

**JOINT SPECIAL CALLED MEETING
OF THE PLANO CITY COUNCIL AND
PLANNING & ZONING COMMISSION**

THE PLANO CITY COUNCIL AND PLANNING & ZONING COMMISSION WILL CONVENE INTO A JOINT SPECIAL CALLED MEETING AT 4:00 P.M. ON MONDAY, MAY 8, 2023 IN THE PLANO MUNICIPAL CENTER, 1520 K AVENUE AND VIA VIDEOCONFERENCE, IN COMPLIANCE WITH VERNON'S TEXAS CODES ANNOTATED, GOVERNMENT CODE, CHAPTER 551 (OPEN MEETINGS ACT), AS FOLLOWS:

This Joint Special Called Meeting will be held in person in the Senator Florence Shapiro Council Chambers and via videoconference. Quorums of the City Council and Planning & Zoning Commission, including the presiding officers, will participate in person. The facility will be open to members of the public.

The meeting will be livestreamed on Plano's website at www.planotv.org and [Facebook.com/cityofplanotx](https://www.facebook.com/cityofplanotx).

To pre-register to speak at the City Council meeting, please visit https://forms.plano.gov/Forms/Sign_Up_Citizen. Online registration opens at 5:00 p.m. on the Wednesday prior to the meeting and closes at 3:45 p.m. on the day of the meeting. Onsite registration is available on the day of the meeting until 15 minutes prior to the start of the meeting.

Emails regarding agenda items may be submitted to: councilcomments@plano.gov.

Call to Order

Executive Session

In accordance with Vernon's Texas Codes Annotated, Government Code, Chapter 551, Open Meetings Act:

- I. Legal Advice (Section 551.071)
 - a) Respond to questions and receive legal advice on agenda items. (Council and P & Z)

Open Session

- I. Discussion and action on regulatory changes to housing standards
 - a) Presentation and discussion on changes to address Short-Term Rental uses. (Council and P & Z)
 - b) Public Hearing on regulatory changes relating to amending Chapter 6 of the Code of Ordinances and Zoning Case 2023-004, as further described below. (Council and P & Z)

- c) City Council Consideration of an Ordinance of the City of Plano, Texas amending Chapter 6, Buildings and Building Regulations, of the Code of Ordinances of the City of Plano by adding Article XXIV, Registration of Short-term Rental Properties; providing for procedures for the registration and self-inspections of short-term rentals for operation; providing for procedures for approval, denial, and revocation of registration of short-term rentals; and providing a severability clause, a repealer clause, a savings clause, a publication clause, and an effective date.
- d) Planning & Zoning Commission Consideration of Zoning Case 2023-004 - Request to amend Section 14.500 (Prohibited Uses) of Article 14 (Allowed Uses and Use Classifications) of the Zoning Ordinance relating to an interim ban on short-term rentals. Project #2023-004. Petitioner: City of Plano
- e) Planning & Zoning Commission Presentation of Final Report for Zoning Case 2023-004 to City Council.
- f) City Council Consideration of an Ordinance as requested in Zoning Case 2023-004 to amend Section 14.500 (Prohibited Uses) of Article 14 (Allowed Uses and Use Classifications) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as heretofore amended, relating to an interim ban on short-term rentals; and providing a penalty clause, a severability clause, a repealer clause, a savings clause, a publication clause, and an effective date.

Adjourn

In accordance with the provisions of the Open Meetings Act, during Special Called Sessions, agenda items will be discussed and votes may be taken where appropriate. The City Council and Planning and Zoning Commission may convene into Executive Session to discuss posted items in the session as allowed by law.

Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal/L Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of building. The Senator Florence Shapiro Council Chambers is accessible by elevator to the lower level. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.



CITY COUNCIL AGENDA MEMO

MEETING DATE: 5/8/2023
DEPARTMENT: Neighborhood Services
DIRECTOR: Lori F. Schwarz, AICP Director of Neighborhood Services
AGENDA ITEM: Amendment of Code of Ordinance Chapter 6, Building Regulations
RECOMMENDED ACTION: Adoption of Ordinance

ITEM SUMMARY

To amend Chapter 6, Buildings and Building Regulations, of the Code of Ordinances of the City of Plano by adding Article XXIV, Registration of Short-term Rental Properties; providing for procedures for the registration and self-inspections of short-term rentals for operation; providing for procedures for approval, denial, and revocation of registration of short-term rentals; and providing a severability clause, a repealer clause, a savings clause, a publication clause, and an effective date.

BACKGROUND

The City of Plano has prioritized neighborhood conservation to ensure our community has beautiful, engaged, safe and thriving neighborhoods. Additionally, the City's strategic vision states that Plano residents wish for an unparalleled quality of life bonded by a shared sense of community.

The rise of digital platforms, such as Airbnb and VRBO, has led to an increase of residential properties being rented for less than thirty days, known as "short-term rentals." The popularity of these short-term rentals has led to an increase in citizen concern about transient and vacation rental uses that infringe on the property rights of neighbors in the City of Plano.

In the last year, there have been over 113 speakers attending public meetings to express concerns about the increase in health, safety, and nuisance issues related to short-term rentals (STRs) in dwelling units within the City of Plano. There have also been reports of tenants and visitors at STRs in the city engaging in criminal conduct negatively affecting the public sense of well-being and security, including operation of a prostitution enterprise and discharge of a firearm into a nearby residence occupied by a child. Further, some STR properties are being used for gatherings that are disruptive to neighborhoods.

