

ORDINANCE NO. _____

AN ORDINANCE defining and regulating short-term rental uses through the identification of dwelling typologies, owner-occupancy, and zoning districts, amending **Sections 27-214, 27-340, 27-388 and 27-593**, and wholly adding **Section 27-623** to Chapter 27, Article VIII of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas.

WHEREAS, the housing stock is one of the Unified Government’s most important built assets, and therefore must be maintained in a manner that allows for a variety of tenancy and ownership options in response to the market demands of residents and visitors;

WHEREAS, the operation of a short-term rental by the residing property owner provides several benefits, including an expanded ability to self-regulate emerging issues and conflicts between short-term tenants and neighbors, a reduction in government enforcement resources needed to be allocated for such properties, the opportunity for homeowners to garner supplemental income from rentals, and the rehabilitation of housing stock, all while existing residents continue to live within their homes;

WHEREAS, the operation of a short-term rental by the residing property owner provides greater benefits than operation of a short-term rental by a remote property owner, and priority should be given to owner-occupied short-term rentals;

WHEREAS, short-term rentals are intended for transient use, and, while such use is needed and necessary by local and visiting populations, the time constraints inherent to such a use does not create social connections and foster neighborhood ownership in the same manner that long-term rentals and homeownership create;

WHEREAS, on a street block or within a parcel in which the majority of dwelling units are non-owner-occupied short-term rentals—rather than long-term rentals and owner-occupied dwelling units—the character of the neighborhood becomes more transient in nature and as a consequence, the neighborhood is adversely affected through a loss of social cohesion;

WHEREAS, the ability for a homeowner to use their property to the greatest extent as allowed by the respective zoning district, in consideration of the effects that such uses may have upon the rights of adjacent property owners, the surrounding neighborhood, and the community of Kansas City, Kansas;

WHEREAS, the unique characteristics of every property and neighborhood necessitate that the accessory use of a short-term rental be subject to review, and subject to public input by means of proper noticing, neighborhood meetings, and comment in the public forum, through the Special Use Permit entitlement process; therefore,

**BE IT ORDAINED BY THE UNIFIED GOVERNMENT COMMISSION OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS:**

Section 1. That Chapter 27, Planning and Development, Article VI of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas, are hereby amended to read as follows:

Sec. 27-214. – Special use permit.

- (a) Purpose. In recognition of certain uses and situations with characteristics which may not blend or harmonize with the uses in the standard zoning districts, the unified government board of commissioners may, by special use permit, authorize the location of specified uses, under such conditions as to operation, site development, signs, time limit, or other conditions as may be deemed necessary to assure that the use will not injure neighboring property or the welfare of the community.
- (b) Applicant. A special use permit application may be initiated by the unified government board of commissioners, planning commission, or upon application of the property owner or owner's agent.
- (c) Applicability. A special use permit application shall be required for all uses so identified pursuant to these regulations or the applicable comprehensive plan.
- (d) Preapplication conference. A preapplication conference is required pursuant to section 27-197.
- (e) Submission requirements. The director of planning shall prepare an application form specifying the information to be submitted in support of a special use permit application. The application shall include at least the following:
 - (1) A preliminary development plan as identified in section 27-212(d). A preliminary development plan is not required for the keeping of livestock or home occupations with no exterior or parking modifications.
 - (2) A statement of the reasons why the special use permit is being requested.
 - (3) All studies as may reasonably be required by the director of planning or ~~his~~ *their* designee.
- (f) Application and review procedures.
 - (1) Determination of completeness. Applications shall be submitted to the director of planning or director's designee for a determination of completeness pursuant to section 27-198. An application is complete when all of the items required by these regulations and on the application form are prepared and/or answered, and any required supplemental

or additional applications (e.g., comprehensive plan amendment) are submitted with the appropriate fee to the department of urban planning and land use.

- (2) Neighborhood meeting. The applicant shall comply with the requirements for a neighborhood meeting pursuant to section 27-199.
- (3) Staff review. Following a determination of completeness, the staff shall review the application pursuant to section 27-521. As part of the review, staff shall recommend appropriate conditions to be placed on the approval, construction, and continuing function of the special use. Such conditions may be drawn from local, regional, or national standards and requirements.
- (4) Notice and public hearing. Following completion of staff review and such neighborhood meetings as are required, the application shall be scheduled for a public hearing before the planning commission.
 - a. Notice shall be provided pursuant to section 27-203.
 - b. The planning commission shall consider the criteria listed in subsection (f)(5) of this section in making a recommendation.
 - c. Following the final hearing on an application for a special use permit the planning commission shall recommendation approval or denial at the earliest reasonable time, and shall prepare an accurate written summary of the proceedings for the unified government board of commissioners. If the planning commission fails to make a recommendation on a special use permit request within 63 days of the close of the public hearing regarding the application, the planning commission shall be deemed to have made a recommendation of disapproval. The application will be forwarded by the director to the unified government board of commissioners within 50 days of the deemed denial.
- (5) Factors to be considered. Approval or denial of the special use permit shall be based upon consideration of the following factors, in addition to those factors specific to each use:
 - a. The character of the neighborhood.
 - b. Whether the proposed use will result in increasing the amount of vehicular traffic to the point where it exceeds the capacity of the street network to accommodate it.
 - c. Where applicable, hours of operation.
 - d. Whether the proposed use is reasonably necessary for the convenience and welfare of the public and will not substantially or permanently injure the appropriate use, visual quality, or marketability of adjoining property.
 - e. Whether the noise, vibration, dust, or illumination that would normally be associated with such use is of such duration and intensity as to create problems for nearby property.
 - f. Whether the proposed use would pollute the air, land or water.
 - g. Compatibility with existing and proposed land uses in the surrounding area.
 - h. Whether the use would damage or destroy an irreplaceable natural resource.
 - i. The relative gain to the public health, safety, morals, and welfare as compared to the hardship imposed upon the individual landowner or landowners.
 - j. The applicant's ability to maintain the use in an "as proposed" condition.

- k. Whether the proposed use would result in overcrowding of land or cause an undue concentration of population.
 - l. In general, commercial and industrial special use permits should not be granted adjacent to residential districts.
- (6) Action by unified government board of commissioners. When the planning commission submits a recommendation of approval, conditional approval, or disapproval of a special use permit and the reasons therefore, the unified government board of commissioners shall consider the criteria established in subsection (f)(5) of this section and may take any action consistent with sections 27-205 and 27-206, including:
- a. Adopting such recommendations by ordinance, which may include such conditions as the unified government board of commissioners deems necessary;
 - b. Overriding the planning commission's recommendation by a two-thirds majority vote of the membership of the unified government board of commissioners; or
 - c. Where there is new material evidence received at the unified government board of commissioners hearing that was not available to the planning commission, then returning such recommendation to the planning commission for reconsideration based on the new evidence.
- (7) Conditional approval of special use permit. In cases in which special use permit applications are conditionally approved by the unified government board of commissioners, the permit shall not take effect until the conditions are fulfilled. Such conditional approval shall expire after one year if the conditions are not met, unless otherwise specified in the approval.
- (8) Duration of approval. Special use permits may be approved at initial issuance for up to two years. Subsequent renewals may be granted for up to ~~five~~-ten years depending upon the information submitted at the renewal hearing. ~~Race tracks~~-*Racetracks*, sanitary landfills, medical waste incinerators and other very large uses may be approved for longer periods.
- (9) Final plan review approval by the planning commission, according to section 27-212(g), is required following unified government board of commissioners' approval of the special permit.
- (10) *Except as provided in subsection c. below, a new special use permit shall be required upon a change in ownership of the property to which the existing special use permit applies, or any portion thereof.*
- a. *The special use permit shall not be transferrable to another applicant or to another parcel owned by the same property owner or applicant.*
 - b. *A change in applicant or property ownership shall require approval of a new and distinct special use permit. Operation of the short-term rental under the new special use permit shall not commence until the date of effectiveness, as described in subsection (f)(7).*
 - c. *A new special use permit shall not be required if the property is transferred to a transferee entity of the current property owner, provided that the controlling person or controlling entity of such transferee entity is also the controlling person or controlling entity of the current property owner.*

(11) Several distinct special use permits, as identified in section 27-593, may be heard by the planning commission and board of commissioners together as a single application, at the discretion of the director of planning and/or their designee(s).

