

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLE VII, SECTION 701 AND ARTICLE V OF THE ZONING ORDINANCE FOR THE CITY OF PIGEON FORGE TO ADDRESS SHORT-TERM RENTALS IN ZONE R-1

WHEREAS, the City of Pigeon Forge and cities across the country have seen growth in the popularity of short-term rentals, which are rentals of residential units or dwellings for less than thirty consecutive days; and

WHEREAS, in the absence of a regulatory framework, the City cannot monitor these short-term rentals, cannot ensure public safety, and cannot assess and collect applicable taxes; and

WHEREAS, the City recognizes that short-term rentals raise issues of public policy and therefore the City has carefully considered the topic, including looking to what is being done in other cities across the state; and

WHEREAS, the City believes it is imperative to adopt an ordinance that balances the protection of neighborhoods with the interests of individuals who want to rent their property on a short-term basis; and

WHEREAS, these regulations will provide short-term rental operators, consumers, and citizens with guidance and certainty on the safe and reasonable operation of short-term rentals; and

WHEREAS, the provisions of this Ordinance are intended to fully comply with the requirements set forth in the Short-Term Rental Unit Act, set forth in T.C.A. § 13-7-601 et. seq.; and

WHEREAS, an emergency exists in that it is necessary for the immediate preservation of the public peace, property, health and safety that this Ordinance take effect immediately upon its passage.

NOW, THEREFORE, BE IT ORDAINED:

SECTION 1: Article VII, Section 701 of the Zoning Ordinance for the City of Pigeon Forge is hereby amended by adding Section 701.10, which shall read as follows:

“701.10. Short-term rental of residences located in the R-1 District shall be permitted **only** if the residence was being utilized as a short-term rental (as that term is defined in T.C.A. § 13-7-602(3)(B)) on or before August 13, 2018, the date on which Section 511 was added to Article V of the Zoning Ordinance; however, the owner of the property must apply for a permit, in the manner set forth in Article V, Section 511, within thirty days of the passage of this Ordinance, and take the required steps to timely obtain a valid permit within a reasonable time thereafter.”

SECTION 2: Article V of the Zoning Ordinance is amended by adding Section 511 thereto, which is set forth in full on Exhibit “A” attached hereto and made a part hereof by reference.

SECTION 3: An emergency is declared to exist in that it is necessary for the immediate preservation of the public peace, property, health and safety that this Ordinance take effect immediately upon its passage, in that the City has no mechanism for determining whether properties offered to the public as short-term rentals offer appropriate safety features, such as smoke alarms, carbon monoxide detectors, and fire extinguishers, and because there have been a number of complaints regarding disturbances of the public peace caused by those occupying short-term rentals in the R-1 District, but the City has no mechanism for determining which properties are being utilized for this purpose.

SECTION 4: This Ordinance shall take effect immediately upon its passage, the public welfare requiring it.

APPROVED: _____
MAYOR

ATTEST: _____
CITY RECORDER

APPROVED AS TO FORM
CYNTHIA RICHARDSON WYRICK, CITY ATTORNEY

Passed Planning Commission: _____

Passed on first reading: _____

Passed on second reading: _____

Exhibit A

Article V, Section 511

511 Short-Term Rentals in the R-1 Zone. The City has determined that regulation of Short-term Rental Units is necessary in the R-1 District in order to protect the health, safety, and welfare of the public, as well as to promote the public interest by regulating the methods of operation. To meet these ends, the City has determined that all persons eligible to operate Short-Term Rental Units in the R-1 District within the City must be issued a permit pursuant to the requirements of this section.

511.1 Eligibility to Obtain a Permit in the R-1 District. Only those property owners located in R-1 who were using their property as a short-term rental, as that term is defined in T.C.A. § 13-7-602(3)(B), on or before August 13, 2018, and who remitted taxes due on renting their property pursuant to T.C.A. Title 67, Chapter 6, Part 5 for filing periods that cover at least six (6) months within the twelve-month period immediately preceding that date are eligible to utilize their property for short-term rentals.

511.2 Operating Permit Required. Once thirty (30) days have passed from the passage of this Ordinance it shall be unlawful to operate or advertise any Short-term Rental Unit within the R-1 District without a Short-term Rental Unit Operating Permit issued under this section.

511.2.1 Exceptions will be made for qualifying property owners who are eligible to utilize their property as a short-term rental and have applied for a permit within the thirty-day timeframe but have steps to take in order to meet the permitting requirements. A reasonable time will be provided to the owner to allow the remaining requirements for a permit to be met.

511.3. Application Requirements. Every qualifying property owner desiring to operate a Short-term Rental Unit shall submit an application for an Operating Permit to the Community Development Director or his/her designee. In addition to the information required by the application itself, the Community Development Director or his/her designee may request other information reasonably required to allow the City to process the application. The permit application shall not be considered complete until the Community Development Director has all information as required by the application or otherwise. Each application shall contain at the least all of the following information.