The need for possible short term rental regulations has been discussed during several City Council meetings as a result of these public comments. Presentations regarding the legal opportunities and limitations have been provided and there have been numerous opportunities for residents and property owners to voice their concerns and wishes regarding STRs within the city. As the City wishes to respond to residents' concerns and address issues with property owners and managers of STRs, a Short-Term Rental Registration Program is being proposed.

In order to assist in the prevention and investigation of incidents involving criminal conduct or public nuisances related to STRs, the registration will identify:

- Existence and location of an existing STR,
- Ownership, management and designated contacts,
- Floor plan with identified sleeping areas, furniture layout, evacuation routes and location of all fire extinguishers as well as smoke and carbon monoxide detectors,
- Photographs of all interior and exterior rooms, hallways and spaces
- Parking plan of the premises identifying the location and dimensions of lawful, on-site parking spaces to be used in conjunction with the STR,
- Proof of insurance
- Host rules for the premises, including the maximum number of guests
- Sworn statement from the owner regarding: compliance with any property covenants, applicable laws, completeness of application, payment of appropriate fees and potential revocation of registration for failure to comply with ordinance requirements.

The registration will also aid in obtaining compliance with and enforcement of building standards, property maintenance codes, and other laws affecting STRs through required self-inspections and sworn statements regarding the operation of the STR in accordance with adopted City of Plano regulations. Due to the breadth of existing ordinances indicated, the interdepartmental staff reviewing City ordinances relating to STRs does not find that a separate “party house” ordinance is necessary at this time.

The STR registration period will begin on May 15, 2023 and will close on July 17, 2023. Following that time frame, any applicant that fails to apply for registration may request a hearing as described within the ordinance. Any property not registered by November 30, 2023 is not eligible for registration.

Should there be more than one Nuisance Incident occurring at the STR within one year preceding the date of the application, an application for registration or renewal may be denied or revoked. However, this provision shall not apply to a Nuisance Incident that occurred prior to the effective date of the ordinance. This notice shall be provided in writing with the reasons for denial or revocation. The revocation shall be effective ten (10) business days following service of the notice. There is provision of an appeals process for denial or revocation of the registration.

FINANCIAL SUMMARY/STRATEGIC GOALS

This item will impact revenue collected from Short-Term Rental registration and any related fines. The anticipated registration fee will be \$300 per short-term rental unit. The exact financial impact is unknown at the time and is expected to have minimal impact on the General Fund budget.

An Ordinance of the City of Plano, Texas, amending Chapter 6, Buildings and Building Regulations, of the Code of Ordinances of the City of Plano by adding Article XXIV, Registration of Short-term Rental Properties; providing for procedures for the registration and self-inspections of short-term rentals for operation; providing for procedures for approval, denial, and revocation of registration of short-term rentals; and providing a severability clause, a repealer clause, a savings clause, a publication clause, and an effective date.

WHEREAS, the rise of digital platforms such as Airbnb and VRBO has led to an increase in resident concern about transient and vacation rental uses that infringe on the property rights of neighbors in the City of Plano; and

WHEREAS, the City of Plano has had over 113 speakers attend public meetings to express concerns about the increase in health, safety, and nuisance issues related to short-term rentals (STRs) in dwelling units in the City of Plano; and

WHEREAS, there have been reports of tenants and visitors at STRs in the City of Plano engaging in criminal conduct negatively affecting the public sense of well-being and security, including operation of a prostitution enterprise and discharge of a firearm into a nearby residence occupied by a child; and

WHEREAS, some STR properties are used for gatherings disruptive to neighborhoods; and

WHEREAS, more commonly, the public has complained of STRs in Plano with unreasonable noise, public urination, excessive trash, public indecency, disorderly conduct, and parking; and

WHEREAS, residents have indicated that some STR occupants are less concerned than long-term residents with the impact of conduct at STR premises on neighbors, due to the temporary nature of their occupancy and lack of community with the neighborhood; and

WHEREAS, the residents have a right to peace and quiet enjoyment of their properties; and

WHEREAS, the City of Plano's strategic vision states that Plano residents wish for an unparalleled quality of life bonded by a shared sense of community, and residents have expressed that STRs negatively affect the shared sense of community because of the transient nature of the users of STRs; and

WHEREAS, the City Council wishes to advance the objective of championing safe, vibrant neighborhoods in the City of Plano; and

WHEREAS, the City wishes to respond to residents' concerns and address issues with property owners and managers of STRs; and

WHEREAS, the registration of STRs is intended to identify the existence, location, ownership, management, and designated contacts for STRs and to assist in the prevention and investigation of incidents involving criminal conduct or public nuisances related to STRs; and

WHEREAS, the City Council finds that identification of individuals and entities with ownership in or responsibility for management, maintenance, and inspection of STRs will aid in obtaining compliance with and enforcement of building standards, property maintenance codes, and other laws affecting STRs and will aid in the protection of the health, welfare, safety, and property of the residents of the City of Plano, STR owners, STR occupants and visitors, neighbors of STRs, and the general public; and

WHEREAS, the City Council finds that requiring self-inspections and records retention of STR properties will increase the safety of STR occupants in the City of Plano; and

WHEREAS, the registration of STRs will aid in the collection of hotel occupancy taxes and compliance with and enforcement of ordinances and other laws relating to the health, welfare, safety, and property of STR owners, STR occupants and visitors, neighbors of STRs, and the general public; and

WHEREAS, STR operators and those with investment-backed expectations in an STR operation must submit a complete application for registration of their STR premises by July 17, 2023; and

WHEREAS, registration is not a property right and may be withheld or may be revoked in the event of non-compliance with the registration ordinance; and

WHEREAS, the City Council finds that it is necessary to adopt procedures and requirements for registration issuance and revocation and self-inspection for STRs by adding Article XXIV, Registration of Short-Term Rental Properties to Chapter 6, Buildings and Building Regulations, of the Code of Ordinances of the City of Plano, Texas.