- (g) Exceptions from procedures and fees. Home occupations or keeping of livestock require a fee in the amount established by the director. The procedure shall vary from that established for other special use permits in that upon receipt of recommendations from the planning commission, the unified government board of commissioners may approve or disapprove the special use permit. For these uses, the unified government board of commissioners will not be required to return the matter to the planning commission for reconsideration. A neighborhood meeting is not required for the keeping of livestock or home occupations with no exterior or parking modifications.
- (h) Termination. If a use granted a special use permit is discontinued for a period of six months, or inadequate progress toward initiating the use, such as failing to meet or make progress toward meeting the initial conditions of approval, is made in six months, the special use permit shall no longer be valid. Any use requiring a special use permit from that time on will require a new application and the procedure set out under this section.
- (i) Revocation.
 - (1) The unified government board of commissioners may revoke and discontinue a special use permit pursuant to section 27-209 based on the criteria listed in subsection (f)(5) of this section or for any one of the following reasons:
 - a. Failure to maintain the premises in such manner as required by ordinance;
 - b. Failure to comply with the requirements set forth herein or established by the unified government board of commissioners as a condition for approval;
 - c. Failure to construct or maintain the improvements according to the plans presented at the time of approval; or
 - d. Unforeseen incompatibility with surrounding or adjacent uses.
 - (2) If the unified government board of commissioners revokes the special use permit, it shall set an effective date for discontinuance, and the office of the chief counsel may take appropriate action to ensure compliance.

Section 2. That Chapter 27, Planning and Development, Article VIII, of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas, is hereby amended to read as follows:

Sec. 27-340. Definitions.

For the purpose of this article, certain terms and words are herewith defined as follows: Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular. The term "building" includes the term "structure." The term "shall" is mandatory and not directory. Definitions relating specifically to floodplain zoning, signs, and landscaping and screening are included elsewhere.

Accessory building means a detached building or an attached portion of the main building, the use of which is incidental and subordinate to that of the main building.

Accessory dwelling unit means a dwelling unit that is located over a garage on the same lot or parcel as the primary residential building. Such unit can be attached or detached from the primary residential building. Such units are located towards the rear of the parcel or lot, but regardless shall not be located within the front yard. All accessory dwelling units shall have a maximum square footage equal to 50 percent of the main structure's finished space excluding garages and basements. Accessory units must maintain existing parking requirements.

Accessory dwelling unit, primary means the accessory dwelling unit that the property owner resides within that otherwise satisfies the definition of owner-occupied, as defined in this section.

Accessory use, accessory structure means a use of land or structure which involves all of the following characteristics:

- (1) Subordinate to and serves a principal use or structure.
- (2) Subordinate in area, extent and purpose to the principal use or structure served.
- (3) Contributes to the comfort, convenience or necessity of occupants of the principal use or structure served.
- (4) Located on the same lot or lots, under the same ownership and in the same zoning district as the principal use or structure.

Actively owner-occupied means that the homeowner physically resides in the primary building on the subject property at least 272 days per year and has designated the subject property as both their legal voting address (if the property owner is eligible and registered to vote) and the address of their driver's license or equivalent community-issued identification card.

Adult book store or adult video store means an establishment having as a predominant part of its stock in trade or predominant portion of its revenues, books, magazines, photographs, pictures, periodicals, recordings or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas and limited in sale of such sexual material to adults.

Adult nightclub or cabaret means any place serving food or drink, regardless of whether alcoholic beverages are served, which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, similar entertainers, waitresses or waiters, or features material relating to specified sexual activities or specified anatomical areas.

Adult theater means a facility with a capacity of two or more persons used predominantly for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein.

Agricultural use refers to the use of land where such land is devoted to the production of plants, animals or horticultural products, including, but not limited to, forages, grains and feed crops, dairy animals and dairy products, poultry and poultry products, beef cattle, sheep, swine and horses, bees and apiary products, trees and forest products, fruits, nuts and berries, vegetables, or nursery, floral, ornamental and greenhouse products. The term "agricultural use" shall not include use of land for recreational purposes, suburban residential acreage, rural home sites or farm homes sites and yard plots whose primary function is for residential or recreational

purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition.

Alley means a public right-of-way no wider than 24 feet that affords only a secondary means of access to abutting property.

Alteration means any addition, removal, extension or change in the location of any exterior wall of a building.

Antenna means any structure or device used to receive or transmit electromagnetic waves.

Apartment house means any building or portion thereof that contains three or more dwelling units.

Applicant means a person who applies for a permit as provided in this section.

Building means a permanently erected structure having a roof supported by columns or walls.

Building, completely enclosed, means a building separated on all sides from the adjacent open spaces or from other buildings or structures by a permanent roof, and by exterior walls having only windows and normal entrance or exit doors, or by party walls.

Bulk means a composite characteristic of a given building as located upon a given lot, not definable as a single quantity, but involving all of the following characteristics:

- (1) Size and height of building.
- (2) Location of exterior walls at all levels in relation to lot lines, streets or to other buildings.
- (3) Gross floor area of the building in relation to lot area (floor area ratio).
- (4) All open spaces allocated to the building.
- (5) Amount of lot area provided per dwelling unit.

Campground means an area of land, including supporting sanitary and other facilities, for the overnight or temporary parking of recreational vehicles and other modes of camping while traveling by auto.

Children's day care and nursery centers means facilities where part-time lodging and meals are provided, excluding permanent or overnight lodging, for six or more children in return for compensation. For the purpose of this article, family day care homes under state regulations will not be included in this definition.

Collection facility means a designated, semi-permanent container intended for public use or public drop-off of recyclable materials such as glass or metal and periodically emptied by a recycling or waste management company or other designated organization. Collection facilities should be constructed of a durable material, such as metal or hard plastic, and are intended for materials undergoing further processing or refining.

Court means an open, unoccupied space, other than a yard, bounded on three or more sides by exterior walls of a building or by exterior walls of a building and lot lines on which walls are allowable.

Curb level means the level of the established curb in front of the building measured at the center of such front. Where no curb has been established, the high point of the crown of the street in front of the building shall be used.

Decibel means a unit of measurement of the intensity (loudness) of sound. In this article, decibel levels shall be measured on the A scale and referred to as dB(A).

Detached means a building that does not have a wall, roof or other structural member in common with or in contact with another building.

