

ORDINANCE NO. 2023-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING ZONING TEXT AMENDMENT NO. 2023-11,
A REQUEST BY THE CITY OF VISALIA TO AMEND CHAPTER TITLE 17 (ZONING)
CHAPTER 17.32 SPECIAL PROVISIONS TO REGULATE SHORT-TERM RENTALS
IN SINGLE-FAMILY RESIDENTIAL ZONES, CITYWIDE

WHEREAS, Zoning Text Amendment No. 2023-11 is a request by the City of Visalia to amend Title 17 (Zoning) Chapter 17.32 Special Provisions to regulate Short-Term Rentals in single-family residential zones, Citywide. The specific amendments apply City-wide and are specified in Attachment “A” of this Ordinance; and

WHEREAS, the project is exempt under the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) (common sense exemption); and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, held a public hearing before said Commission on September 25, 2023; and,

WHEREAS, the Planning Commission of the City of Visalia considered the Zone Text Amendment in accordance with Section 17.44.070 of the Zoning Ordinance of the City of Visalia and on the evidence contained in the staff report and testimony presented at the public hearing; and,

WHEREAS, the City Council of the City of Visalia, after duly published notice, held a public hearing before said City Council on October 16, 2023, and introduced said Ordinance for first reading on that date.

NOW, THEREFORE, BE IT RESOLVED that the City Council concurs that the project is exempt from further review under the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) (common sense exemption).

BE IT FURTHER RESOLVED that the City Council of the City of Visalia finds as follows:

1. That the proposed Zone Text Amendment is consistent with the intent of the General Plan, and Zoning Ordinance, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity. The proposed zoning amendment is crafted to address public concerns, process operator application requests, and regulate STRs via codified objective standards.
2. That the proposed Zone Text Amendment is not inconsistent with any other Element of the General Plan.

3. That the project is exempt from further review under the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) (common sense exemption).

NOW, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA, that Zoning Text Amendment 2023-11, is approved, as contained in Attachment “A” of this Ordinance.

Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivision, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Construction. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Effective Date. This Ordinance shall take effect thirty days after its adoption.

Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Ordinance No. 2023-11

ATTACHMENT A

Zoning Text Amendment No. 2023-11, amendment to Chapter 17.32 Special Provisions. Changes to City of Visalia Municipal Code, as specified by underline & italics for additions.

1. TITLE 17 Zoning

Chapter 17.32 Special Provisions

Section 17.32.166 Short-term rental permits.

- A. Short-term rental permits may be processed as an administrative matter by the city planner and no hearing shall be required.
- B. In addition to all other requirements of this chapter, and notwithstanding any contrary provisions in this Code, short-term rentals are subject to the following operational standards in all R-1 and R-M zones citywide:
 1. Definitions. The definitions in this subsection shall govern the construction, meaning, and application of the following words and phrases used in this chapter:
 - a. “Local contact person” shall mean a person designated by an owner or the owner’s agent, who, if designated to act as such, shall be available to respond to notification of a complaint regarding the dwelling within forty-five (45) minutes, and take remedial action necessary, as required under subsection “4” of this section. A local contact person may be the owner or the owner’s agent.
 - b. “Occupant” shall mean any person who is on or in a short-term rental property other than service providers or the owner, whether or not the person stays overnight.
 - c. “Operator” shall mean the owner or the designated agent of the owner who is responsible for compliance with this section.
 - d. “Owner” shall mean the person(s) or entity(ies) that holds legal or equitable title to a dwelling.
 - e. “Short-term rental” shall mean the rental of a dwelling or a portion thereof by the owner to another person or group of persons for occupancy, dwelling, lodging or sleeping purposes for a period of less than thirty (30) consecutive calendar days. The rental of units within City-approved hotels, motels, bed and breakfasts, and time-share projects shall not be considered to be a short-term rental.
 2. The owner of a short-term rental shall not be relieved of any personal responsibility or personal liability for noncompliance with any applicable law, regardless of whether such noncompliance was committed by the owner’s agent, a local contact person or the occupants of the owner’s short-term rental unit.
 3. The owner shall ensure that the short-term rental comply with all applicable codes regarding fire, building and safety, and all other relevant laws, regulations and ordinances, obtain all permits required, and pay all applicable fees.

4. While a short-term rental is rented, the owner or a local contact person shall be available by telephone twenty-four (24) hours per day, seven (7) days per week to respond to complaints regarding the use, condition, operation or conduct of occupants of a short-term rental. The owner or a local contact person must be on the premises of the short-term rental at the request of an enforcement officer of the City's Police Department within forty-five (45) minutes of contact to satisfactorily correct or take remedial action necessary to resolve any complaint, alleged nuisance or violation of this chapter by occupants occurring at the short-term rental property. Failure of the owner or a local contact person to respond to calls or complaints in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this chapter and/or Chapter 1.13 of Title 1.
5. Short-term rentals shall be used only for overnight lodging accommodations. At no time shall a short-term rental be used for activities in excess of the occupancy limits established in subsection 7 of this section, or for weddings, receptions, parties, commercial functions, advertised conferences, or other similar assemblies that are separate from the purpose of lodging.
6. All advertising appearing in any written publication or on any website that promotes the availability or existence of a short-term rental shall include the City-issued permit number as part of the rental offering. No person shall advertise the use of a dwelling as a short-term rental unless the City has approved a permit for short-term rental pursuant to this chapter.
7. The owner shall limit occupancy of a short-term rental property to a specific number of occupants. The following table sets forth the maximum number of occupants to two (2) per bedroom plus one (1):