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

Section I. Chapter 6, Building and Building Regulations, of the Code of Ordinances of the City of Plano is hereby amended by adding Article XXIV. - REGISTRATION OF SHORT-TERM RENTAL PROPERTIES to read in its entirety as follows:

“ARTICLE XXIV. - REGISTRATION OF SHORT-TERM RENTAL PROPERTIES

Sec. 6-730. - Short title.

This article may be referred to as the “Short-Term Rental Code.”

Sec. 6-731. - Definitions.

Any terms not defined in this article shall be defined as they are in the City of Plano Zoning Ordinance. Any terms not defined in this article or in the Zoning Ordinance shall have their ordinary accepted meanings. The following terms and phrases, as used in this article, are defined as follows:

Applicant means a person applying for approval of registration of a STR.

Booking Service means any reservation and/or payment service provided by a person or entity that facilitates an STR 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 STR transaction.

Designated Contact means an individual designated to respond to a report or request by the Director or law enforcement of an emergency condition, property or building maintenance condition, nuisance or criminal conduct at an STR. Emergency conditions include, but are not limited to, fire, natural disaster, flood, damaged or malfunctioning pipes, and hazard of collapse. A nuisance includes, but is not limited to, noise, parking, and trash issues. Criminal conduct means any violation of local, state, or federal law.

Director means the director of the department of the City of Plano designated by the City Manager to administer and enforce the provisions of this article and any person or persons designated by the Director to represent the department for this purpose.

Hosting Platform means a person or entity that participates in the STR business by providing, and collecting or receiving a fee for, booking services through which an owner may offer an STR. Hosting platforms usually, though not necessarily, provide booking services through an online platform that allows an owner to advertise the STR 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.

Metropolitan Statistical Area (MSA) means one of the counties in the Dallas-Fort Worth-Arlington Metropolitan Statistical Area (Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Parker, Rockwall, Somervell, Tarrant, and Wise Counties) or Cooke County, Fannin County, or Grayson County.

Nuisance Incident means an event involving a criminal violation of any local, state or federal law committed by an occupant or visitor of the STR during the rental period that tends to substantially interfere with the use or enjoyment of private or public property by causing unreasonable discomfort or annoyance to persons of

ordinary sensibilities attempting to use and enjoy their property, including, but not limited to, offenses involving assault, sexual misconduct, public order and decency, alcohol, drugs, weapons, noise, and parking.

Occupant means any person lawfully living in, sleeping in, or possessing an STR. 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.

Operate means to do any of the following for an STR: rent or lease; offer, advertise, or market to rent or lease; or enter into an agreement to rent or lease.

Owner means any person, agent, operator, firm, or trust who: (1) has a legal or equitable interest in the STR and their designee; (2) is recorded in the official records of the county as holding title to the STR; or (3) has control of the STR, 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 the STR by a court.

Person means an individual, corporation, association, partnership, or other entity acting as a group.

Premises means any parcel of real property together with all buildings and structures thereon used as an STR.

Registrant means a person who has applied for and been approved for registration and operation of an STR.

Registration means approval by the Director of an application to operate an STR.

Short-term Rental (STR) means any portion, or all, of a dwelling unit offered or used for transient lodging, in exchange for compensation, for less than thirty (30) consecutive days. This definition of short-term rental does not include Temporary Accessory Housing Shelter and Bed and Breakfast Inn.

Sec. 6-732. - Purpose.

The purpose of this article is to develop a process to identify STRs and their owners and others responsible for their operation and management, and to ensure compliance with applicable law; to register and self-inspect STRs; and to provide equitable and practical remedies for violations of this article in order to protect the general health, safety, and welfare of occupants and others in the community.

Sec. 6-733. - Applicability and administration.

(a) This article shall apply to STRs located in the City of Plano.

(b) The Director is authorized to administer and enforce the provisions of this article.

Sec. 6-734. - Requirements of hosting platforms.

- (a) All hosting platforms shall provide the following information in a notice to any person listing an STR located within the City of Plano through the hosting platform's service. The notice shall be provided prior to the person listing the premises and shall include the following information: THE SHORT-TERM RENTAL CODE OF THE CODE OF ORDINANCES OF THE CITY OF PLANO PROHIBITS THE SHORT-TERM RENTAL OF PREMISES WITHIN THE CITY OF PLANO WITHOUT AN ACTIVE SHORT-TERM RENTAL REGISTRATION.
- (b) Notwithstanding any other provision of this article, nothing shall relieve any owner, person, occupant, or hosting platform of the obligations imposed by applicable local, state, and federal law, including this Code and the Texas Tax Code. Further, nothing in this article shall be construed to limit any remedies available under applicable local, state, and federal law.

Sec. 6-735. - Registration required.