Dismantled means that a number of useful parts, including but not limited to, tires, batteries, doors, hoods, or windows, have been removed from the automobile as to render the automobile unsafe to operate.

Dog kennel means any premises where four or more dogs are boarded, bred and/or offered for sale.

Donation bin means a designated, semi-permanent container in which previously owned items, such as clothing, shoes, and books can be placed by the public and periodically emptied by a non-profit organization for resale or donation. A donation bin is distinct and separate from a collection facility.

Drive means an improvement which affords a means of vehicular access to or through an area and which is owned and maintained by the owner of the property it serves.

Drive-in or drive-through establishment means a place of business being operated for the retail sale of food and other goods, services, or entertainment wherein patrons may be served or otherwise conduct their business while remaining in their automobiles. A restaurant that does not provide at least 15 seats within the enclosed interior of the building shall be considered a drive-in establishment.

Dwelling means a building or portion thereof intended for occupancy for residential purposes but not including hotels, motels, rooming houses, nursing homes, temporary shelters, tourist homes, or trailers.

Dwelling house, condominium, means a building containing dwelling units, which dwelling units are separated by a party wall and which dwelling units are designed and intended to be separately owned in fee under the condominium statutes of the state.

Dwelling, multiple-family, means a dwelling, or portion thereof, containing three or more dwelling units.

Dwelling, single-family, means a dwelling containing one dwelling unit.

Dwelling, two-family means a dwelling containing two dwelling units, a duplex.

Dwelling unit means one or more rooms constituting all or part of a dwelling and which are arranged, designed, used or intended for use exclusively as a single housekeeping unit for one family, and which includes cooking, living, sanitation and sleeping facilities.

Dwelling unit, full means a dwelling unit, as defined in this section, or the extent of the dwelling unit to be rented to and accessible by a short-term rental tenant(s), with the remainder of the dwelling unit both inaccessible to said tenant(s) and not otherwise occupied or rented.

Dwelling unit, partial means a portion of a dwelling unit or the extent of the dwelling unit to be rented to and accessible by a short-term tenant, with the remainder of the dwelling unit occupied by the property owner. A partial dwelling unit at minimum must include a bedroom and access to a bathroom; the portion of the dwelling unit occupied by the property owner may or may not be accessible to tenants.

Dwelling unit, primary means the dwelling unit in which the property owner resides in satisfaction of the definition of owner-occupied, as defined in this section. For buildings in which the property owner either consists of more than one individual residing in separate and distinct dwelling units or is a corporation, government entity, non-profit, or trust, a single primary

dwelling unit shall be established by the property owner, or, if the property owner does not assert a primary dwelling unit, by the determination of the director of planning or their designee.

Exterior sales means the sale of goods outdoors on private property that is zoned for commercial retail. Examples include ice chests, propane, firewood, and other that are similar.

Family means one or more persons who are related by blood or marriage, including any foster children, a group of not more than five persons living together by joint agreement on a nonprofit cost sharing basis, or a combination of persons related by blood or marriage along with no more than two unrelated adults to a maximum number of five persons living together and occupying a single housekeeping unit with single kitchen facilities. In addition, up to ten persons, including eight or fewer persons with a disability or handicap and not to exceed two staff residents residing in a dwelling shall be considered to be a family. Handicapped persons are defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Farmers' market means a seasonal outdoor market where fresh produce, animal food products, homemade goods, or small craft items are sold from individual sellers and where each seller operates independently from other sellers. Fresh produce may include fruits and vegetables that have been recently harvested from the garden or farm of the seller or the seller's client, and must consist of the majority of the sales in both scope and dollars. Animal food products include meat, milk, eggs, and honey produced from the livestock, fowl, bees, or other animals kept on the property of the seller or seller's client. Homemade goods may include jams, jellies, and preserves, baked breads and pastries, and canning goods such as pickled fruits and vegetables, salsa. The primary characteristic is that these activities involve a series of sales sufficient in number, scope, and character to constitute a regular form of business and therefore subject to regulation.

Flea market means a market, indoors or out of doors, where new or used items are sold from individual sellers, where each seller operates independently from other sellers. Items sold include, but are not limited to, household items, antiques, rare items, decorations, used books and used magazines. The term "flea market" is interchangeable with and applicable to "swap meet," "indoor swap meet," or other similar terms regardless of whether these events are held inside a building. The primary characteristic is that these activities involve a series of sales sufficient in number, scope, and character to constitute a regular form of business and therefore subject to regulation.

Floor area means the total floor area designed for tenant or owner occupancy measured from the exterior surfaces of outside walls and including mezzanines, unfinished floors and basements, but excluding loading docks and service corridors or any common areas not leasable to individual tenants.

Floor area, habitable, means the area of all floor space on all levels measured from the exterior surface of outside walls, but excluding garages, porches and non-habitable basements as determined by the International Building Code, as adopted and amended by the unified government.

Food establishment means a business where prepared food is sold and distributed to the public, either for on-site consumption in a dining area provided by the business or for off-site consumption. Food sales by annual dollar volume must be the majority of the sales and cannot be

exceeded in annual dollar volume by alcohol. Examples of a food establishment may include sit-down restaurants, fast-food restaurants, delis, smoothie bars, coffee and tea shops, and ice cream parlors. Food establishments shall not include vendor vehicles or prepared food vending vehicles such as food trucks, food trailer, and pushcarts.

Food trailer means an accessory trailer hitched to a car or truck, which, when parked, serves as a prepared food vending vehicle. A food trailer and operator of the car or truck to which the food trailer is attached must meet all local, State, and federal requirements for vehicle safety and licensing; and must meet all State requirements for food safety and handling.

Food truck means a self-contained, motorized prepared food vending vehicle. A food truck and food truck operator must meet all local, State, and federal requirements for vehicle safety and licensing; and must meet all State requirements for food safety and handling.

Fowl shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus. Fowl shall not be permitted in any area of the city not zoned agricultural with the following exceptions:

- (1) Ducks.
- (2) Female chickens.

Garage, private, means a building or a portion of a building, not more than 1,000 square feet in area, in which only motor vehicles used by tenants of the building or buildings on the premises are stored or kept.

Gross vehicle weight rating or GVWR means the manufacturer's rating of the combined weight of the vehicle and the maximum load it is designed to carry. Where such information is not available, the following shall be used to make the determination:

- (1) Vehicles of no greater than 10,000 pounds GVWR: Pickup trucks and passenger vans, trucks considered one-ton rated capacity or less.
- (2) Vehicles of no greater than 30,000 pounds GVWR: Commercial-type trucks of wide variety, but excluding dump trucks, semitrailer trucks, trucks with tandem axles, and other similar heavy-duty trucks.

Group dwelling means a residential dwelling occupied as a residence by persons who do not constitute a family.

Halfway house means a facility, such as a community corrections center, serving temporary residents who have been released or diverted from an institution. A nonfamily residential dwelling that houses persons protected by the Fair Housing Act, such as the mentally ill or the mentally retarded, is a group dwelling, not a halfway house, so long as it is clearly the domicile of the residents and the typical length of stay is long enough to differentiate it from a motel or hotel.

Heavy automotive/truck service, repair, and mechanics means major mechanical repair shops including any of the following:

- (1) Body work and painting.
- (2) Tire recapping.
- (3) Engine and transmission repair.

