to collect and remit hotel occupancy tax on behalf of STR operators. However, none of the platforms have a contract with the City of Woodcreek. It is the responsibility of the STR operator to register with, and submit tax reports to, the City of Woodcreek for the City's 9 percent hotel occupancy tax.
22. **I currently operate a short-term rental, but I am unable to obtain a permit due to the location of my STR or other reasons. May I continue to operate, and if so, for how long?** Ordinance No. XX-XXX provides a grace period to January 31, 2023, for the owner of an existing STR that was registered with the City of Woodcreek for hotel occupancy tax prior to April 30, 2022, but who is unable to obtain a permit. During that time, the owner should wind down operations of the STR. Existing STRs that registered for hotel occupancy tax after April 30, 2022 must discontinue operations by January 1, 2023, unless they are able to obtain a permit. There is no grace period for unregistered STRs, and they must cease operations once they have exhausted their opportunity to apply for a permit, but in no case later than January 1, 2023.
23. **Is the information I submit for my permit a matter of public record?** Most, but not all, of the information you provide when obtaining an STR

permit is public record. The City maintains an interactive map of all approved permits, which includes basic data such as the name of the permittee, the location, date of issuance, and the number of approved parking spaces. The map is viewable by anyone requesting access. Also, the City often receives open records requests from members of the public seeking data on specific STRs. The City is required by law to respond to those requests but does not provide data that is protected from public disclosure.

24. I received an Order of Revocation in the mail. What does that mean, and what rights do I have if I disagree with the Order?

An STR permit may be revoked for any of the following reasons if the permit holder:

- i. Received more than two citations for violations of the short-term rental ordinances or any other ordinance of the City within the preceding 12-month time period; or
- ii. 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 the non-compliance; or
- iii. Knowingly made a false statement in the permit application; or
- iv. Otherwise becomes disqualified for issuance of a permit under terms of the STR ordinances.

An Order of Revocation takes effect three days after mailing. If you disagree with the reasons stated in the Order, you must act quickly to preserve your right to appeal. Within ten days, present to City Hall for filing an appeal. You will be notified of a hearing date. At the hearing, you will have the opportunity to present testimony or other evidence to demonstrate that the reasons given in the Order are incorrect. The hearing officer will either sustain, modify, or rescind the Order of Revocation. You may have further rights, which the hearing officer will explain at the time of the hearing.