- (a) No STR shall be operated without an approved, valid STR registration from the city.
- (b) Every individual dwelling unit operated as an STR within a common structure or building, regardless of ownership or management, shall require a separate, individual registration for each unit intended to be used as an STR.
- (c) The following are required for issuance of an STR registration:
 - (1) Applications for STR registration must be submitted on or before the close of business on July 17, 2023. On or before the close of business on November 8, 2023, an applicant who fails to apply for registration by July 17, 2023, may request a hearing, pursuant to Section 6-745. Any property that is not registered by November 30, 2023, is not eligible for registration.
 - (2) The applicant must provide proof establishing that:
 - i. The STR is a nonconforming use because it has been in operation on the subject property prior to May 15, 2023, or
 - ii. The owner had an investment-backed expectation in creating an STR on the subject property prior to May 15, 2023.
 - (3) A completed registration application must be submitted on a form prescribed by the Director containing, at a minimum, the following:

- i. Business or trade name, physical address, and business mailing address of the STR;
- ii. Identity and contact information (including legal name, mailing address, email addresses, and telephone number), for every owner, operator, manager, partner, and mortgage lien holder of the STR or property where it is located, including the registered agent for any entity;
- iii. Complete contact information for all designated contacts, including legal name, residential and business mailing addresses, email address, telephone number, copy of government-issued identification, and dates and times of availability as a designated contact;
- iv. Copy of government-issued identification for the primary applicant for registration;
- v. Acknowledgement that any registration approved under this article does not supersede any property-specific restrictions against the STR that may exist under law, agreement, lease, covenant or deed restriction;
- vi. Depiction of the floor plan that identifies sleeping areas, furniture layout, evacuation routes, and location of all fire extinguishers and smoke and carbon monoxide detectors;
- vii. Photographs of all interior and exterior rooms, hallways and spaces;
- viii. A parking plan of the premises identifying the location and dimensions of lawful, on-site parking spaces to be used in conjunction with the STR;
- ix. Proof of insurance as required by this article;
- x. Identity and contact information for the property owners' association, if any, of which the premises are included in a dedicatory instrument;
- xi. A copy of the proposed host rules for the STR, including any rule on maximum number of guests;
- xii. A sworn statement that the owner:
 - 1. is not prohibited from operating an STR at the premises by a lease, property covenant, or other agreement;

2. has met and will continue to comply with all requirements of this article and all applicable local, state, and federal law;
3. has provided accurate and complete information on all documents submitted to the city pursuant to this article;
4. has paid and shall continue to pay all applicable fees and assessments levied upon the premises to be used as a STR including hotel occupancy taxes, except that owners utilizing booking services for their STR through a hosting platform that has entered into a contract with the City of Plano to collect hotel occupancy taxes is not required to register for tax collection, tax remittance or tax purposes, but is required to register for all other purposes; and
5. understands that the owner or their representative does not have a property right in a STR registration and it is issued at the city's discretion and subject to revocation or denial in accordance with the terms of this article.

xiii. All other information as may be required by this article.

- (d) Applications shall be considered complete when all documentation required under this article has been submitted and all registration fees have been paid.
- (e) Incomplete applications will not be accepted.
- (f) A STR registration may be approved and issued by the Director if the STR application satisfies all conditions of this article and all applicable local, state, and federal law.
- (g) All City fees due from the owner and City assessments levied upon premises must be paid prior to the registration or renewal of a STR registration by the City.
- (h) A registration to operate a STR is non-transferable and shall not be assigned nor transferred to another owner, operator or location. Any attempt to transfer a registration or attempt to use another person's registration shall be grounds for revocation of said registration.
- (i) STR registration approval does not confer any property rights on the owner of the registered STR.
- (j) An applicant may request a hearing pursuant to Section 6-745 to appeal a determination of failure to meet criteria in section (c)2.i or (c)2.ii.

- (k) If the STR has not been used or advertised as a STR for six months, the STR use is presumed abandoned.

Sec. 6-736. - Designated contact.

- (a) As part of the registration application, applicant, owner, or registrant must designate one or more designated contacts for the STR. A designated contact may be an owner, applicant, registrant, or a designee and shall meet the following criteria:
 - (1) Reside or work within the physical boundaries of the MSA;
 - (2) Have care, custody, or control over the STR;
 - (3) Be authorized to make decisions regarding the premises, STR, and its occupants; and
 - (4) Be available to speak to law or code enforcement within 2 hours of being contacted by a city representative.
- (b) Upon written request by the applicant, owner, or registrant, the requirement to reside or work within the MSA in 6-736(a)(1) may be waived by the Director, if similar responsiveness is provided through a reasonable alternative.

Sec. 6-737. - Expiration of registration; renewals.

- (a) A registration is valid for one calendar year after the date of issuance, unless revoked pursuant to this article or there is a change in ownership of the STR.
- (b) Every complete renewal application for a STR registration shall include updates, if any, to the information contained in the original registration application or any subsequent renewals. The registrant shall sign a statement affirming that there is either no change to such information, or that any updated information is accurate and complete. The Director may require additional information to ensure compliance with this article.
- (c) A renewal application for a STR registration submitted after the expiration of the most current registration shall be treated as an application for a new registration as described in this article.
- (d) No STR registration may be renewed without a completed renewal application and payment of the renewal application fee prior to the expiry of the current registration.
- (e) No STR registration may be renewed if more than one Nuisance Incident has occurred at the STR within one year preceding the date of the application. A Nuisance Incident is presumed if enforcement action was taken by law

enforcement or code enforcement, including, but not limited to, issuance of a citation or notice to appear, an arrest, or issuance of a summons or warrant for arrest for criminal conduct at the Premises of the STR or committed by an occupant or guest of the STR during the rental period.