Height of building or structure means the vertical distance from the average elevation of the ground abutting a building or structure to the highest point of a building or structure. Height,

when not regulated in feet, shall be regulated by stories and a story shall be equal to 12 feet for purposes of measuring structures other than buildings.

Home occupation means an activity for gain customarily carried on in a dwelling or structure accessory to a dwelling, clearly incidental and secondary to the use of the dwelling for residential purposes. In general, a home occupation is an accessory use so located and conducted that the average neighbor under normal circumstances would not be aware of its existence. Such activity may employ only members of the immediate family residing on the premises.

Inoperable means that an automobile or truck which cannot be driven away in a safe condition.

Inoperable vehicles means vehicles missing major body, chassis, or engine components or not fit for street travel.

Light automotive service and maintenance means any of the following:

- (1) Tire and battery sales and installation.
- (2) Brakes and other similar diagnostic and repair services.
- (3) Auto detail shops, tune-up shops, upholstery shops, radiator repair shops, lubrications service, sound system shops, or alignment and suspension services.

Livestock means horses, mules, cattle, sheep, and goats.

Lot means a parcel of land occupied or to be occupied by one main building, or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under this article, and having its principal frontage upon a public street. A lot may consist of one or more platted lots, or tracts as conveyed, or parts thereof.

Lot or site area means the land area within the tract or lot lines and excluding street right-of-way.

Lot, corner means a lot abutting upon two or more streets at their intersection. A corner lot may be deemed to front on either street frontage.

Lot, depth means the horizontal distance from the front street line to the rear line.

Lot, interior means a lot whose side lines do not abut upon any street.

Lot line, front means the street line, which is the boundary between a lot and the street on which it fronts.

Lot line, rear means the boundary line that is opposite the most distant from the front street line, except that in the case of uncertainty, the building official shall determine the rear line.

Lot line, side means any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley or place or a side street line.

Lot, through means an interior lot having frontage on two streets.

Lot width means the horizontal distance between side lines, measured at the front building line.

Mobile home means a structure, transportable in one or more sections, which has a body width of eight feet or more and a body length of 36 feet or more and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein and which was designed to comply with the Federal Manufactured Home Construction and Safety Standards in force at the time of manufacture. This term shall not include a recreational vehicle. A structure which otherwise falls

within this definition shall be considered a mobile home even if it does not have the required dimensions so long as it is in place as of May 1, 1995, and has a model year of no later than 1969.

Mobile home park means a tract of land meeting the requirements of this article containing suitable drives, utilities and other supporting elements and devoted to the sole purpose of accommodating mobile homes on a permanent or semi-permanent basis.

Mobile home space means that area of land within a mobile home park set aside for use as a site for one mobile home, including the open spaces around the mobile home, as are required in this article.

Mobile market means the selling of food products, including, but not limited to: fresh produce, animal food products, and dry goods out of a bus, truck, trailer, or other mobile unit. At least 50 percent of the foods for sale must be a food item found on the package. Mobile market vehicles must fall between grades 2—7 on the Federal Highway Administration trailer size guideline and must not be longer than 45 feet.

Mobile vendor vehicle means a self-propelled or motorized vehicle from which any non-food merchandise or service is sold, given away, performed, displayed, or offered for sale, at retail. Items for sale may include clothing, jewelry, souvenirs. Non-food merchandise also includes plant products that may be consumable, but are advertised and sold without immediate human consumption, such as vegetable seeds or potted plants, and treats intended for consumption by farm animals or household pets.

Nonvehicular open space means uncovered areas such as lawns, planting space, walks, terraces, sitting areas and balconies, one-half of covered nonvehicular open space, and clubhouses and indoor recreational areas. No paved areas for vehicular traffic or parking may be included as nonvehicular open spaces.

Open-air market means a retail space in a public right-of-way, demarcated from the public right-of-way itself ~~through the~~ by use of tents, cones, temporary fencing, and other material. Distinct from a flea market, only one business can display and sell goods per open-air market.

Operator means any person who operates a vending vehicle or farmers' market stand for the purpose of vending food, beverage, product or service therefrom.

Outdoor cafe means an outdoor area located contiguous to a building wherein a food establishment is located and where food and beverages are taken for consumption by persons sitting or standing at tables in that area. Allowed outdoor cafes must abide by the requirements and limitations as determined by the unified government and the state department of revenue alcoholic beverage control.

Outdoor dining elements means all tables, chairs, fencing and other materials used for demarcating the outdoor café or outdoor tavern from the right-of-way; planters and plants; and any other privately-owned property comprising the-outdoor café or outdoor tavern.

Outdoor retail means advertising, displaying, distributing, giving away, promoting, selling, or vending, in a space outside but within the boundaries of the property, items normally advertised, displayed, distributed, given away, promoted, sold, or vended.

Outdoor tavern means an area associated with an establishment selling cereal malt and/or alcoholic beverages for consumption on the premises but outside of the structure in which the establishment operates.

Overlay district means a zoning district that acts in conjunction with the underlying zoning district or districts.

Parking lot, commercial means a paved area or structure intended or used for the off-street parking of operable motor vehicles on a temporary basis, other than accessory to a principal use.

Performance standards means criteria to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards or glare, heat or other effects generated by or inherent in uses of land or buildings.

Planned zoning district means the zoning of a lot or tract to permit that development as is specifically depicted on plans approved in the process of zoning that lot or tract.

Prepared food vending vehicle means a self-propelled, hitched trailer, or motorized vehicle from which any prepared food, beverage, merchandise, or product ready for immediate consumption is sold, given away, displayed or offered for sale, but shall not include a food vending vehicle transporting unprepared food for sale or delivery at wholesale or retail, or an ice cream product truck.

Private club means an organization licensed hereunder to which the club members shall be permitted to resort for the purpose of consuming alcoholic liquor.

Property owner means the individual person or persons, corporation, government entity, non-profit, or trust who holds ownership of the building and/or real property.

Public right-of-way means any public street, alley, pathway, roadway, sidewalk, walkway, highway, bicycle lane, or public way designed for vehicular, bicycle, or pedestrian travel that is dedicated to public use and/or publicly owned.

Pushcart means any non-self-propelled wagon, cart, trailer, kiosk or similar wheeled container, not a vehicle, as defined in state statutes, from which food, beverage, merchandise or product is offered for sale to the public.

Recreational vehicle means ~~is~~ a vehicle that is:

- (1) Built on a single chassis.
- (2) Four hundred square feet or less when measured at the exterior.
- (3) Self-propelled or permanently towable by a light duty truck.
- (4) Designed not as a dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

Residentially zoned area means an area zoned A-G, R, R-1, R-1(B), R-2, R-2(B), R-3, R-4, R-5, R-6, R-M, or these districts' planned equivalents.

Ruined means that an automobile which is substantially damaged to the extent that it is valueless or useless as an operable automobile or truck or parts thereof are only useful as materials for reprocessing, melting, remanufacturing, or disposal for salvage or scrap material.

Seating area means open space within any enclosed structure used for purposes of seating numbers of people for any purpose, including all aisles necessary for circulation.

Self-contained recreational vehicle is a recreational vehicle that includes all of the following:

- (1) Heating and/or air conditioning.
- (2) A sink and shower.
- (3) Self-contained toilet.
- (4) Cooking facilities.

(5) Refrigerator.

Site area means the land area within the tract or lot lines and excluding street right-of-way.