511.3.1 Applicant must acknowledge that they have read all regulations pertaining to the operation of a Short-Term Rental Unit within the R-1 District, including this Section, the City's business license requirements, the City's occupancy privilege tax requirements, any additional administrative regulations promulgated or imposed by the City to implement this Section, and acknowledging responsibility for compliance with the provisions of this article.

511.3.2 Applicant must submit an Affidavit of Life Safety Compliance acknowledging that during each Short-term Rental Unit Occupancy, the Rental Unit shall have on the premises, and installed to manufacturer specifications: (i) a smoke alarm meeting Underwriters Laboratory (UL) 217 standards inside each sleeping room, outside of and within fifteen feet of sleeping rooms, and on each story of the dwelling unit, including basements; (ii) a carbon monoxide detector within 15 feet of all bedrooms; and (iii) a fire extinguisher. Every smoke and carbon monoxide alarm must function properly with the alarm sounding after pushing the test button and the fire extinguisher must be operational. It shall be unlawful to operate a Short-term Rental Unit without a smoke alarm, carbon monoxide detector, and fire extinguisher as required by this section. The Affidavit must also specifically include the number, locations, and operation of the required life safety equipment for the Short-term Rental Unit. This equipment will be subject to verification or inspection before the initial permit is issued, at all other reasonable times upon reasonable notice, and such other times as any safety incident concerning the Rental Unit is reported to the City.

511.3.3 If a lessee is operating a Short-term Rental Unit, the lessee shall provide the full legal name of the owner of the Short-term Rental Unit; (ii) the mailing address, email address, and telephone number(s) of the owner; and (iii) the owner's signature acknowledging the owner's understanding of all City Short-term Rental Unit rules and verifying the owner's agreement that they are legally responsible and liable for compliance by the lessee and all occupants of the Short-term Rental Unit with all provisions of this Section and other applicable ordinances of the City.

511.3.4 Applicant must designate a person who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of: (i) being able to physically respond, as necessary, within forty-five (45) minutes of notification of a complaint regarding the condition, operation, or conduct of occupants of the Short-term Rental Unit; and (ii) taking any remedial action necessary to resolve any such complaints. This contact person may be the owner, a lessee, or the owner's agent.

511.3.5 Applicant must provide the full legal name, street and mailing addresses, email address, and telephone number of the owner of the Short-term Rental Unit, and in cases where a business entity or trust is the owner of the property, the individual who has responsibility for overseeing the property on behalf of the business entity or trust, including the mailing address, email address, and telephone number of the individual having such responsibility. If the owner of a Short-term Rental Unit is a business entity, the business must submit documentation to demonstrate that the business is in good standing with the Tennessee Secretary of State.

511.3.6 A site plan and floor plan accurately and clearly depicting the size and location of the existing dwelling and the approximate square footage in the dwelling, the number and location of designated off-street parking spaces and the maximum number of vehicles allowed for overnight occupants. The floor plan shall also describe the use of each room in the dwelling, the number, location and approximate square footage of all bedrooms, and any accessory buildings, including but not limited to garages and accessory dwelling structures or units.

511.3.7 Applicant and owner (if different), must acknowledge in writing that in the event a permit is approved and issued, Applicant and owner (if different) assume all risk and indemnify, defend and hold the City harmless concerning the City's approval of the permit, the operation and maintenance of the Short-term Rental Unit, and any other matter relating to the Short-term Rental Unit.

511.3.8 Applicant must provide a valid business license and vacation lodging services license, if applicable, along with proof that Applicant remitted taxes due on renting the Short-term Rental Unit, pursuant to Title 67, Chapter 6, Part 5 of the Tennessee Code for filing periods that cover at least six (6) months within the twelve-month period immediately preceding the date this Ordinance is adopted.

511.4 Types of Operating Permits. There are three (3) types of permits available under this Section.

511.4.1 Owner Occupied. This type of permit is available to owner's who utilize the property as their principal residence, except in the instance of duplexes as further described in this section. A person can only hold one (1) Owner Occupied Operating Permit in the City, and it is only available to natural persons. The owner is not required to remain or be present at the Short-term Rental Unit during the period when it is used as a short-term rental.

a. If there is an accessory dwelling structure on the property, this type of Operating Permit can be used for either the primary dwelling or the accessory structure, but not for both. If the property houses a legal duplex and an owner owns both sides of the duplex, this type of Permit is available to the owner for either side of the duplex so long as the owner's principal residence is on one side of the duplex.

b. Proof of ownership and residency is required for this type of Permit and shall be established by the deed for the property as recorded in the Sevier County Register of Deeds Office. Residency shall be established by at least two (2) of the following documents, which must list the address of the Short-term Rental Unit on the document: 1) owner's motor vehicle registration; 2) a valid driver's license or TN identification card for owner; 3) the address used for

the school registration of owner's children; 4) the owner's voter registration card; or 5) owner's W-2 form reflecting the property address.

c. At least one owner listed on the deed for the Short-term Rental Unit must establish residency at the Short-term Rental Unit.