- (f) If the property loses nonconforming status under the City of Plano Zoning Ordinance, the property is no longer eligible for renewal of registration.
 - i. If the STR is not used or advertised as a STR for six months, it is presumed abandoned.
 - ii. The Director of Planning or her designee is responsible for making an initial written determination of whether a nonconforming status has terminated under the provisions of the Zoning Ordinance. Any registration revoked due to loss of nonconforming status can only be appealed through the process in this ordinance pursuant to Section 6-745 and 6-746 and is not eligible for reinstatement under 7.200 of the Zoning Ordinance.
- (g) The Director may renew the registration of a STR if the renewal application satisfies all conditions of this article and all applicable local, state, and federal law.

Sec. 6-738. - Application fees.

- (a) A non-refundable fee of three hundred dollars (\$300.00) shall be submitted with each registration or renewal application for a STR.
- (b) A fee of twenty-five dollars (\$25.00) shall be submitted to reprint an already issued registration certificate.

Sec. 6-739. - Proof of insurance required.

No STR shall be operated without liability insurance that provides coverage of at least \$1 million per occurrence. A certificate of insurance must be on file with the Director. Proof of insurance shall be required at the time of application and notice of cancelation or change of insurance must be made to the Director within thirty (30) calendar days.

Sec. 6-740. - Hotel occupancy taxes; request for occupancy history.

No STR shall be operated without payment of hotel occupancy taxes as required under state law. Upon request of the Director or the Finance Department of the City, the owner shall remit, within thirty (30) calendar days, an accounting of all occupants who rented the STR and the hotel occupancy taxes paid therefor. The owner, however, is not required to provide such accounting for STRs rented with a hosting platform that has entered into a contract with the City of Plano to collect hotel occupancy taxes.

Sec. 6-741. - Owner self-inspections; record retention.

- (a) Owner shall fully inspect each STR in compliance with this article. Self-inspections by the owner shall be conducted at least once a year. The Director shall provide a list indicating the areas to be self-inspected by owner. Owner shall sign and date each self-inspection report at the time the self-inspection is completed for each STR and provide it to the Director.
- (b) Self-inspection reports shall be in writing and on a form prescribed or approved by the Director. Any alterations to an approved form must be resubmitted to the Director for approval. All documents related to the self-inspection and the inspection reports shall be maintained by the registrant for a minimum of three (3) years from the date of approval by the Director.

Sec. 6-742. - Registration to be displayed.

Each STR shall display in a conspicuous, publicly accessible area inside the front entrance(s) of the STR:

- (a) A copy of the current and valid registration certificate; and
- (b) The contact information for the designated contact(s); and
- (c) Pertinent local and state information, regulations, and laws, in a format to be provided by the Director, as it relates to the use of the STR by the occupant.

Sec. 6-743. - Denial or revocation of short-term rental registration.

- (a) An application for registration or renewal may be denied or a registration may be revoked, if the Director determines any of the following:
 - (1) Previous registration was issued in error; or
 - (2) Previous registration was issued on the basis of incomplete or incorrect information provided by applicant, registrant, or owner; or
 - (3) More than one Nuisance Incident occurred at the STR within one year preceding the date of the application. This provision shall not apply to a nuisance incident that occurred prior to the effective date of this ordinance. A Nuisance Incident is presumed if enforcement action was taken by law enforcement or code enforcement, including, but not limited to, issuance of a citation, summons, or notice to appear; an arrest; or issuance of a warrant for arrest for criminal conduct either at the premises of the STR or when committed by an occupant or guest of the STR during the rental period; or

- (4) Applicant, registrant or owner intentionally, knowingly, or recklessly allowed a Nuisance Incident. This provision shall not apply to a nuisance incident that occurred prior to the effective date of this ordinance. It is presumed that applicant, registrant or owner recklessly allowed a Nuisance Incident if the Nuisance Incident occurred at the STR when it was rented to the same lessee who was present at or rented the STR during a previous Nuisance Incident, and the applicant, registrant or owner was aware of or received notice of the previous Nuisance Incident; or
 - (5) Registrant, owner or designated person has been convicted of a violation of the provisions of this Code, the City of Plano Zoning Ordinance, or state or federal laws as it relates to the premises being used as a STR; or
 - (6) Registrant, owner or designated person failed or refused to comply with a requirement of this article and remains in non-compliance ten (10) business days after being notified in writing of such non-compliance; or
 - (7) Failure to maintain or to provide upon request from the Director proof of insurance in compliance with this article and consistent with the registration application; or
 - (8) Applicant, registrant, or owner otherwise becomes disqualified for the issuance of a registration; or
 - (9) The property loses nonconforming status under the City of Plano Zoning Ordinance.
 - i. If the STR is not used or advertised as a STR for six months, it is presumed abandoned.
 - ii. The Director of Planning or designee is responsible for making an initial written determination of whether a nonconforming status has terminated under the provisions of the Zoning Ordinance. Any registration revoked due to loss of nonconforming status can only be appealed through the process in this ordinance pursuant to Section 6-745 and 6-746 and is not eligible for reinstatement under 7.200 of the Zoning Ordinance.
- (b) Notice of the denial or revocation shall be given to the applicant or registrant in writing, with the reasons for the denial or revocation. Such notice shall be served either by personal service or by United States mail to the applicant or registrant's last known address. In cases of revocation, the service of the revocation shall become effective the day following personal service or if mailed, ten (10) business days from the date of mailing. The revocation shall be effective ten (10) business days following service of the notice.
- (c) All revocations are permanent.