Specified anatomical area means any of the following:

- (1) Any less than completely or opaquely covered:
 - a. Human genitals, pubic region.
 - b. Buttocks.
 - c. Portion of the areola of the female breast.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Short-term rental means the rental or leasing of a dwelling unit—whether it be a full dwelling unit or partial dwelling unit, or a primary dwelling unit or an accessory dwelling unit—for a period of less than 30 consecutive days. The following types and uses of residential buildings are not subject to the short-term rental standards of this article: group homes; summer camps and campgrounds; hospitals and other facilities for treatment of humans; nursing, convalescent, and senior assisted-living homes; and other lodging establishments as defined by existing hotel and motel standards.

Short-term rental unit means a full dwelling unit, partial dwelling unit, or accessory dwelling unit.

Stable, riding means a structure and premises in which horses, ponies or mules, used exclusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire or sale.

Storm protection areas means any new residential use, for multifamily residential development or single-family residential development for which a preliminary plan/plat application is approved by the planning commission, shall contain an area of storm protection. Such area may be a room or space, such as a basement, a structure complying with Federal Emergency Management Agency Publication 320 ("Taking Shelter From the Storm") or Publication 361 ("Design and Construction Guidance for Community Shelters"), or subsequent updates thereto shall comply with this requirement. For residential uses designed specifically for occupancy by those age 55 and over, the basement, safe room, or community shelter must be within the structure where the particular dwelling unit is located or within 15 feet of the structure in question and accessed under roof.

Story means that part of a building included between the surface of one floor and the surface of the floor above, or if there is no floor above, that part of the building which is between the surface of a floor and the ceiling next above. A top-story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is a half-story when between 50 and 75 percent of the area of its exterior walls contain windows or doors permitting the entrance of daylight and outside air.

Street means a right-of-way that affords principal means of vehicular access to property abutting thereon.

Street block means all properties on both sides of a street between two consecutive, bisecting streets; a consecutive bisecting street and a change in street name; or two consecutive changes in street name if no streets bisect the street between the points the names change.

Street line means the dividing line between the street right-of-way and the abutting property.

Street, private means a street which provides principal access to abutting property, but which is not maintained by the unified government. A private street may exist within dedicated public right-of-way.

Structural alteration means any change other than incidental repairs in the supporting members of a building, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to a permanent location on the ground, including, but not limited to, signs, and excepting customary utility poles, retaining walls and boundary fences.

Surplus off-street parking means any parking space that is not required by the Code of Ordinances or by state or federal law, such as the Americans with Disabilities Act (ADA).

Tavern means an establishment which sells cereal malt and/or alcoholic beverages for consumption on the premises; provided, however, this definition shall not include establishments whose sales of food for consumption on the premises exceed the sales of cereal malt and alcoholic beverages served.

Telecommunications tower means a tower constructed as a freestanding structure or in association with a building, other permanent structures or equipment, containing one or more antennas intended for transmitting or receiving television, radio, digital, microwave, cellular, telephone or similar forms of electromagnetic radiation.

Trailer means a vehicle, other than a mobile home, equipped with wheels and normally towed over the road behind a motor vehicle.

Trailer advertising means a trailer that carries or has attached thereto a sign, billboard or other media for advertising as the prime purpose and use of the trailer.

Trailer hauling means a trailer, as defined in this section, and designed and normally used for over-the-road transportation of belongings, equipment, merchandise, livestock and other objects, but not equipped for human habitation.

Trash container means a durable, rust-resistant, non-absorbent, leak-proof container of no more than 50 gallons that is made of metal or hard plastic and which is mounted on a stand attached to the ground and which typically has a cover with openings on the side for where trash can be disposed.

Used car/truck lot means the use of a parcel of land, either with or without structures, for the purpose of offering for sale, rent, or lease, automobiles, light duty trucks or heavy duty trucks.

Variance means a variation from a specific requirement in this article, as applied to a specific piece of property, as distinct from rezoning.

Vending machine means a machine, stand, or dispenser that distributes, dispenses, or sells a physical product or good directly to a consumer using an automated payment system. Examples include but are not limited to soda machines, candy machines, video rental vending machines,

snack machines, newspaper machines, and others that are similar. This definition does not include ATMs, gas pumps, air dispensers, or payphones.

Vending stand means a moveable temporary structure, tent, stand, or assembled contrivance located adjacent and contiguous to a duly licensed restaurant, vending food, beverage, or any product or merchandise; that can neither be pushed, wheeled, self-propelled or driven by use of a mechanical device but can be manually moved, stored and relocated from time to time and from which prepared food can be sold at retail.

Vending vehicle means a mobile market vehicle, mobile vendor vehicle, or prepared food vending vehicle.

Vendor means any person engaged in selling, or offering for sale, food, beverages, or other merchandise from a vending stand, vending vehicle, or from the vendor's person, on private property.

Walk-up market means an outdoor vending area located contiguous to a building wherein a food establishment is located and where food and beverages are taken for consumption off-site by customers. Allowed walk-up markets must abide by the requirements and limitations as determined by the unified government and the Kansas Department of Revenue Alcoholic Beverage Control.

Wrecked means those automobiles or trucks that have more than 25 percent of the vehicle in damaged condition externally as to render it unsafe to operate.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building shall be used. Where lots abut a street that is designated a major street on the major street plan, all yards abutting the street shall be measured from a line one-half the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On other lots, all yards abutting a street shall be measured from a line 25 feet from the centerline, or from the lot line, whichever provides the greater setback. On multibuilding projects where access is derived from private drives, the orientation of individual buildings shall be used to determine the type of yard along the project boundary.

Yard, front, means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Yard, rear, means a yard across the full width of the lot extending from the rear lot line to the rear line of the main building.

Yard, side, means a yard between the main building and the adjacent side line of the lot, and extending entirely from the front yard to the rear yard.

Sec. 27-388. – Authority to continue nonconforming buildings, structures, signs and uses.

Any nonconforming building, structure, sign or use which exists lawfully and which remains nonconforming, and any such building, structure or use which shall become nonconforming upon the adoption of any amendment to this subdivision, may be continued in accordance with the provisions which follow. Subsection (2) of this section sets out certain situations in which a nonconforming use may be presumed or considered to be lawfully existing. Where two or more

of the following provisions apply to a particular situation, the most restrictive requirements shall control.