<u>Number of Bedrooms</u>	<u>Total Occupants</u>
<u>Studio – 1</u>	<u>3</u>
<u>2</u>	<u>5</u>
<u>3</u>	<u>7</u>
<u>4</u>	<u>9</u>
<u>5</u>	<u>11</u>
<u>6</u>	<u>13</u>

8. Only the habitable interior portions of a primary dwelling shall be utilized as a short-term rental. Garages, tents, camper trailers, recreational vehicles, accessory dwelling units (ADUs), or other exterior structures or spaces are not permissible as short-term rentals or as bedrooms within short term rental units.
9. In any advertising concerning the availability of a dwelling as a short-term rental, the owner or a local contact person shall advertise the maximum number of occupants allowed to occupy the short-term rental.

10. No on-site exterior signs shall be posted advertising the availability of a short-term rental at the short-term rental property.
11. All vehicles of occupants of a short-term rental unit shall be parked only in an improved driveway or garage on the short-term rental property. The maximum number of vehicles allowed on a short-term rental property shall be limited to the number of available off-street parking spaces; however, such property must have a minimum of two (2) off-street parking spaces. The owner shall provide access to the garage of the dwelling if that area has been included in the determination of the number of available off-street parking spaces pursuant to this chapter. In no event shall off-street parking include the use of landscaped areas, any private or public sidewalk, parkway, walkway or alley (or any portion thereof) located on, at or adjacent to the short-term rental property, or the blocking of the driveway or street in front of said property. The term "sidewalk" shall include that portion of a driveway that is delineated for pedestrian travel or is in the public right-of-way.
12. If an enforcement officer has received a complaint concerning a suspected violation of this chapter or of this code or any applicable law, rule, or regulation pertaining to the use or occupancy of a short-term rental unit, or if the enforcement officer has reason to believe that such a violation has occurred, the enforcement officer may notify the owner or the local contact person of the complaint or suspected violation and the notified person shall cooperate in facilitating the investigation and the correction of the suspected violation.
Failure of the owner or the local contact person to affirmatively respond to the officer's request within forty-five (45) minutes by reasonably cooperating in facilitating the investigation and the correction of the suspected violation shall be deemed to be a violation of this chapter. Notwithstanding the foregoing, it is not intended that an owner or the local contact person act as a peace officer or place himself or herself in an at-risk situation.
13. Notwithstanding Visalia Municipal Code Section 9.32.040, no musical instrument, phonograph, loudspeaker, amplified or reproduced sound, or any machine or device for the production or reproduction of any sound shall be used outside or be audible from the outside of a short-term rental unit between the hours of 7:00 p.m. and 6:00 a.m.
14. Occupants shall not engage in outdoor activities on a short-term rental property between the hours of 10:00 p.m. and 6:00 a.m., such as the use of swimming pools, hot tubs, spas, tennis and paddleboard courts, play equipment and other similar and related improvements. The hours between 10:00 p.m. and 6:00 a.m. are considered to be "quiet time," where all activities at a short-term rental property shall be conducted inside of a short-term rental unit so that no outdoor activity will disturb the peace and quiet of the neighborhood adjacent to a short-term rental property or cause discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.
15. It is unlawful for any owner, occupant, renter, lessee, person present upon, or person having charge or possession of a short-term rental to make or continue or cause to be made or continued any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area, or violates any provision of Title 8 Health and Safety.

16. The owner and the local contact person shall ensure that the occupants of a short-term rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this Code or any State law pertaining to noise, disorderly conduct, overcrowding, the consumption of alcohol, or the use of illegal drugs. Owners and local contact persons are expected to take any measures necessary to abate disturbances, including, but not limited to, directing the occupants of a short-term rental unit to cease the disturbing conduct, calling for law enforcement services or enforcement officers, removing the occupant(s), or taking any other action necessary to immediately abate the disturbance.
17. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the responsible trash hauler, as set forth in Chapter 8.28, which provides for containers to be placed at the curb on the day of pickup and removed by 7:00 p.m. on the day of collection. The owner of a short-term rental property shall provide sufficient trash collection containers and service to meet the demand of the occupants. The short-term rental property shall be free of debris both on site and in the adjacent portion of the street.
18. The owner shall post a sign at a conspicuous location within the short-term rental advising occupants of all rules and operational standards imposed upon occupants under this section.
19. All short-term rentals shall be subject to the City's transient occupancy tax, as required by Title 3 Revenue and Finance, Chapter 3.28 Transient Occupancy Tax. The owner shall also maintain, at all times, a valid City of Visalia business license.
20. Short-term rentals shall not exceed one unit per parcel in any residentially zoned district.
- C. A short-term rental permit shall be revoked by the city planner upon violation of any condition or regulation, or any limitation of any permit issued, unless such violation is corrected within ten (10) days of notice of such violation. Any permit may be revoked if three or more violations occur within a one-year period or the required transient occupancy tax payments are not made to the City as required under Chapter 3.28.
- D. In the event of denial or revocation, or objections to limitations placed thereon, an appeal may be made in writing to the planning commission. Such appeal shall be filed in writing with the city planner, in writing, within ten (10) business days after notification of the denial or revocation, with payment of appeal fees in the same amount as required for the appeal of a site plan review permit as provided in Chapter 17.28. The planning commission shall review and either uphold or deny the city planner decision. The decision of the planning commission shall be final unless appealed to the city council pursuant to Section 17.02.145.