Sec. 6-744. - Appeal of Denial of an Application or Revocation of a Registration.

- (a) If the denial or revocation is based upon a failure to meet the deadline under 6-735(c)(1) or an absence of nonconforming status, then the appeal should be filed pursuant to Sec. 6-745.
- (b) Upon denial of an application or revocation of a registration, the Director shall notify the applicant or registrant, in writing, of the reason for which the registration is subject to denial or revocation. To contest the denial or revocation of a registration, the applicant or registrant shall file a written request for a hearing with the Director within ten (10) business days following service of such notice. If no written request for hearing is filed within ten (10) business days, the denial or revocation is sustained.
- (c) The hearing shall be conducted within twenty (20) business days of the date on which the notice of appeal was filed with the Director, unless otherwise agreed by the parties.
- (d) Based upon the evidence presented at such hearing, the Director shall sustain, modify or rescind the determination by written decision.
- (e) An appeal shall stay the denial or revocation of the registration unless the Director determines an immediate denial or revocation is necessary because of urgent concern for physical safety. If no appeal is timely filed with the City Manager, the Director's decision is final.

Sec. 6-745. - Hearing for Late Application or Determination of Nonconforming Status or Investment-Backed Expectation.

- (a) A late applicant for an initial STR application who applies before November 30, 2023 may request a hearing to determine eligibility for an initial registration by filing a written request for a hearing with the Director of Planning. To establish eligibility, the applicant must show that they have good cause for failing to promptly register their STR and provide proof of the property's established use as described in 6-735(c)(2).
- (b) An applicant or registrant may appeal a denial of nonconforming status to the Director of Planning.
- (c) The applicant or registrant must file a written request for a hearing with the Director of Planning within ten (10) business days following service of the notice of denial or lack of registration based upon absence of nonconforming status. If no written request for hearing is filed within ten (10) business days, the absence of nonconforming status is sustained.

- (d) The hearing shall be conducted within twenty (20) business days of the date on which the notice of appeal was filed with the Director of Planning, unless otherwise agreed by the parties.
- (e) Based upon the evidence presented at such hearing, the Director of Planning shall sustain, modify or rescind the determination by written decision.
- (f) A decision to deny nonconforming status shall stay the denial or revocation of the registration unless the Director determines an immediate denial or revocation is necessary because of urgent concern for physical safety. If no appeal is timely filed with the City Manager, the Director's decision is final.
- (g) For purposes of this section, Director of Planning includes her designee.

Sec. 6-746. - Final Appeal to City Manager.

- (a) An applicant or registrant may appeal a decision made pursuant to 6-744 or 6-745 to the City Manager. All appeals to the City Manager must be made in writing and received no less than ten (10) business days after any final decision made by the Director in accordance with the sections above.
- (b) The City Manager shall conduct the hearing within twenty (20) business days from receipt of the applicant or registrant's appeal request, unless otherwise agreed by the parties. Based upon the evidence presented at such hearing, the City Manager shall sustain, modify or rescind the determination by written decision.
- (c) The decision shall be furnished to the applicant or registrant.
- (d) If reversed, the registration shall be reinstated immediately, in the case of a revocation, or the registration shall be issued within five (5) business days, in the case of denial.
- (e) The determination of the City Manager or the City Manager's designee shall be final on the date the written decision is signed.
- (f) An appeal shall stay the denial or revocation of the registration unless the Director determines an immediate denial or revocation is necessary because of urgent concern for physical safety.
- (g) For purposes of this section, City Manager includes his designee.

Sec. 6-747 to 766. - Reserved."

Section II. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

Section III. All provisions of the Code of Ordinances of the City of Plano, codified or uncoded, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncoded, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section IV. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

Section V. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED on the 8th day of May, 2023.

John B. Muns, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

AGENDA ITEM NO. I

PUBLIC HEARING: Zoning Case 2023-004

PETITIONER: City of Plano

DESCRIPTION: Request to amend Section 14.500 (Prohibited Uses) of Article 14 (Allowed Uses and Use Classifications) of the Zoning Ordinance relating to an interim ban on short-term rentals. Project #ZC2023-004.

SUMMARY:

The purpose of this request is to amend the Zoning Ordinance to enact an interim ban on short-term rentals (STRs). These amendments are in conformance with the Comprehensive Plan and will allow staff to conduct further research and outreach to determine ongoing land use policy for short-term rentals while mitigating current concerns. For these reasons, staff recommends approval.

STAFF PRELIMINARY REPORT - INTRODUCTORY REMARKS

Background

- Prior to October 2022: City Council received regular updates regarding short-term rentals, including data on calls for service at short-term rental locations.
- [October 10, 2022](#): City Council directed staff to prepare a short-term rental registration program and implement a process to consider changing zoning definitions and strengthening nuisance ordinances. The process should be similar to that followed by the City of Arlington, Texas.
- [November 14, 2022](#): City Council considered a short-term rental registration ordinance but tabled the item to a future meeting.
- [November 21, 2022](#): Planning & Zoning Commission received an introductory presentation and discussed the process for updates to the Zoning Ordinance regarding short-term rentals.
- [January 23, 2023](#): City Council received an update regarding short-term rentals during its preliminary open meeting.
- [February 27, 2023](#): A City Council member requested an ordinance restricting short-term rentals at the April 10, 2023, meeting; the request was seconded. The City Manager suggested adding an item on March 13, 2023, to discuss the content of said ordinance.
- March 13, 2023 ([video part 1](#), [video part 2](#)): City Council discussed short-term rentals in the preliminary open meeting. After hearing public comments and discussion, City Council directed

staff to prepare an ordinance for an interim ban on new short-term rentals. In addition, City Council directed staff to bring back a registration program and party-house nuisance ordinance.