- (1) Nonconforming uses of land. The lawfully existing nonconforming use of land not involving a building or structure, or where any building or structure thereon is merely incidental or accessory to the principal use of land, may be continued subject to the following provisions:
 - a. Expansion. A nonconforming use of land shall not be added to or extended beyond the area it occupies.
 - b. Discontinuance. If a nonconforming use of land is discontinued for a period of six consecutive months, it shall not thereafter be renewed, and any subsequent use of land shall conform to the regulations of the district in which the land is located.
 - c. Change of use. A nonconforming use of land shall not be changed to any other use, except to a use permitted in the district in which the land is located.
- (2) Nonconforming uses of buildings or structures. The lawfully existing nonconforming use of part of a building or structure may be continued subject to the following provisions:
 - a. Expansion. A nonconforming use may be extended throughout the building or structure in which said use is presently located, provided no structural alterations except those required by law or permitted by the regulation of the district in which the building or structure is located are made therein. Such structural alteration shall not provide floor area expansion.
 - b. Discontinuance.
 1. If a nonconforming use of a building or structure is discontinued for a period of two years, it shall not be renewed, and any subsequent use of the building or structure shall conform to the use regulations of the district in which the premises are located; provided, however, the period of discontinuance shall be 18 months for private clubs and outdoor advertising signs. When a nonconforming use is abandoned for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only by conforming uses. A commercial or industrial nonconforming use shall be considered to have been abandoned when it has been converted to a use that is not legally nonconforming. The determination that such an illegal conversion has occurred shall be made by the city administrator after thorough review. A written record informing the owner or occupant of the decision and of its basis shall be sent to the address of the abandonment and the address of the owner. The decision may be appealed to the board of zoning appeals.
 2. *For an existing special use permit, legal non-conforming status shall be considered to be discontinued if the special use permit is revoked, expires without proper renewal, is transferred to a different parcel or lot, or the subject property has a change in ownership, except:*
 - (i) *If the change of ownership occurs as a result of a sale of property or conveyance, then the time period for the new property owner to apply for a new special use permit shall be six months; or,*

(ii) If the change of ownership occurs as a result of a deed upon death, then the time period for the new property owner to apply for a new special use permit shall be 18 months.

- c. Change of use. The nonconforming use of a building or structure may be changed to another nonconforming use of the same or more restrictive zoning district. Whenever a nonconforming use has been changed to a more restrictive use or a conforming use, such use shall not hereafter be changed to a less restrictive use. In the particular case of commercial and/or industrial nonconforming uses in residential zoning districts, the nonconforming use of such a building or structure may be changed to another nonconforming use only upon approval by the planning commission and unified government board of commissioners and only under all of the following conditions:
1. Adequate notice to owners of all property within 200 feet.
 2. The applicant shall show that the nonconforming use cannot reasonably be changed to a permitted use.
 3. The applicant shall show that the proposed change will be less objectionable in external effects than the previous or existing nonconforming use, with respect to:
 - (i) Traffic generation and congestion.
 - (ii) Noise, smoke, dust, fumes, heat, odor, glare or vibration.
 - (iii) Storage and waste disposal.
 - (iv) Appearance.
- d. Repairs/restoration. Requirements set out under subsection (3)a of this section are fully applicable here.

(3) Nonconforming residential use of residential buildings.

- a. Generally. In the particular case of nonconforming residential uses of residential buildings, a nonconforming use permit shall be required for continuation of such a use. Such uses will be those containing more dwelling units than allowed under the zoning applicable at the time of conversion. An application for a nonconforming use permit shall be made within 60 days of the receipt of written notice that such an application is necessary, but in no case may an initial application be made after March 31, 2008. Only the property owner may make such an application. The application for the permit shall include the petition, evidence of required period of existence, a site plan, floor plans, and other information as required to substantiate the permit. The burden of proof shall be on the owner/applicant to establish the period of existence. A nonconforming use permit, if approved, may be revoked under the criteria and procedures set forth in section 27-209.
- b. Nonconforming use permits. The building official, in consultation with the director of planning and zoning shall issue a nonconforming use permit if any one of the sets of standards set out in this subsection is met:
1. There is clear and convincing evidence that the existing nonconformance was established prior to and existing continuously from December 30, 1941.
 2. There is clear and convincing evidence that the existing nonconformance was established prior to and existing continuously from July 28, 1956, and that:

- (i) No past application has been ruled upon adversely by the board of zoning appeals or unified government board of commissioners.
 - (ii) There is compliance with all applicable code requirements.
 - (iii) There has been written notification by mail to all property owners within 200 feet of the property for which the nonconforming use permit is pending to determine if there are objections to the issuance, and that no written objections have been received within two weeks of the mailing.
 - (iv) Unless otherwise approved under subsection (3)b.3 of this section by the unified government board of commissioners, the term of the nonconforming use permit is ten years and it is only applicable to the property owner to whom it is granted.
3. The unified government board of commissioners after recommendation by the planning commission has approved or modified and approved a nonconforming use permit following the process and standards set out as follows:
- (i) Mailed notice to all property owners within 200 feet of the consideration by the planning commission and unified government board of commissioners.
 - (ii) The unified government board of commissioners may attach conditions to ensure the public welfare which establish expiration dates, limit changes of ownership, require physical changes and improvements, or reduce the number of dwelling units. Unless otherwise approved by the unified government board of commissioners, the term of the nonconforming use permit is ten years and it only applicable to the property owner to whom it granted.
 - (iii) The planning commission and unified government board of commissioners shall not consider an application for nonconforming use permit until building official or his designee has inspected the premises and provided to the property owner the changes and improvements necessary to achieve compliance with all applicable code requirements along with an estimate of the cost of compliance. Repairs made or expenses incurred prior to approval shall not be a factor in the consideration of the nonconforming use permit. The improvements required shall completed and approved within 180 days of the nonconforming use permit approval or that approval shall be null and void.
 - (iv) The unified government board of commissioners may approve a nonconforming use permit upon finding that the use has been in existence continuously for a period of at least 20 years prior to the date of application, that provision for parking is adequate, that rezoning the property would result in "spot" zoning or a zoning or a zoning inappropriate to surrounding land uses, and that the use will not be detrimental to character of the immediate neighborhood or be detrimental to the public health, safety, or general welfare.
- (4) Nonconforming buildings or structures. Any lawfully existing building or structure which does not conform with the height or area regulations of the district in which it is located or any building within which a nonconforming use is located shall be subject to the following provisions:

- a. Repairs/restoration. A nonconforming building may be repaired, restored, or rehabilitated without time limit so long as it remains a completely enclosed structure with the bulk of its structural members intact. A nonconforming building or structure which is wholly or partially destroyed by fire or other casualty or act of God, or legally condemned, may be restored or reconstructed to its previous size and location; provided, however, that where the bulk of structural members must be reconstructed, in an area which interferes with existing or proposed street rights-of-way or necessary sight distance as set out in division 12 of this article and section 27-637, reconstruction shall be altered to eliminate such interference. Such restoration shall be completed within 12 months of the date of damage excluding any time for litigation.
 - b. Enlargements. There shall be no increase in the amount of any nonconformity. A nonconforming building or structure may be enlarged, provided such enlargement complies with the regulations and standards of this article.
- (5) Nonconforming signs. Any lawfully existing sign which does not conform with all applicable regulations shall be considered a nonconforming sign. (A lawfully existing roof sign structure in districts CD, M2, and M3 shall be considered a nonconforming sign). Such nonconforming signs may continue in use subject to the following provisions:
- a. Repairs/maintenance. Ordinary repairs or maintenance may be made on a nonconforming sign. Changing copy or logo shall be considered maintenance if the information, product or service depicted remains the same and if the sign is to serve the identical establishment using the same business name as before the change. Where a nonconforming electrical sign or sign face is in good condition and can be reused without changes in its shape or size, such reuse shall be considered repair or maintenance even for a different business. Where a sign surface is damaged or destroyed by fire or other casualty or act of God and the sign supports remain intact, the sign surface may be replaced to its original size and location.
 - b. Refacing/alteration. Sign refacing shall include changing or replacing the surface of the sign to serve a different establishment or business or to create a substantially different visual effect. The normal changing of the message on an outdoor advertising sign shall not be a violation of this provision. Sign alteration shall include the replacement, enlargement, or reshaping of a sign frame, pole, brackets or any supporting member. Nonconforming signs may be refaced or altered so long as the degree of nonconformity is not increased if they meet all the following requirements:
 - 1. No taller than 1½ times the maximum permitted in the applicable zoning district.
 - 2. No closer to any property line than one-half the minimum setback permitted in the applicable zoning district. A lesser setback may be permitted, if there is no other feasible sign location.
 - 3. No larger in area than 1½ times the maximum permitted in the applicable zoning district.

