



**AGENDA ITEM REQUEST FORM
CITY OF JOHNSON CITY, TEXAS
CITY COUNCIL**

ITEM NO. 20

MEETING DATE: May 3, 2022

AGENDA PLACEMENT:

- ☐ Ceremonial
- ☐ Consent
- ☒ Individual
- ☐ Closed Session

CAPTION:

Discussion of and action on the regulation of short-term rental units within the City of Johnson City, Texas, including, but not limited to, the following Ordinances:

1. An Ordinance of the City of Johnson City, Texas amending Chapter 4 *Business Regulations* of the Municipal Code of Ordinances by adding Article 4.08 *Short-term Rentals* providing for regulations requiring a permit and regarding the operation of a short-term rental in the City; declaring a misdemeanor violation with penalties not to exceed \$2,000; and setting an effective date; and
2. An Ordinance of the City of Johnson City, Texas amending Article 14.02 *Zoning Ordinance* of Chapter 14 *Zoning* of the Municipal Code of Ordinances by providing definitions regarding and relating to a short-term rental and amending the permitted chart of uses for a short-term rental in zoning districts in the City; and providing for an effective date. (Councilwoman Fisher / City Attorney)

STRATEGIC WORK PLAN:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Goal 5: Improve Fire Safety |
| <input type="checkbox"/> Goal 1: Increase Housing Diversity | <input type="checkbox"/> Goal 6: Improve Streets |
| <input type="checkbox"/> Goal 2: Expand Quality Lodging | <input type="checkbox"/> Goal 7: Increase Publicity & Promotion of the Community |
| <input type="checkbox"/> Goal 3: Improve Code Enforcement | <input type="checkbox"/> Goal 8: Increase Economic Development Activities |
| <input type="checkbox"/> Goal 4: Improve Streetscaping & Signage | |

EXECUTIVE SUMMARY:

Following City Council direction received on April 5, 2022, the City Attorney drafted and provided for review the attached two (2) ordinances that would disallow short-term rental permits in multi-family housing. Upon discussion with Councilwoman Fisher, the two ordinances

originally included within City Council packets have been amended and are provided with this cover sheet.

The amended ordinances accomplish the following four (4) narrowly-tailored items:

- Define multifamily housing.
- Prohibit multifamily housing from obtaining an STR permit.
- Require a contact who is available 24 hours a day and who is able to physically respond to the property within 60 minutes.
- Require a STR permit holder to inform guests when there is a burn ban.

FINANCIAL: N/a

ATTACHMENTS:

- Original ordinances adding Article 4.08 to the Code of Ordinances and amending the City's Zoning Code; and
- Amended ordinances amending Article 4.07 of the Code of Ordinances and amending the City's Zoning Code.

SUGGESTED ACTION: No motion provided.

PREPARED BY: City Staff

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF JOHNSON CITY, TEXAS AMENDING MUNICIPAL CODE OF ORDINANCES CHAPTER 4 BUSINESS REGULATIONS, ARTICLE 4.07 HOTEL PERMIT REGISTRATION BY ADDING REGULATIONS REGARDING THE OPERATION OF HOTELS, INCLUDING, BUT NOT LIMITED TO, SHORT-TERM RENTAL UNITS, IN THE CITY; PROHIBITING THE OPERATION OF HOTELS WITHIN MULTI-FAMILY DWELLING UNITS; REQUIRING NOTICE OF COUNTYWIDE BURN BANS; DECLARING A MISDEMEANOR VIOLATION WITH PENALTIES NOT TO EXCEED \$2,000; AND SETTING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the City Council ("City Council") of the City of Johnson City, Texas ("City") seeks to provide for the public health, safety and welfare of its citizens by promoting the orderly and safe use of property within the City to protect and preserve the dignity and sanctity of low-density, single-family residential neighborhoods, which are the City's primary land use category; and

WHEREAS, the City Council has determined that the amendment of Chapter 4 *Business Regulations* of the Municipal Code of Ordinances by amending Article 4.07 *Hotel Permit Registration* by adding regulations regarding the operation of hotels, including, but not limited to, short-term rental units, in the City; prohibiting the operation of hotels within multi-family dwelling units; and requiring notice of countywide burn bans is in the best interest of the citizens and businesses of the City and promotes the health, safety, and general welfare of the inhabitants of the City; and

WHEREAS, pursuant to Texas Local Government Code Section 211.003, the City has general authority to regulate the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City.