- [March 20, 2023](#): Planning & Zoning Commission called a public hearing to amend the Zoning Ordinance related to short-term rentals.
- [April 10, 2023](#): City Council discussed and gave direction on the Short-Term Rental Task Force.
- [April 24, 2023](#): City Council adopted an ordinance for a joint public hearing to consider amending the Zoning Ordinance on May 8, 2023.

Future Ordinance Changes

Throughout the timeframe of the ban, staff will continue with the process currently underway, to develop a standard (not interim) ordinance amendment informed by further public outreach and data analysis. This outreach includes:

- a survey, which is live now and scheduled to close on Wednesday, May 17, 2023,
- a project website: www.PlanoSTR.com,
- a Short-Term Rental Task Force, for which a sign-up form is now available on the project website, and
- in-person and virtual town halls.

Pending Legislation

As of the time of this report, the following bills have been filed with the State Legislature that could impact this zoning case. The final day of the Legislative Session is Monday, May 29, 2023, and the Governor can sign or veto bills through Sunday, June 18, 2023. All the bills below, except HB 3169, include a special clause making them effective immediately upon passage, if a two-thirds majority vote is achieved in both chambers. HB 3169 includes a specific effective date of September 1, 2023.

- [HB 2665](#) has been modified and now establishes a task force and authorizes a state-wide study of municipal regulation of STRs and residential amenity rental properties.
- [HB 3169](#) relates to the regulation of short-term rental units by certain municipalities on Lake Travis. It does not apply to Plano as written but could with amendments.
- [SB 929/HB3490](#) relates to the notice and compensation a municipality must provide before revoking the right to use property for a use that was allowed before the adoption of or change to a zoning regulation or boundary. It could result in changes to the notice requirements for this Zoning Case, prohibiting action on the current timeline and requiring re-notice.
- [HB 2127/SB814](#) would preempt local government home rule actions. Due to the breadth of this legislation, the full impact is difficult to ascertain with certainty, but the passage will have a wide-ranging impact on municipal operations. Registration and permitting may be impermissible and penalized without immunity, impacting the study.

STAFF PRELIMINARY REPORT - CONFORMANCE TO THE COMPREHENSIVE PLAN

The proposed request has been reviewed for conformance with the Comprehensive Plan. Major factors included in the analysis are provided below.

Guiding Principles – The set of [Guiding Principles to the Comprehensive Plan](#) establishes overarching themes that apply to all policies and actions and express values for Plano Today, Plano 2050, and Plano Together. Since the principles do not stand alone but are used in concert with one another and carry across the Plan as a whole, each principle must be judged through a lens that incorporates all other principles to be fully and accurately understood. As such, the Commission is encouraged to review the full list of Guiding Principles and judge zoning requests through the lens of all principles.

Land Use Policy – *Plano will support a system of organized land use to provide housing and employment choices aligned with the market, where new and redevelopment areas respect the viability and quality of life for existing neighborhoods, businesses, and institutions.*

The proposed amendments create an interim prohibition of new short-term rentals in residential dwellings to support the viability and quality of life for existing neighborhoods. The amendment is limited to a timeframe while continued research and public outreach are conducted to determine where short-term rentals may be appropriate and any permanent regulations needed. The interim limitation on STRs may restrict the provision of housing and employment choices over the timeframe of the measure, in conflict with the policy. This request is neutral to this policy.

Neighborhood Conservation Policy – *Plano will conserve and enhance established residential neighborhoods through city programs, initiatives, and regulations that support neighborhood identity; ensure safe, walkable communities; and preserve the suburban form that contributes to the overall character and livability of the neighborhoods.*

The proposed amendments would update the Zoning Ordinance to create an interim prohibition of new short-term rentals, helping to support neighborhood identity and safety based on public comment. This request is in conformance with this policy.

The Neighborhood Conservation Policy of the Comprehensive Plan supports this interim amendment, calling for ensuring safe communities and supporting neighborhood identity. However, the Comprehensive Plan also includes countervailing policies, such as the Land Use Policy, calling for providing both housing and employment choices aligned with the market. Because this is an interim measure for a period of one year, a more detailed analysis of the Comprehensive Plan will be included when considering any permanent ordinance amendment. Due to the term of this proposal and with the intent to allow further study in support of neighborhood conservation, this request is found in conformance with the Comprehensive Plan.

STAFF PRELIMINARY REPORT - ANALYSIS

Recommended language is proposed based on each the following:

1. To define the purpose for the action;
2. To establish a definition for STR consistent with the city's zoning standards;
3. To preserve non-conforming use rights, consistent with Article 7 of the Zoning Ordinance where they exist today;
4. To establish a finite timeframe for the expiration of this prohibition, consistent with the expected timeline of the STR study process, allowing more permanent land use control measures to be developed and implemented; and
5. To establish a companion to the registration program, which will provide necessary details for the analysis within the STR study process.