This subsection does not permit a sign conforming in height and/or area and/or setback to become nonconforming in any of those criteria.

Sec. 27-593. – Allowable special uses.

(a) The following uses may be permitted under special use permit in any zoning district except as specifically limited herein:

(1) Amusement parks, privately owned and operated athletic fields, and race tracks.

....

(32) *Short-term rentals, subject to section 27-623.*

Sec. 27-623. – Short-term rentals.

(a) *Short-term rentals are allowed as an accessory use subject, subject to any zoning, typology, and deed restrictions, and performance standards contained herein.*

(1) *Short-term rentals are allowed as an accessory use within the following zoning districts and areas:*

(i) *Any residentially zoned area, as defined by this article;*

(ii) *Any zoning district in which a residential use is allowed, including uses allowed through the provisions of a separate zoning district, so long as all accessory uses related to short-term rentals apply to the district standards under which the primary use is allowed or operates; or,*

(iii) *Any area in which a residential unit exists as a legally non-conforming primary or accessory use.*

(2) *Short-term rentals are allowed within any of the following building typologies, so long as the short-term rental either meets all requirements of said district or maintains legal non-conforming status. An accessory dwelling unit, as an accessory to any of the list typologies, may also be used as a short-term rental instead of or in addition to an allowed primary residence.*

(i) *Single-family*

(ii) *Duplex*

(iii) *Multi-family*

(iv) *Mixed-use commercial/residential*

(3) *A short-term rental shall not be permitted within any parcel in which said use is prohibited by, including, but not limited to, deed, plat, or homeowners association bylaws.*

(4) *Performance Standards. A short-term rental, in conjunction with operation under a valid administrative review or special use permit, must maintain the following standards. Failure to comply with such standards may result in the withdrawal of administrative approval, subject to the discretion of the director of planning and/or their designees, or the revocation of the special use permit, subject to the procedures of section 27-209.*

(i) *Sufficient on-site, off-street parking must be provided, as determined by the director of planning or their designee(s).*

(ii) *Maintenance of a current occupation tax receipt issued by the business licensing division.*

(iii) *Maintenance of the neighborhood character, including, but not limited to:*

a. *Density or concentration of short-term rentals as a percentage of the overall neighborhood housing pool,*

- b. *On- and off-site parking constraints, and,*
- c. *The subject property's violation history.*
- (iv) *Responsiveness to neighbor complaints. The degree of responsiveness by the applicant shall be determined by the following metrics:*
 - a. *Number and frequency of visits to the property by the Kansas City, Kansas police department regarding disturbances of the peace by short-term tenants of the property;*
 - b. *Number of complaints regarding parties at the property, including calls or complaints made to Kansas City, Kansas police department, any unified government department, and/or online third parties in contract with the unified government; and,*
 - c. *The number of filed property maintenance compliance complaints and the length of time violation cases on the property remain open.*
- (v) *Compliance with all other applicable codes and ordinances.*
- (b) *Short-term rentals subject to administrative review*
 - (1) *An actively owner-occupied property may be subject to administrative review if the following requirements are met throughout the duration of the tenants' stay:*
 - (i) *The property owner is present on-site for the entire duration of the short-term rental; and,*
 - (ii) *The property owner is reasonably accessible by tenants, neighbors, and city employees.*
 - (2) *Administrative review densities*
 - (i) *On-site densities. An actively owner-occupied property may follow the administrative review process, if the following standards are met and continuously maintained:*
 - a. *Single-family residences. A one-unit residence may be used as a short-term rental under one of the following sets of rental options:*
 - 1. *Option 1: Each distinct area may be used concurrently as a short-term rental(s) by separate tenant parties:*
 - i. *Partial dwelling unit; and*
 - ii. *Full accessory dwelling unit.*
 - 2. *Option 2: A full primary residence of an actively owner-occupied residence may be used as a short-term rental if the property owner is either residing in the accessory dwelling unit or temporarily occupying the accessory dwelling unit for the duration of the short-term rental lease.*
 - b. *Duplexes. A two-unit residence may be used as a short-term rental, subject to the following requirements:*
 - 1. *The dwelling unit in which the property owner actively occupies is the primary dwelling unit; the other dwelling unit is the secondary dwelling unit.*
 - i. *Any detached accessory dwelling unit is distinct from both the primary and secondary dwelling units; however, for the purposes of this section, an actively owner-occupied accessory dwelling unit shall be the primary accessory dwelling unit and the two units within the duplex residential building shall be the secondary units.*

- d. *Failure to meet all applicable requirements will result in the property's loss of eligibility for administrative review, and will require said property to be granted a special use permit for a short-term rental, if eligible under this section.*
- (ii) *Street block density. There shall be no maximum density of short-term rentals subject to administrative review within a street block.*
- (3) *Short-term rental use is subject to approval of a completed administrative review form and in compliance with all identified performance standards contained herein.*
 - (i) *The short-term rental of any portion of an actively owner-occupied residential building shall be required to obtain administrative review. One administrative review application shall apply to an entire parcel of land.*
 - (ii) *The applicant for administrative review of a short-term rental must be the property owner. If the property owner is not an individual person, an individual person within the property owner party and with the capacity to act for the property owner may serve as the applicant.*
 - (iii) *Administrative review submission requirements. The following requirements must be met as part of the submission materials for administrative review of a short-term rental:*
 - a. *An affidavit, signed by the property owner, attesting to the satisfaction of safety and habitability standards.*
 - b. *Proof of an active lodging establishment license, if required by state statute.*
 - c. *Proof of homeowners' insurance.*
 - d. *Provide a management plan for the property.*
 - e. *Provide a guest book of important contact information, including contact information by which the property owner or their designee is reasonably accessible, and a list of all house rules.*
 - 1. *The list of rules must include a prohibition on parties.*
 - 2. *Contact information for the property owner or their designee.*
 - 3. *This manual must inform guests that the Unified Government enforces this policy and must include the contact information to report any violations.*
 - f. *The property owner or applicant must post the following within the primary residence and must make readily available upon request:*
 - 1. *A copy of the administrative review approval letter granting permission to the subject parcel to operate the short-term rental;*
 - 2. *The expiration date of the current special use permit;*
 - 3. *A copy of the occupational tax receipt for the current calendar year; and,*
 - 4. *The contact information of the property owner or their designee, in an area of the rented property that is clearly visible to all tenants.*
 - g. *An accurate and to-scale floor plan, including all exits for fire safety purposes.*
 - h. *Additional site plans and other related materials, at the discretion of the director of planning and/or their designee(s).*
 - i. *Reports from any other inspection, as determined by unified government staff.*
 - j. *Report from a full safety home inspection.*