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

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are adopted as facts and are incorporated fully herein.

ARTICLE II. AMENDMENT AND ENACTMENT

The City Council hereby amends Chapter 4 *Business Regulations* of the Municipal Code of Ordinances by amending Article 4.07 *Hotel Permit Registration* by retitling, renumbering, and adding regulations regarding the operation of hotels, including, but not limited to, short-term

rental units, in the City; prohibiting the operation of hotels within multi-family dwelling units; and requiring notice of countywide burn bans, attached hereto as Exhibit A and incorporated fully herein for all purposes.

ARTICLE III. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

ARTICLE IV. EFFECTIVE DATE

This Ordinance shall be effective immediately upon approval by the City Council and publication in the Johnson City Record Courier.

PASSED and APPROVED by the City Council of the City this _____ day of _____ 2022.

Rhonda Stell, Mayor

Attest:

Whitney Walston, City Secretary

Published: Johnson City Record Courier

Date: _____

Initials: _____

CITY OF JOHNSON CITY CODE OF ORDINANCES
CHAPTER 4 BUSINESS REGULATIONS
ARTICLE 4.07 HOTEL /SHORT-TERM RENTAL UNIT PERMIT REGISTRATION
AND REGULATIONS

Sec. 4.07.001 Purpose

(a) The purpose of this Article is to ensure the registration, permitting, and collection and payment of hotel/motel occupancy taxes, as provided in Article 11.04 *Hotel Occupancy Tax* of this Code.

(b) Prior approvals. Nothing in this Article shall be deemed to require any change to the registrations and/or permits previously approved prior to the effective date of the ordinance from which this Article is derived.

Sec. 4.07.002 Hotel definition

A hotel is a building or facility, as defined in Section 11.04.001, in which the public may obtain sleeping accommodations in exchange for compensation for a period of less than 30 consecutive days. ~~This~~ The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, bed and breakfast, short-term rental unit, and any accommodation hereinafter described under State law, as amended.

Sec. 4.07.003 Prohibition of hotels in multi-family dwelling units

A hotel shall not register or receive a permit in accordance with this Article when the hotel is located within a multi-family dwelling unit, as defined and prohibited in Chapter 14 Zoning of this Code.

Sec. 4.07.004 Notification of burn ban

A hotel registered and permitted in accordance with this Article shall be required to notify, in writing, persons renting sleeping accommodations of a County-wide burn ban in effect at the time of rental. The term "in writing" shall mean a separate written notice prescribed by the City, included with the approved registration permit, and posted inside and adjacent to the hotel's front entry door.

Sec. 4.07.003~~5~~ Hotel registration required

(a) It shall be illegal to operate a hotel within the City limits or extraterritorial jurisdiction (ETJ) without a hotel registration permit. No person shall rent or lease, advertise, or offer to rent a hotel within the City without first obtaining a permit from the City. The City-issued permit number shall be included for all rental advertising in print or online.

(b) A hotel owner or tenant, with prior written authorization of the property owner, shall apply for and complete a hotel registration application provided by the City or third-party contractor. Information on the form shall include, but not be limited to, the following:

- (1) The name, address, email and telephone number of the hotel owner;
- (2) The name, address, email and twenty-four-hour telephone number of the hotel local contact person(s). The local contact person is the person designated by the hotel owner who shall be available twenty-four (24) hours per day, seven (7) days per week and shall respond in person within one hour to complaints from a City official regarding the condition, operation,

or conduct of occupants of the hotel unit and shall take remedial action to resolve any such complaints;

(3) The name and address of the hotel;

(4) The number of bedrooms and the applicable overnight and daytime occupancy limit of the hotel;

(5) The property ID number, as listed on the County Appraisal District website; and

(6) Such other information as the Chief Administrative Officer (CAO)/~~city secretary~~ or designee deems reasonably necessary to administer this Article.

(c) If any information on the original registration application changes, the hotel owner must modify that information and provide it to the City or third-party contractor within 30 calendar days of any change.

(d) The hotel registration application shall be submitted to the City or third-party subcontractor with payment of a \$100.00 one-time application fee. The application fee may be amended from time-to-time through the City Council's adoption of the most recent municipal fee schedule.

(e) A hotel owner applicant may designate an agent or representative to submit a completed registration application on the hotel owner's behalf. Designation of an agent or representative shall not relieve the hotel owner from compliance with this Article.

Sec. 4.07.0046 Issuance of hotel registration permit

(a) Upon finding that the registration application is complete and complies with the requirements of this Article, the City shall issue a hotel registration permit within ten (10) business days of submission of an application and fee.

(b) Each permit shall be issued a registration number.

(c) Registration is one-time, nontransferable, and is valid from the date of issuance of a permit. Registration shall not convey with the property upon sale.

(d) A hotel registration permit may be revoked for any violation of this Article, including failure to pay outstanding hotel occupancy taxes.

(e) A hotel owner may appeal the denial or revocation of a hotel registration permit to the City Council. The decision by the Council is final.

Sec. 4.07.0057 Hotel occupancy tax

A hotel owner or tenant, with prior written authorization of the property owner, of a registered hotel shall submit a tax collection report showing the consideration paid for all room occupancies in the preceding quarter and the amount of tax collected on the City's behalf on such occupancies, in accordance with Section 11.04.004 *Reports*. A report is required even if no unit was rented during the reporting period.

Sec. 4.07.0068 Penalty

~~(a) A violation of this article is hereby declared to be a nuisance and a misdemeanor.~~

~~(b) Any person violating this article is subject to suit for injunctive relief, as well as prosecution for civil and criminal violations.~~

~~(1) Criminal prosecution. Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding \$500.00. Each day that a provision of this article is violated shall constitute a separate offense.~~

~~(2) Civil remedies. Nothing in this article shall be construed as a waiver of the city's right to~~

~~bring a civil action to enforce the provisions of this article, and to seek remedies as allowed by law, including, but not limited to the following:~~

~~(A) — Injunctive relief to prevent specific conduct that violates the article or to require specific conduct that is necessary for compliance with the article;~~

~~(B) — A civil penalty of up to \$500.00 a day or, up to \$1,000.00 a day when it is shown that the defendant was actually notified of the provisions of the article and, after receiving notice, committed acts in violation of the article or failed to take action necessary for compliance with the article. Each day constitutes a separate offense and separate violation; and~~

~~(C) — Other available relief.~~

(a) Violation Declared. A person who violates this Article commits a misdemeanor offense and is subject to prosecution for criminal violations as well as suit for injunctive relief. Each day of the violation shall constitute a separate offense.

(b) Criminal and Civil Penalties.

(1) Criminal Fines. A person in violation of this Article shall, on conviction, shall be subject to a fine of \$500.00, and up to \$2,000.00 if the violation also involves fire safety, zoning or public health and sanitation including dumping of refuse.

(2) Civil Penalties. Nothing in this Article shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Article and to seek remedies as allowed by law, including, but not limited to, the following:

(A) injunctive relief to prevent specific conduct in violation or to require specific conduct that is necessary for compliance; and

(B) a civil penalty up to \$500.00 a day when it is shown that the defendant was actually notified of the provisions of the Article and after receiving notice committed acts in violation or failed to take action necessary for compliance; and

(C) other available relief.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF JOHNSON CITY, TEXAS AMENDING MUNICIPAL CODE OF ORDINANCES CHAPTER 14 *ZONING*, ARTICLE 14.02 *ZONING ORDINANCE* BY PROVIDING DEFINITIONS RELATED TO AND AMENDING THE PERMITTED CHART OF USES FOR THE PROHIBITION OF HOTELS, INCLUDING, BUT NOT LIMITED TO, SHORT-TERM RENTAL UNITS, WITHIN MULTI-FAMILY DWELLING UNITS LOCATED WITHIN ZONING DISTRICTS IN THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, the City Council ("City Council") of the City of Johnson City, Texas ("City") seeks to provide for the public health, safety and welfare of its citizens by promoting the orderly and safe use of property within the City to protect and preserve the dignity and sanctity of low-density, single-family residential neighborhoods, which are the City's primary land use category; and

WHEREAS, the City Council has determined that amendment of Municipal Code of Ordinances Chapter 14 *Zoning*, Article 14.02 *Zoning Ordinance* by providing definitions related to and amending the permitted chart of uses for the prohibition of hotels, including, but not limited to, short-term rental units, within multi-family dwelling units located within zoning districts in the City limits is in the best interest of the citizens and businesses of the City and promotes the health, safety, and general welfare of the inhabitants of the City; and

WHEREAS, pursuant to Texas Local Government Code Section 211.005 and 211.006, the City has general authority to adopt zoning regulations and zoning district boundaries regulating the location and use of buildings, other structures and land for business, industrial, residential, or other purposes; and

WHEREAS, in accordance with Section 211.006, public notice was issued and a public hearing was conducted before the City's Planning and Zoning Commission and the City Council; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City.

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

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are adopted as facts and are incorporated fully herein.

ARTICLE II. AMENDMENT AND ENACTMENT

The City Council hereby amends Municipal Code of Ordinances Chapter 14 *Zoning*, Article 14.02 *Zoning Ordinance* by providing definitions related to and amending the permitted chart of uses for the prohibition of hotels, including, but not limited to, short-term rental units, within multi-family dwelling units located within zoning districts in the City limits as depicted in *Exhibit A*, attached hereto and incorporated fully herein for all purposes.

ARTICLE III. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

ARTICLE IV. EFFECTIVE DATE

This Ordinance shall be effective immediately upon approval by the City Council.

PASSED and APPROVED by the City Council of the City this ____ day of _____ 2022.

Rhonda Stell, Mayor

Attest:

Whitney Walston, City Secretary

Exhibit A

The following sections of Article 14.02 *Zoning Ordinance* in Chapter 14 *Zoning* of the Municipal Code of Ordinances are amended or supplemented, as follows (bold, underlined text indicates new text):

ARTICLE I. GENERAL

Sec. 1-3 Definitions

The following terms used in this Article shall have the meanings below:

Multifamily dwelling means a building that contains more than two dwelling units. **The term includes Multi-family Dwelling Unit contained within Article 4.07 Hotel / Short-term Rental Unit Permit Registration and Regulations of this Code.**

~~Hotel/motel means a building occupied or used as a temporary abiding place of individuals or groups of individuals who are lodged with or without meals for compensation.~~ **is a building or facility, as defined in Section 11.04.001, in which the public may obtain sleeping accommodations in exchange for compensation for a period of less than 30 consecutive days. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, bed and breakfast, short-term rental unit, and any accommodation hereinafter described under State law, as amended.**

ARTICLE VIII. SCHEDULE OF USES

Zoning district abbreviations are as follows:

SF	Single-Family Residential
SFR	Single-Family Residential Restricted
MR	Mixed Residential
GHD	Garden Housing District
MHD	Micro Housing District
M	Manufactured Home District
CD	Commercial District
HC	Highway Commercial Corridor District
IP	Industrial Park
DO	Downtown District Overlay
PFD	Public Facilities District

Permitted use abbreviations are as follows:

C: Conditional Use Permit
P: Permitted

Schedule follows:

Schedule of Permitted Uses

	SF	SFR	MR	MH	GHD	MHD	CD	HC	IP	PFD	DO
<u>Hotel, including, but not limited to, short-term rental unit, located within a multi-family dwelling unit.</u>	<u>Blank.</u> <u>Not permitted.</u>	<u>Blank.</u> <u>Not permitted.</u>	<u>Blank.</u> <u>Not permitted.</u>	<u>Blank.</u> <u>Not permitted.</u>	<u>Blank.</u> <u>Not permitted.</u>	<u>Blank.</u> <u>Not permitted.</u>	<u>Blank.</u> <u>Not permitted.</u>	<u>Blank.</u> <u>Not permitted.</u>	<u>Blank.</u> <u>Not permitted.</u>	<u>Blank.</u> <u>Not permitted.</u>	<u>Blank.</u> <u>Not permitted.</u>