511.4.2 Non-Owner Occupied. This type of Permit is available to an owner or lessee of the property and is available to a natural person or a business entity. Upon application for a Non-Owner-Occupied Permit, if a lessee is applying, they must provide the owner's signature as set forth above.

511.4.3 Unoccupied. This type of permit is available to a non-occupant owner of premises where the premises are only occupied when used as a Short-term Rental Unit and are available to natural persons and business entities. These permits may also be held by an owner's agent, such as a rental company, with the rental company providing the same information and guarantees as is required of a lessee of property.

a. If there is an accessory dwelling structure on the property, the Permit can be used for the primary dwelling or accessory dwelling structure, but not for both. If a property houses a legal duplex and an Owner owns both sides of the duplex, only one side of the duplex can be used.

511.5 Fees. An application for an Operating Permit under this article shall be accompanied by a fee of Three Hundred (\$300.00) Dollars. Said fee is designed to reimburse the City for the cost of processing the application and inspecting the Short-term Rental Unit. There shall be no proration of fees, and once paid, they are non-refundable.

511.6 Issuance of Permit. Once the Community Development Director or his/her designee has determined that the application is complete, a permit shall be issued or denied within fourteen (14) business days. If the Community Development Director is satisfied that the application and the Short-term Rental Unit conform to the requirements of this Section and other applicable laws and Ordinances, a permit shall be issued to Applicant. If the application or Short-term Rental Unit does not conform to the requirements of this Section or other pertinent laws or ordinances, the permit shall not be issued, but the Applicant will be advised in writing of the deficiencies and be given a reasonable opportunity to correct them. If not corrected within a reasonable period of time, the application will be permanently denied and written notice of the denial given. The Operating Permit shall be valid for one (1) calendar year from the date of issuance, unless the Operating Permit is revoked pursuant to this article or terminated by Ordinance or otherwise.

511.7 Permit Renewal. Unless suspended or revoked for a violation of any provision of this Section or other law, City ordinance or rule, a permit may be

renewed annually upon payment of a renewal fee of One Hundred (\$100.00) Dollars, unless one of the conditions set forth in Section 511.14 are applicable. As with the application fee, this fee is designed to compensate the City for the cost incurred in processing the application and taking any other action necessary to attempt to ensure the Applicant's compliance with this Ordinance. The renewal fee shall be paid no later than fourteen (14) business days prior to the expiration date for the current permit. A renewal application shall be submitted to the office of the Community Development Director. A renewed Operating Permit shall be good for one (1) calendar year from the date of issuance.

511.8 Permit Non-Transferable. A permit issued under this Section is non-transferable, and any attempt to transfer it shall render the Permit void. A transfer of the ownership interest in the property itself shall also render the Permit void, whether the transfer is voluntary or involuntary and whether by deed, court order, foreclosure, by law, or otherwise.

501.9 No Vested Rights. Except in instances where constitutional principles or binding state or federal laws otherwise provide, the provisions of this article and any ordinances or other measures concerning Short-term Rental Units are not a grant of vested rights to continue as a Short-term Rental Unit indefinitely. Any Short-term Rental Unit use, and permits for Short-term Rental Units, are subject to provisions of other ordinances, resolutions, or other City measures concerning Short-term Rental Units that may be enacted or adopted at a later date, even though such ordinances, resolutions, or other City measures may change the terms, conditions, allowance, or duration for Short-term Rental Unit use, including but not limited to those that may terminate some or all Short-term Rental Unit uses, with or without some period of amortization. While this recitation concerning vested rights is implicit in any uses permitted by the City, this explicit recitation is set forth to avoid any uncertainty or confusion.

511.10 Compliance with City and State Laws. It shall be unlawful to operate a Short-term Rental Unit in a manner that does not comply with all applicable city and state laws, and any violation shall subject the violator to a fine of Fifty (\$50.00) Dollars for each violation. For any violation, each day that the violation exists shall constitute a separate offense.

511.11 Operation without Permit. Any Short-term Rental Unit operating or advertising for operation without a valid permit shall be deemed a public safety hazard. The City may issue the operator, the owner, and the local contact person a civil citation for operating a Short-term Rental Unit or advertising one for operation without a permit and the penalty for such is Fifty (\$50.00) Dollars per day per Unit.

511.12 Public Nuisance. It is unlawful and a violation of this article and is hereby declared a public nuisance for any person to commit, cause, or maintain a violation of any provision of this Section or to otherwise fail to comply with any requirement contained in this Section. The operation or maintenance of a Short-term Rental Unit in violation of this article or any other City Ordinance may be abated or summarily abated by the City in any manner permitted by this Code or

otherwise provided by law for the abatement of public nuisances. The City may issue civil citations to the operator, owner, occupants, and local contact person for any violation of this article or any other City ordinance by the operator, owner, local contact person, or occupants of the Short-term Rental Unit, and the penalty for such is Fifty (\$50.00) Dollars per day.

511.13 Complaints. All complaints regarding Short-term Rental Units shall be filed with the Community Development Director or his/her designee. Those making complaints are specifically advised that any false complaint made against a Short-term Rental Unit owner or provider is punishable as perjury under T.C.A. § 39-16-702. For any complaint made, the City shall provide written notification of the complaint by regular mail to the operator and owner (if different) of the property at the address(es) provided on the application on file. The City shall investigate the complaint, and within thirty (30) days of the date notice was sent to the operator, the operator shall respond to the complaint, and may present any evidence they deem pertinent, and respond to any evidence produced by the complainant or obtained by the City through its investigation. If, after reviewing all relevant material, the City finds the complaint to be supported by a preponderance of the evidence, the City may take, or cause to be taken, enforcement action as provided in this Section or otherwise in the Zoning Ordinance, Municipal Code, or the generally applicable law.

511.14 Revocation of Permit. The City may permanently revoke an Operating Permit if the City discovers that: 1) an Applicant obtained the permit by knowingly providing false information on the application; 2) the continuation of the Short-Term Rental Unit presents a threat to public health or safety; 3) the owner ceases to own the property; 4) the property is not used as a Short-Term Rental for a period of thirty (30) months or more; 5) there has been a violation of a generally applicable local law three (3) or more separate times arising as a result of the operation of the property as a Short-Term Rental Unit and all appeals from the violations have been exhausted.

511.15 Appeal of Denial or Revocation. If a permit is revoked, the Community Development Director shall state the specific reasons for the revocation. Any person whose application has been denied or whose Operating Permit has been revoked may appeal such denial by submitting a written request for a hearing to the Community Development Director within ten (10) days of the denial or revocation. A hearing shall be conducted by the City's Planning Commission at its next regularly scheduled meeting, and the Applicant or Permit Holder must be present for the appeal to be heard. The Planning Commission shall consider whether the denial or revocation was justified and whether good cause exists to issue or reinstate the permit. The decision of the Planning Commission shall be issued verbally during the course of the meeting and the Applicant or Operating Permit Holder shall be given the opportunity to address the Planning Commission. Should the Applicant or permit holder fail to appear, the appeal shall be dismissed. The decision resulting therefrom shall be final and subject only to judicial review pursuant to state law.

511.16 Additional Remedies. The remedies provided in this section are not exclusive, and nothing in this section shall preclude the use or application of any other remedies, penalties or procedures established by law.

511.17 City Shall Not Enforce Private Agreements. The City shall not have any obligation or be responsible for making a determination regarding whether the issuance of an Operating Permit or the use of a dwelling as a Short-term Rental Unit is permitted under any private agreements or any covenants, conditions, and restrictions or any of the regulations or rules of the homeowners' association or maintenance organization having jurisdiction in connection with the Short-term Rental Unit, and the City shall have no enforcement obligations in connection with such private agreements or covenants, conditions and restrictions or such regulations or rules. If the Short-term Rental Unit operator is a lessee, the owner of the Short-term Rental Unit shall provide written acknowledgement and agreement to the Short-term Rental Unit, but the City shall not have any obligation or be responsible for verifying the ownership information.

511.18 Taxes. All Short-term Rental Unit Operators are responsible for applicable taxes, including, but not limited to, Hotel Occupancy Privilege Tax, local option sales tax, and gross receipts tax to the City, sales tax to the State of Tennessee, and gross receipts tax to the State of Tennessee.

511.19 Advertising. It shall be unlawful to advertise any Short-term Rental Unit without the Operating Permit number clearly displayed on the advertisement. For the purposes of this section, the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a Short-term Rental Unit in any forum, whether electronic or non-electronic, in order to promote the availability of the Short-term Rental Unit.

511.20 Maximum Occupancy. The number of transients in a Short-term Rental Unit shall not exceed the sum of two (2) transients per bed and no more than two (2) beds per room, with a set of bunk beds counting as one (1) bed; however, the maximum occupancy of the Short-term Rental Unit shall not exceed twelve (12) persons, including transients and any other individuals residing in or otherwise using the Short-term Rental Unit.

511.21 Severability. The City hereby declares that should any section, paragraph, sentence, phrase, term or word of this ordinance be declared for any reason to be invalid, it is the intent of the City that it would have adopted all other portions of this Ordinance independent of the elimination of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.