1. *For a new administrative review only, the report from a full safety home inspection conducted within the past six months by a home inspector registered with the unified government and in compliance with all business licensing requirements.*
 2. *Additional inspections may be required at the discretion of the director of planning and/or their designee(s).*
 3. *While a full safety home inspection shall not be required upon every renewal of an administrative review, under no circumstances shall the time from the last full home inspection was conducted be greater than five years.*
- (iv) *Approval of administrative review is for one year, and must be renewed annually.*
- a. *The date for which a time period begins to run shall be the date of approval of the administrative review by the director and/or their designee(s).*
 - b. *Except as provided in sub-subsection 3 of this subsection b., a new administrative review shall be required upon a change in ownership of the property to which the existing administrative review applies, or any portion thereof.*
 1. *The administrative approval shall not be transferred to another applicant or to another parcel owned by the same property owner or applicant.*
 2. *A change in applicant or property ownership shall require approval of a new and distinct administrative review and approval. Operation of the short-term rental under the new administrative review shall not commence until administrative approval has been granted.*
 3. *A new administrative review shall not be required if the property is transferred to a transferee entity of the current property owner, provided that the controlling person or controlling entity of such transferee entity is also the controlling person or controlling entity of the current property owner.*
 - c. *An applicant seeking renewal of an administrative review approval must submit a revised application to the department of planning and urban design 30 days before the expiration of the existing administrative review approval.*
- (c) *Short-term rentals subject to special use permits*
- (1) *Special use permit densities.*
- (i) *On-site densities. Short-term rentals allowed only under a special use permit are limited to the following on-site density maximums:*
 - a. *For primary buildings, the maximum number of allowed short-term rentals per parcel are as follows:*
 1. *For a building with one dwelling unit, no more than one short-term rental unit is allowed.*
 2. *For a building with two to eleven dwelling units, no more than two short-term rental units are allowed.*
 3. *For a building with twelve dwelling units or greater, no more than 25 percent of all total units are allowed to be short-term rental units.*
 - b. *A parcel with an accessory dwelling unit may operate the accessory dwelling unit as a short-term rental in addition to the unit maximums allowed in subsection (c)(1)(i)a.*

- c. *It shall be prohibited for a property to exceed the short-term rental densities provided in sub-subsections a. and b. of this subsection (c)(1).*
- (ii) *Street block density.*
 - a. *Within a street block, no more than one parcel shall be granted a special use permit for a short-term rental. No parcel operating a short-term rental under an administrative review shall be included in the count of short-term rentals that require a special use permit.*
 - b. *Any densities applied at the street block level do not prohibit special use permits for short-term rentals granted before April 27, 2023. All special use permits for short-term rentals issued before said date have legal non-conforming status and may continue to reapply for subsequent terms of the special use permit, subject to compliance with all other portions of this section and other applicable regulations.*
- (2) *Short-term rental use is subject to approval of a complete special use permit application, and in compliance with all identified performance standards contained herein.*
 - (i) *Special use permit process*
 - a. *The short-term rental of any portion of a residential building shall be required to obtain a special use permit. One short-term rental special use permit shall apply to an entire parcel of land.*
 - b. *The applicant of a special use permit for a short-term rental must be either the property owner or the property owner's designee.*
 - 1. *If the property owner is not an individual person, an individual person within the property owner party and with the capacity to act for the property owner may serve as the applicant.*
 - 2. *An applicant who is not the property owner nor within the property owner party shall be presumed to be the property owner's designee.*
 - c. *Submission Requirements*
 - 1. *A special use permit process for a short-term rental shall follow all applicable requirements and procedures identified in article VI of this chapter.*
 - 2. *In addition, the following requirements must be met as part of the submission materials for a short-term rental special use permit:*
 - i. *An affidavit, signed by the property owner, attesting to the satisfaction of safety and habitability standards.*
 - ii. *Proof of an active lodging establishment license, if required by state statute.*
 - iii. *Proof of at least \$1,000,000 insurance liability policy covering the entire subject property.*
 - iv. *Provide a management plan for the property.*
 - v. *Provide a guest book of important contact information, including contact information by which the property owner or their designee is reasonably accessible, and a list of all house rules.*
 - 1. *The list of rules must include a prohibition on parties.*
 - 2. *Contact information for the property owner or their designee.*

3. *This manual must inform guests that the Unified Government enforces this policy and must include the contact information to report any violations.*
- vi. *The property owner or applicant must post the following within the primary residence and must make readily available upon request:*
 1. *A copy of the special use permit ordinance granting permission to the subject parcel to operate the short-term rental;*
 2. *The expiration date of the current special use permit;*
 3. *A copy of the occupational tax receipt for the current calendar year; and,*
 4. *The contact information of the property owner or their designee, in an area of the rented property that is clearly visible to all tenants.*
 - vii. *An accurate and to-scale floor plan, including all exits for fire safety purposes.*
 - viii. *Additional site plans and other related materials, at the discretion of the director of planning and/or their designee(s).*
 - ix. *Reports from any other inspection, as determined by unified government staff.*
 - x. *Report from a full safety home inspection.*
 1. *For a new short-term special use permit application only, the report from a full safety home inspection conducted within the past six months by a home inspector registered with the unified government and in compliance with all business licensing requirements.*
 2. *Additional inspections may be required at the discretion of the director of planning and/or their designee(s).*
 3. *While a full safety home inspection shall not be required upon every renewal application of an existing special use permit, under no circumstances shall the time from the last full home inspection was conducted be greater than five years.*
3. *A special use permit application for a short-term rental shall be presumed incomplete if the presumed approval of said application would cause the street block on which the subject parcel is located to violate subsection 27-623(a)(1)(ii), unless the application is a renewal of an existing special use permit. An application that is required due to a change in ownership of the subject parcel or lot, or the transference of the special use permit to a separate parcel or lot, shall be considered a new application and therefore not eligible for legal non-conformity within this section.*
- d. *Length of approval of a special use permit for a short-term rental*
 1. *Operating under a special use permit is generally limited to a set time period, by the end of which the special use permit must be reapplied for, subject to a new (de novo), full review, and granted approval by the board of commissioners.*

2. *If the short-term rental property is owner-occupied, then upon final approval by the board of commissioners, the term of the special use permit is as follows:*
 - i. *First approval – no more than 24 months*
 - ii. *Second approval – no more than 60 months*
 - iii. *Third approval and beyond – no more than 120 months*
3. *If the short-term rental property is not owner-occupied, then upon final approval by the board of commissioners, the term of the special use permit is as follows:*
 - i. *First approval – no more than 12 months*
 - ii. *Second approval – no more than 24 months*
 - iii. *Third approval – no more than 60 months*
 - iv. *Fourth approval and beyond – no more than 120 months*
4. *The date for which a time period begins to run shall be the date of approval of the special use permit by the board of commissioners. The first date of effective use of the short-term rental shall be the date of completion of all post-approval procedural requirements, including, but not limited to, publication in the newspaper, the payment of all outstanding administrative fees, and proof of completion of the conditions of approval, but not including conditions of approval which specifically may be fulfilled while the short-term rental is in use. This subsection is intended to supersede section 27-214(f)(7) only as applied to special use permits for short-term rentals.*
5. *The applicant to whom the short-term rental special use permit has been issued must submit a revised application to the department of planning and urban design no less than three months prior to the expiration date of the current special use permit's term. Failure to meet the three-month requirement will result in the subsequent application having the status of a new application.*

(d) Taxation of short-term rental units

- (1) The property owner shall be responsible for the collection of all lodging/hotel taxes duly owed under state and local law.*