

**ORDINANCE NO. O-2014-019**

**AN ORDINANCE OF THE CITY OF SHAVANO PARK, TEXAS AMENDING THE CITY'S CODE OF ORDINANCES TO ADD DEFINITIONS RELATING TO LONG TERM AND SHORT TERM RENTALS AND SINGLE FAMILY RESIDENCE; PROVIDING LEGISLATIVE FINDINGS IN SUPPORT THEREOF; PROVIDING FOR REPEALER AND SEVERABILITY CLAUSES AND AN EFFECTIVE DATE**

**WHEREAS**, the City of Shavano Park has previously adopted comprehensive zoning regulations governing land use within the City of Shavano Park as authorized by Chapter 211 of the Texas Local Government Code; and

**WHEREAS**, the Texas Local Government Code authorizes the City to amend its zoning regulations after following the procedures set forth in section 211.006 and 211.007 of the Local Government Code when the City Council determined such amendments are in the City's best interest; and

**WHEREAS**, the City Council has evaluated current information and activities within the community and the complaints and observations of citizens and city staff and the Council hereby makes legislative findings that the use of residential properties by property owners as short term daily, weekend, or short term vacation rental property is a relatively new trend, and is inconsistent with the city's existing single family residential districts which requires the evolution and amendment of the zoning ordinance to protect the integrity of the City's Comprehensive plan and zoning districts. The use of residential structures as short term, hotel or motel-like properties is becoming more common, and Shavano Park, as well as other cities across the state has experienced residential property owners unlawfully utilizing residential properties for short term vacation rental properties by renting the properties out on a short term basis. The City Council finds that this use and this trend is in contravention of the customary purpose and intent behind single family residential zoning districts and the incidental uses associated therewith; and

**WHEREAS**, the City Council has found that Shavano Park's zoning regulations, particularly those governing use of property within single family residential districts, as evidenced by historical legislative findings made in the original and subsequent amendments to the City's zoning ordinance, were intended to restrict use of residential structures within these districts to long term and permanent residential dwelling purposes within the ordinary and customary meaning of "residential" use. They were never intended to allow short term, hotel/motel-like uses, which are classified as commercial uses under the ordinance because the nature and character of this use is not as a residence of the owner, but as a means whereby an owner obtains monetary gain or revenue; and

**WHEREAS**, the City Council has, therefore, determined that it is necessary to amend the City's zoning regulations governing permissible and prohibited uses of land within residential districts in

order to ensure that all properties located, or to be constructed in the future, complies with the spirit and intent of the City’s zoning regulations with respect to what uses are permitted within single family residential zoning districts.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHAVANO PARK, TEXAS:**

**I.  
FINDINGS OF FACT**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**II.  
CODE OF ORDINANCES AMENDED**

a. The City Council of Shavano Park hereby amends the City’s Code of Ordinances Chapter 36, Section 36-1 “Definitions” to read as follows:

*Long-term rental* means a rental of real property for a period of 90 or more consecutive days whereby the owner of the real property and tenant have entered into a written rental or lease agreement in which the tenant acquires the right to reside in the single-family residence for a period of 90 or more days and in which the tenant is required to pay the owner periodic monthly based rent for the privilege of residing in the residence, including a fractional payment for the first and/or last month of such residence. In the event an owner sells such property to a new owner and immediately following the sale date the selling party continues to occupy such real property as a single-family dwelling, then notwithstanding the rental period and payment terms, such occupancy shall be deemed a long-term rental. In the event a written rental or lease agreement authorizes a tenant to sublease real property and a tenant enters into a sublease agreement, such tenant shall be treated as the owner when applying this definition. Except as provided above, all rental or lease agreements shall be treated as short-term rentals.

*Short-term rental* means a rental of real property for a period shorter than 90 consecutive days. Except as specifically permitted under the definition of long-term rental, short-term rental of real property is considered for all purposes a commercial use of real property. Short-term rental includes vacation rentals and similar uses as well as rental for a period during which renters pay the owner, or such other person with authority to lease the property, a fee to stay in the residence or other structure.

*Single-family residence* means a structure designed for use as one dwelling unit and actually used for permanent or seasonal occupation by the owner, the owner’s family

or long term rental tenant under a written long-term rental agreement as a principal residence where the owner, owner's family or long term rental tenant intends to maintain a permanent or long-term residence. Short-term rentals are expressly excluded from this definition and shall not constitute single-family residential use.

**III.  
EFFECTIVE DATE**

This ordinance shall be and become effective immediately upon its passage and as required by law.

**IV.  
REPEALER**

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

**V.  
SEVERABILITY**

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

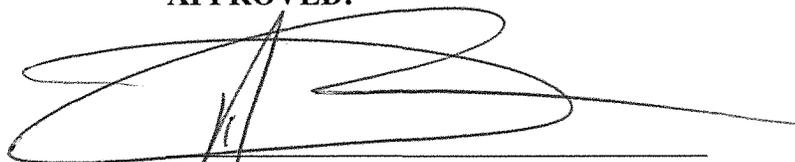
**VI. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**ADOPTED AND APPROVED** on this 27<sup>th</sup> day of October 2014 by a vote of the City Council of the City of Shavano Park, Texas.

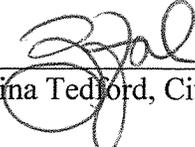
**CITY OF SHAVANO PARK, TEXAS**

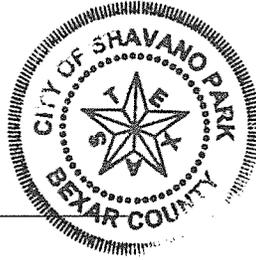
**APPROVED:**



A/ David Marne, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Zina Tedford, City Secretary



**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney's Office