SUMMARY:

The purpose of this request is to amend the Zoning Ordinance to enact an interim ban on short-term rentals (STRs). These amendments are in conformance with the Comprehensive Plan and will allow staff to conduct further research and outreach to determine on-going land use policy for short-term rentals while mitigating current concerns. For these reasons, staff recommends approval.

RECOMMENDATION:

Recommended approval as follows (additions are indicated in underlined text; deletions are indicated in strikethrough text).

Amend Section 14.500 (Prohibited Uses) of Article 14 (Allowed Uses and Use Classifications), such new subsection to read in its entirety as follows:

.4 Interim Prohibition on Short-Term Rental of Dwelling Units

- A. The purpose of this interim provision is to prohibit the establishment of new short-term rentals of dwelling units while the City conducts public outreach, collects data, and analyzes information to determine permanent recommendations, due to community concerns about health and safety.
- B. A Short-term Rental (STR) means any portion, or all, of a dwelling unit offered or used for transient lodging, in exchange for compensation, for less than thirty (30) consecutive days. This definition of short-term rental does not include Temporary Accessory Housing Shelter and Bed and Breakfast Inn.
- C. Subject to Article 7 on Nonconformity, short-term rentals are prohibited in dwelling units. For purposes of this subsection only, nonconforming uses include those with investment-backed expectations as of May 15, 2023.
- D. This subsection, 14.500.4, expires in its entirety on May 15, 2024.

Zoning Case 2023-004

An Ordinance of the City of Plano, Texas, amending Section 14.500 (Prohibited Uses) of Article 14 (Allowed Uses and Use Classifications) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as heretofore amended, relating to an interim ban on short-term rentals; and providing a penalty clause, a severability clause, a repealer clause, a savings clause, a publication clause, and an effective date.

WHEREAS, the Planning & Zoning Commission of Plano, Texas, called a Public Hearing and directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, for the purpose of considering a change in the Zoning Ordinance; and

WHEREAS, the City Council adopted Ordinance No. 2023-4-6, authorizing a joint public hearing of the Planning & Zoning Commission and City Council to consider an amendment to the City of Plano Zoning Ordinance; and

WHEREAS, the City caused to be issued and published a notice for a joint meeting of the Planning & Zoning Commission and City Council, to be held on May 8, 2023, as required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least twenty (20) days prior to the time set for such hearing; and

WHEREAS, the joint public hearing was conducted, and the Planning & Zoning Commission made a final report to the City Council regarding Zoning Case 2023-004 on May 8, 2023, prior to City Council consideration; and

WHEREAS, the rise of digital platforms such as Airbnb and VRBO has led to an increase in resident property concern about transient and vacation rental uses that infringe on the property rights of neighbors in the City of Plano; and

WHEREAS, the City of Plano has had over 113 speakers attend public meetings to express concerns about the increase in health, safety, and nuisance issues related to short-term rentals (STRs) in dwelling units in the City of Plano; and

WHEREAS, there have been reports of tenants and visitors at STRs in the City of Plano engaging in criminal conduct negatively affecting the public sense of well-being and security, including operation of a prostitution enterprise and discharge of a firearm into a nearby residence occupied by a child; and

WHEREAS, some STR properties are used for gatherings disruptive to neighborhoods; and

WHEREAS, more commonly, the public has complained of STRs in Plano with unreasonable noise, public urination, excessive trash, public indecency, disorderly conduct, and parking; and

WHEREAS, residents have indicated that some STR occupants are less concerned than long-term residents with the impact of conduct at STR premises on neighbors, due to the temporary nature of their occupancy and lack of community with the neighborhood; and

WHEREAS, the residents have a right to peace and quiet enjoyment of their properties; and

WHEREAS, the City of Plano's strategic vision states that Plano residents wish for an unparalleled quality of life bonded by a shared sense of community, and residents have expressed that STRs negatively affect the shared sense of community because of the transient nature of the users of STRs; and

WHEREAS, the City Council wishes to advance the objectives of the Comprehensive Plan by championing established residential neighborhoods through regulations that support neighborhood identity and ensuring safety, which contributes to the overall character and livability of the neighborhoods in the City of Plano; and

WHEREAS, the City wishes to respond to residents' concerns and address issues with property owners and managers of STRs; and

WHEREAS, the City Council is of the opinion and finds that such change should be adopted, would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

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

Section I. Section 14.500 (Prohibited Uses) of Article 14 (Allowed Uses and Use Classifications), of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended to add the following:

.4 Interim Prohibition on Short-Term Rental of Dwelling Units

- A.** The purpose of this interim provision is to prohibit the establishment of new short-term rentals of dwelling units while the City conducts public outreach, collects data, and analyzes information to determine permanent recommendations, due to community concerns about health and safety.
- B.** A Short-term Rental (STR) means any portion, or all, of a dwelling unit offered or used for transient lodging, in exchange for compensation, for less than thirty (30) consecutive days. This definition of short-term rental does not include Temporary Accessory Housing Shelter and Bed and Breakfast Inn.

- C. Subject to Article 7 on Nonconformity, short-term rentals are prohibited in dwelling units. For purposes of this subsection only, nonconforming uses include those with investment-backed expectations, as of May 15, 2023.
- D. This subsection, 14.500.4, expires in its entirety on May 15, 2024.

Section II. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section IV. Any violation of the provisions or terms of this ordinance by any person, firm, or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section V. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED on the 8th day of May, 2023.

John B. Muns, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY