ORDINANCE NO. ________

AN ORDINANCE CREATING CHAPTER 3.40 OF THE CODE OF THE CITY OF WICHITA, KANSAS PERTAINING TO SHORT-TERM RENTAL PROPERTY LICENSING.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.40.010 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Short-Term Rental Licensing.”

SECTION 2. Section 3.40.020 of the Code of the City of Wichita is hereby created to read as follows:

“Intent and Purpose.

“This Chapter applies to the owning and operation of Short-Term Rentals as defined by this Chapter. The purpose and intent of this Chapter is to establish standards to regulate and provide a licensing process for Short-Term Rentals in order to protect the health, safety and general welfare of Short-Term Rental occupants and neighboring residents of the City of Wichita.”

SECTION 3. Section 3.40.030 of the Code of the City of Wichita is hereby created to read as follows:
“Definitions.

**Dwelling Unit** means a building or portion of a building that contains living facilities for not more than one family and that includes provisions for sleeping, cooking, eating and sanitation. For the purposes of this ordinance, this definition does not include hotels or motels.

**Inspection Team** means, including but not limited to, members of the Metropolitan Area Planning Department, the Metropolitan Area Building Construction Department, and the Wichita Fire Department who are responsible for inspections to ensure code compliance of Short-Term Rentals.

**License** means the authority to conduct the business of owning or operating a Short-Term Rental Unit(s).

**Licensee** means any person to whom a current License has been issued under this Chapter authorizing such person to conduct the business of owning or operating a Short-Term Rental Unit(s) within the City Limits.

**Licensed Premises** means the premises specified in an approved application for a License under this Chapter which are owned or operated by the Licensee.

**MABCD** means the Director of the Metropolitan Area Building and Construction Department and his or her designees.

**MAPD** means the Director of the Metropolitan Area Planning Department and his or her designees.

**Non-Owner Occupied** means any Dwelling Unit, which is not the Owner’s primary place of residence, and which is not considered to be Owner Occupied as defined by this Chapter. Non-Owner Occupied also includes Short Term Rentals in which the Owner resides in the residence, is
the Owner’s primary place of residence, but the owner is not onsite during the period of time the unit(s) is rented as a Short Term Rental.

**Owner** means the individual(s), natural or corporate, in possession of lawful title to real property. As used in the Chapter, Owner may also include any authorized agent of the possessor of lawful title to real property. The term “Owner” may be used interchangeably with the terms “Person” and “Licensee.”

**Owner Occupied** means any Dwelling Unit in which the Owner resides and which is the Owner’s primary place of residence. In order to be considered to be Owner-Occupied, the Owner must be onsite during the period of time the unit(s) is rented as a Short Term Rental.

**Person** means any individual, Owner, operator, company, corporation, partnership, or association.

**Resident Agent** means any person or business entity, that resides or are located within the City Limits of the City of Wichita, however organized, appointed by an Owner or Licensee, who shall have the express authority to receive communications, service of process, summons, notices and other legal process on behalf of the Owner or Licensee.

**Responsible Party** means the manager or assistant manager, Owner, Licensee or any other person in charge of the Short-Term Rental Unit(s) licensed under this Chapter. Such term shall include any person who resides, uses, owns, manages or controls property where a Short-Term Rental License is required.

**Short-Term Rental** means the use of a residential Dwelling Unit or structure to provide rooms for temporary lodging or lodging and meals for Transient Guests for which compensation is paid to the Owner or Responsible Party. The dwelling or structure may be Owner or manager occupied. A rental in a Dwelling Unit of 28 days or less.
**Short-Term Rental Unit** means the Dwelling Unit or portion thereof that is rented for 28 days or less. Each Dwelling Unit within a multifamily apartment building that is rented for 28 days or less is considered a Short-Term Rental Unit.

**Transient Guest** means a person who occupies a room for a period of not more than 28 days at a time other than the Owner’s immediate family (related by blood, marriage, or adoption) or any person residing with the Owner in a Short-Term Rental.

**Zoning Administrator** means the individual or entity designated by the Planning Director to enforce the provisions of this Chapter.”

**SECTION 4.** Section 3.40.040 of the Code of the City of Wichita is hereby created to read as follows:

“**Short Term Rentals Permitted.**

a. Owner Occupied Short-Term Rental Units are allowed, as a matter of right as permitted by the Wichita Sedgwick County Unified Zoning Code. The property line of any Owner Occupied Short-Term Rental, established after XXXXX must be located no less than six hundred (600) feet from any other Short Term Rental Unit. This distance shall be measured from property line to property line.

b. Non-Owner Occupied Short-Term Rental Units are allowed as permitted by the Wichita-Sedgwick County Unified Zoning Code. If a conditional use approval is required, such approval must be granted before an application for licensing is submitted to the City Treasurer. The property line of any Non-Owner Occupied Short-Term Rental, established after XXXXX must be located no less than six hundred (600) feet from any other Short Term Rental Unit. This distance shall be measured from property line to property line.”
SECTION 5. Section 3.40.050 of the Code of the City of Wichita is hereby created to read as follows:

“General Provisions.

Each Owner or Responsible Party shall:

a. Maintain a valid City License for purposes of operating any one or more Short-Term Rental(s) within the City of Wichita;

b. Pay all applicable local, state, and federal taxes, including income taxes, associated with the operation of each Short-Term Rental Unit;

c. Maintain Short-Term Rental insurance coverage for each Short-Term Rental Unit in the minimum amount of Two Hundred Fifty Thousand Dollars ($250,000) per Short-Term Rental Unit to insure against damages to guest(s) caused by the Owner or Responsible Party, and to insure against damages caused by Short-Term Rental guest(s) or the Owner when such damages are incurred by other persons including, but not limited to, neighbors or invited guests;

d. Clearly display inside each Short-Term Rental Unit a copy of the applicable Short-Term Rental License issued pursuant to this Chapter;

e. Include the Short-Term Rental License number issued by the City of Wichita on all marketing materials for each respective Short-Term Rental Unit. For the purposes of this subsection, marketing materials include, but are not limited to, a business card, printed letterhead, any other printed or written material, or any internet posting/publication, electronic billboard, or telephonic transmission of information, designed to inform persons of the Short-Term Rental service offered by the Owner or Responsible Party;
f. Display inside each Short-Term Rental Unit a current “Good Neighbor Agreement.” The Good Neighbor Agreement will be provided by the City and shall inform the occupants of the maximum overnight occupancy, maximum gathering occupancy and relevant City ordinances, and explain that occupants of any Short-Term Rental Units are required to comply with all relevant City ordinances and State Statutes;

g. Comply with all the terms and conditions of this Chapter and all other applicable City codes and State statutes, including but not limited to: Wichita-Sedgwick County Unified Building and Trade Code, Wichita-Sedgwick County Unified Zoning Code, International Fire Code, and Chapters 7, 8, 15, 18, 19, 20, 21, 22 and 28 of the Code of the City of Wichita and any amendments thereto; and

h. Obtain inspections as required by this Chapter.”

SECTION 6. Section 3.40.060 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“License Required.

It shall be unlawful for any Owner or Responsible Party to engage in the business of operating, owning or maintaining any Short-Term Rental without a valid License issued by the City Treasurer in accordance with this Chapter upon the payment of a license fee. The license fee for Owner Occupied Short-Term Rentals is XXXXX. The License fee for Non-Owner Occupied Short-Term Rentals is XXXX. Revenue from fees imposed pursuant to this paragraph shall be used only to administer, manage and enforce this Chapter.”
SECTION 7. Section 3.40.070 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Inspections.

a. All Short-Term Rental Units shall be inspected by members of the Inspection Team, as set forth in this Chapter, at the time of initial licensing and, thereafter, biennially. It shall be the obligation of the Owner/Licensee to pay the inspection fee at the time of the application or renewal application, if it is scheduled for inspection that year. It shall also be the obligation of the Owner, Licensee or Responsible Party to contact MAPD or the City Treasurer during the month of licensing or renewal licensing, if it is scheduled for inspection that year, to schedule an inspection. Failure to schedule and to complete an inspection shall be grounds for the denial of renewal of a Short-Term Rental License or revocation or suspension of a Short-Term Rental License;

b. The Inspection Team shall perform the inspection using an inspection form developed for the purpose of verifying that the premises are in compliance with the City’s housing, fire, building, zoning and all other applicable City Codes;

c. Following such inspections, if Code violations are found to exist, the Inspection Team must perform a re-inspection of the premises. No License shall be issued until the re-inspection is completed and any violations remedied;

d. The fee for such initial inspection and each re-inspection shall be XXXX. The inspection fee shall be paid the same time as the Short-Term Rental License fee is paid at the time of the initial application or renewal application; and
e. Any Owner or Responsible Party who fails to appear for a scheduled inspection or re-inspection, or any Owner or Responsible Party that refuses consent to inspect at a scheduled inspection, shall be charged a re-inspection fee of $XXX. A scheduled inspection or re-inspection may be rescheduled with no re-inspection fee assessed if rescheduled within no less than seven (7) days’ prior notice to MAPD.”

SECTION 8. Section 3.40.080 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Application.

Before any License shall be granted by the City of Wichita licensing department, an application shall be filed for such License setting forth the following facts:

a. The name, address, Social Security number and date of birth of the applicant and telephone number where the applicant can be reached between the hours of 8:00 a.m. and 5:00 p.m.;

b. The name, address, Social Security number, and date of birth of the applicant, Owner, Manager and other Responsible Party of the Short-Term Rental. If a corporation, all the names, addresses, Social Security numbers and dates of birth of the officers, managers or directors of such corporation and any individual who owns twenty-five (25) or more percent of the stock of such corporation. If the License is to be held by a corporation, the Resident Agent and registered office of said corporation. If the applicant is a partnership, all the names, addresses, Social Security numbers, and dates of birth of all partners of the partnership;
c. For Owners applying for an Owner Occupied Short-Term Rental license, two documents giving proof of Owner occupation must be provided. Each document must be current and show the Owner’s name and address matching that of the property to be utilized for a Short-Term Rental. Acceptable documentation includes: (1) A Kansas Driver’s License; (2) other valid State of Kansas Identification Card; (3) Sedgwick County Voter Registration Card; (4) current employer verification of residential address from the employer on company letterhead; (5) current automobile, life or health insurance policy; (6) paycheck/check stub; (7) IRS W-2 Form; (8) a bank statement or (9) other documentation showing the owner’s residential address;

d. If the Owner does not have a local address within thirty (30) miles of the City limits of the City of Wichita, then he or she must appoint a person or management company, located within the City limits of the City of Wichita to serve as his or her Resident Agent by providing the name, company name, if any, address, e-mail address, if any, and telephone number of the Resident Agent. Any Resident Agent appointed by the Owner shall have written, express and actual authority to receive communications, service of process, summons, notices and other legal process on behalf of the Owner;

e. If the Owner appoints a Resident Agent, the application must be accompanied by the Owner’s written, notarized authorization granting the Resident Agent express, actual authority to sign documents, to receive service, and to act on the behalf of the Owner or Licensee;

f. The physical address of the Short-Term Rental Unit;
g. Maximum occupancy of the Short-Term Rental Unit(s);

h. Number of rooms, units or areas to be used as a Short-Term Rental Unit;

i. The name, phone number, email, and business address of the Owner or Responsible Party who will be available twenty-four (24) hours per day, seven (7) days a week to respond to complaints regarding the operation or occupancy of the Short-Term Rental;

j. A scaled floor plan showing the layout and square footage of the Short-Term Rental Unit(s);

k. A notarized statement signed by the Owner or Responsible Party that the Short-Term Rental will be operated in compliance with all the terms and conditions of this Chapter and all other applicable City Codes and State statutes, including, but not limited to: Wichita-Sedgwick County Unified Building and Trade Code, Wichita-Sedgwick County Unified Zoning Code, International Fire Code, and Chapters 7, 8, 15, 18, 19, 20, 21, 22 and 28 of the Code of the City of Wichita and any amendments thereto;

l. Proof of insurance as required by Section 3.40.050 of this Chapter;

m. A notarized statement signed by the Owner or Responsible Party that all applicable taxes on the property have been paid and that any income from the rental of such property is being reported as taxable income to the Internal Revenue Service;

n. A statement as to whether the applicant has ever had any License denied, revoked, or suspended by the City of Wichita or the State of Kansas or any other governmental entity, the reason therefor and the business activity or occupation of the individual subsequent to such suspension, revocation or denial;
o. A statement that the applicant consents and agrees that any member of the Fire Department, Metropolitan Area Planning Department, Metropolitan Area Building and Construction Department as well as other code enforcement or health officers of the City may enter and inspect the premises;

p. A statement that the Owner, Responsible Party, or any employee thereof will not, in renting or leasing a Short-Term Rental Unit, discriminate against any person or persons on the basis of race, color, sex, religion, national origin, ancestry, disability, sexual orientation, sexual identity, gender identity or age; and

q. Proof of written notification to all Owner(s) of any property within 200 feet from the property line of the Short-Term Rental, must be made prior to filing the initial application. For each such property, proof of written notification shall be: (1) a signature of an Owner; (2) a signed receipt of U.S. registered, or certified mail addressed to an Owner; or (3) notice from the U.S. Postal Service that registered mail to an Owner was refused or not timely accepted. It is only required that notice be provided to such property Owners. The lack of consent or approval of the License application by the property Owner(s) is not a factor to be considered in the approval or denial of the application.”

SECTION 9. Section 3.40.090 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Denial of License.

A License shall be denied if one or more of the following conditions exist:

a. The premises does not comply with the health, housing, fire and zoning codes of the City of Wichita, including but not limited to: Wichita-Sedgwick County Unified
Building and Trade Code, Wichita-Sedgwick County Unified Zoning Code, International Fire Code, and Chapters 7, 8, 15, 18, 19, 20, 21, 22 and 28 of the Code of the City of Wichita and any amendments thereto;

b. The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City of Wichita on the application;

c. The application is incomplete or contains any material misrepresentation;

d. Within the five (5) years prior to the date of application, the applicant, or any person with a financial interest of twenty-five (25) percent or greater in the Short-Term Rental stated in the application, has committed or allowed to be committed while operating any Short-Term Rental any violation of this Chapter; and

e. Within the five (5) years prior to the date of application, the applicant, or any person with a financial interest of twenty-five (25) percent or greater in the Short-Term Rental stated in the application has had a Short-Term Rental License suspended or revoked pursuant to any provision of this Chapter.”

SECTION 10. Section 3.40.100 of the Code of the City of Wichita is hereby created to read as follows:

“Term of License.

a. A Short-Term Rental License expires one (1) year after the date of issuance.

b. A Short-Term Rental License is not transferable to another person or location. A change in ownership shall require the new Owner or Responsible Party to pay a new application fee and secure a new Short-Term Rental License.”

SECTION 11. Section 3.40.110 of the Code of the City of Wichita is hereby created to read as follows:
“Inspection of Property During Period of License.

The Wichita Fire Department, Metropolitan Area Planning Department and Metropolitan Area Building and Construction Department and any other code officers shall have the right to inspect each Short-Term Rental Unit, without prior notice, during the period of the License to determine compliance with this Ordinance and all other applicable City Codes.”

SECTION 12. Section 3.40.120 of the Code of the City of Wichita is hereby created to read as follows:

“Maximum Occupancy–Gatherings- Non Owner Occupied Rental Unit.

a. The maximum overnight occupancy of a Non-Owner Short-Term Rental Unit is limited to a maximum of two adults per bedroom, plus an additional two adults for each unit excluding studio or efficiencies, such that a two-bedroom house would have an overnight occupancy of six adults, or a three-bedroom house would have an overnight occupancy of eight adults. For the purposes of this subsection, an adult is any person over 12 years of age;

b. Gatherings of persons in excess of the maximum overnight occupancy prescribed by Subsection “a.” above, shall not exceed two times the maximum overnight occupancy or 20 persons, whichever is less;

c. All such gatherings shall conclude and attendees disburse by 10:00 p.m.;

d. In addition to the Zoning Administrator, the provisions of this section may be enforced by any law enforcement officer;

e. Upon violation of this section, the Zoning Administrator or a law enforcement officer may issue a criminal complaint setting forth the violation of this subsection; and
Upon conviction for violation of this subsection, the person shall be deemed guilty of a misdemeanor and shall be punished by a fine or not to exceed five hundred dollars ($500) and/or imprisonment of a term not to exceed six (6) months. Each day that any violation of this Chapter continues shall constitute a separate offense and shall be punishable hereunder as a separate violation.”

SECTION 13. Section 3.40.130 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Notice of License Denial/Suspension/Revocation.

The Zoning Administrator shall provide written notice to the Owner or Responsible Party of the intent to deny, revoke, or suspend a Short-Term Rental License by personal service or certified mail, return receipt requested.

The notice shall be sent to the mailing address of the Licensee on file with the City Treasurer. Such notice shall detail the reason or basis for the denial, suspension or revocation of the License. Such notice shall also specify the rights of the Licensee to appeal any such denial, revocation or suspension.”

SECTION 14. Section 3.40.140 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Suspension of License.

a. A License may be suspended by the Zoning Administrator for a period not to exceed thirty (30) days, if:

1. The Licensee or other Responsible Party knew or should have known that activities on the Licensed Premises were in violation of Section 3.40.120 of
the Code of the City of Wichita relating to Maximum Occupancy and Gathering limitations for the Licensed Premises.

2. The premises do not comply with the provisions of this Chapter and/or the health, housing, fire and zoning codes of the City of Wichita, including but not limited to: Wichita-Sedgwick County Unified Building and Trade Code, Wichita-Sedgwick County Unified Zoning Code, International Fire Code, and Chapters 7, 8, 15, 18, 19, 20, 21, 22 and 28 of the Code of the City of Wichita and any amendments thereto.”

SECTION 15. Section 3.40.150 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Revocation of License.

A License may be revoked by City Council at the recommendation of the Zoning Administrator:

a. If a Licensee or Responsible Party has fraudulently obtained the License by giving false information in the application therefor;

b. If the Licensee or Responsible Party has committed three (3) or more instances of violations of this Chapter, or other applicable City ordinances or State statutes within a 12-month period;

c. If the Licensee or Responsible Party fails to maintain required liability or Short-Term Rental insurance;

d. If a Licensee or Responsible Party has become ineligible to obtain a License under this Chapter; and

e. For the nonpayment of any License or inspection fees payable under this Chapter.”
SECTION 16. Section 3.40.160 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Appeals Process.

a. Unless otherwise specified by this Chapter, any Applicant or Licensee aggrieved by the denial or suspension of a Short-Term Rental License may file with the City Clerk a written notice of appeal to the City Council within ten (10) business days of the decision by the Zoning Administrator or his/her designee. The Notice of Appeal shall specify:

1. the name and address of the appellant;
2. the date of application;
3. the action appealed from;
4. the date of the action appealed from; and
5. the factual basis for the appeal.

b. Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the suspension or revocation of the License until the matter is heard by the City Council.

c. The City Council or Council Appeal Panel may approve the denial, suspension, revocation, or overrule the denial, suspension, revocation or may modify the decision of the Zoning Administrator.

d. The City Council’s or the Council Appeal Panel’s decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to
K.S.A. 60-2101 and any amendments thereto. Any such appeal to the District Court shall not stay the denial, revocation, modification or suspension of the License by the City Council.”

SECTION 17. Section 3.40.170 of the Code of the City of Wichita is hereby created to read as follows:

“Enforcement and Penalties.

a. Except as otherwise provided, the Zoning Administrator has the duty and authority to enforce the provisions of this Chapter.

b. The Administrator shall send a written notice by personal service or by First Class Mail to the Licensee, Responsible Party, Registered Agent, if one is established, or to the Owner of record as listed in the real property records of the Sedgwick County Clerk.

c. The written notice must include:

1. A statement that a violation of this Chapter has been observed or otherwise determined to exist;

2. A brief description of the nature of the violation;

3. With the exception of violations of Section 3.40.120, notice of a 30-day compliance period (or longer if appropriate in the reasonable determination of the Zoning Administrator) within which to come into compliance; and

4. A reference to the penalty provisions of this Section.

d. Penalty. With the exception of violations of Section 3.40.120, if the property has not been brought into compliance within the compliance period set forth by the
notice prescribed under Subsection “c” above or any period of extension granted by the Zoning Administrator, any person who shall own, operate, or manage a Short-Term Rental in violation of a License granted under this Chapter, or without a License when a License is required by this Chapter, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars ($500) and/or imprisonment of a term not to exceed six (6) months. Each day that any violation of this Chapter continues shall constitute a separate offense and shall be punishable hereunder as a separate violation.

In addition to the penalty described in this Section, the City may seek injunctive relief, or revocation of a License as further provided in this Chapter.”

SECTION 18. Section 3.40.180 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Violations not exclusive.

The provisions of this Chapter are in addition to any other violations enumerated within the ordinances of the Code of the City of Wichita. This Chapter in no way limits the penalties, actions or abatement procedures which may be taken by the City for a violation of any ordinance of the City of Wichita or Statute of the State of Kansas.”

SECTION 19. Section 3.40.190 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Initial Compliance.

Each Owner or Responsible Party is required to come into compliance with respect to the terms and conditions of this Chapter within six (6) months of the effective date of the ordinance.”
SECTION 20. Section 3.40.200 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.”

SECTION 21. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this ________ day of _______________, 2022.

Brandon J. Whipple, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer Magaña
City Attorney and Director of Law