

ORDINANCE NO. 2023-01

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF TYBEE ISLAND, GEORGIA, TO ESTABLISH AS ZONING THE IMPLEMENTATION OF SHORT-TERM RENTALS ON LOCATIONS WITHIN THE CITY INCLUDING LIMITATIONS BY PARTICULAR ZONES, METHODS OF REGULATIONS TO RECOGNIZE FEES FOR CONDUCTING SUCH OPERATIONS, OCCUPANCY CHANGES AND REGULATORY FEES, AND FOR OTHER PURPOSES

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, (the "City") is authorized under Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, and welfare of the citizens of Tybee Island, Georgia, and

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, is the Mayor and Council thereof, and

WHEREAS, the governing authority desires to adopt ordinances under its police, home rule powers, and powers under the Georgia Constitution, and

WHEREAS, the City of Tybee Island is a municipal corporation authorized under Georgia law to enact ordinances addressing land use matters, including zoning land use matters, and

WHEREAS, the City has conducted numerous workshops and public meetings in order to adopt ordinances addressing multiple issues on Short-Term Rental properties, and

WHEREAS, in order that the ordinances addressing Short-Term Rental properties may be properly codified and implemented as part of the zoning code of the City of Tybee Island, it is necessary and appropriate to revise the prior Short-Term Rental ordinance in order to transfer provisions thereof into the zoning code of the City and to include in such transfer revisions that are pending to the code, and

WHEREAS, the City has previously adopted certain zoning amendments dealing with Short-Term Rental properties and locations, including the ordinance previously identified "Z-2", and such ordinances include definitions, notice of

abandonment of nonconforming uses, allowances and limits on new permits in zones R-1, R-1-B, and R-2, and

WHEREAS, the City may continue to work to improve the ordinances, and

WHEREAS, additional public hearings will be conducted in connection with consideration of this ordinance in order to accomplish the intention of the zoning procedure law and all other applicable considerations,

NOW THEREFORE, it is hereby ordained by the governing authority of the City of Tybee Island that the Code of Ordinances will be amended so as to provide as follows:

SECTION 1

The provisions of the ordinance and sections previously codified at Sec. 34-260 through Sec. 34-272, with the express addition of Section 2 below as Sec. 34-272 are hereby adopted as part of the zoning ordinances of the City and to be designated as Section 4-051, entitled "Short-Term Rentals".

SECTION 2

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance. It is hereby declared as the intent of the City of Tybee Island Mayor and Council that this ordinance would have been adopted had such invalid or unconstitutional portion not been included herein.

SECTION 3

All ordinances and parts of ordinances in conflict herewith are expressly repealed.

SECTION 4

It is the intention of the governing body, and it is hereby ordained, that the provisions of this ordinance shall become effective and be made a part of the Code of Ordinances, City of Tybee Island, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

This Ordinance shall become effective on 12 day of January, 2023.

ADOPTED THIS 12 DAY OF January, 2023.

Shirley Sessions
MAYOR

ATTEST:

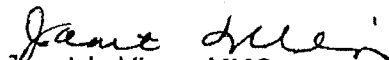
Joan Allen
CLERK OF COUNCIL

FIRST READING: 12/8/22
SECOND READING: 1/12/23
ENACTED: 1/12/23



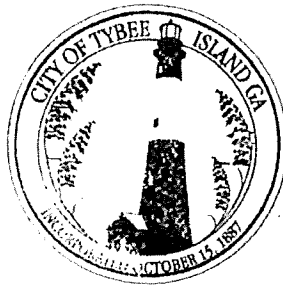
I, Janet LeViner, the duly appointed, qualified, and acting Clerk of the City of Tybee Island, Georgia, do hereby certify that the attached Ordinance, 2023-01, was duly adopted by the Mayor and Council of the City of Tybee Island Georgia at its regular meeting held on January 12, 2023 and I do further certify that the copy of the Ordinance, 2023-0,1 is a true and correct copy of said Ordinance, 2023-01 adopted at said meeting on file and of record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said City this 12th day of January 2023.


Janet LeViner, MMC

City Clerk

City of Tybee Island



Section 4-051. Short-Term Rentals

Sec. 4-051.1. Purpose and Intent.

- (a) The purpose of this article is to establish regulations for the use of residential dwelling units as short-term rentals and to ensure the collection and payment of hotel/motel fees and occupation tax certificate fees.
- (b) "Short-term rental" means an accommodation for guests where, in exchange for compensation, a residential dwelling unit is provided for lodging for a period of time less than 30 consecutive days. Such use may or may not include an on-site manager. For the purposes of this definition, a residential dwelling shall include all housing types. This is also identified as "STR". This shall exclude bed and breakfast accommodations as they are currently defined by the City of Tybee's land development code. However, bed and breakfast establishments are required to have occupational tax certificates, and to pay taxes and fees as required by law or ordinance.
- (c) An owner shall be required to designate an agent for any short-term rental unit, whose responsibility it will be to comply with the requirements of this section on behalf of the owner. The owner may be the agent.
- (d) "Short-term rental agent" is a local contact person designated by the owner who shall be available at all times to respond to complaints regarding the condition, operation, or conduct of occupants of the STR. Such person is customarily present at a location within the city for purposes of transacting business, and is responsible for taking remedial action to resolve issues within one hour.
- (e) The owner or agent shall not be relieved of any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the residential dwellings unit as a short-term rental unit.

(Ord. No. 2016-07B, 5-26-2016; Ord. No. 2021-01, 1-28-2021)

Sec. 4-051.2. Application.

- (a) Within 90 days of the effective date of the ordinance from which this article is derived, no person shall rent, lease or otherwise exchange for compensation all or any portion of a dwelling unit as a short-term rental, as defined in section 34-260, without the owner or rental agent first obtaining an occupation tax certificate and identifying the location of each STR with the city.
- (b) The city must be notified in writing within seven days when there is a change in property ownership, management, agent or emergency contact. Failure to do so will void any permitted use as an STR.
- (c) The application shall be furnished on a form specified by the city manager, accompanied by a non-refundable occupational tax and regulatory fee. Such application should include:
 - (1) The complete street address and property identification number (PIN) of the STR;
 - (2) Ownership, including the name, address, e-mail and telephone number of each person or entity with an ownership interest in the property;
 - (3) The number of bedrooms, the maximum occupancy and the number and location of off-street parking spaces on the premises and any off-premises parking applicable;

Occupancy of any short-term rental property or unit shall be established in connection with the application for every short-term rental permit with the occupancy for overnight usage limited to two adults per bedroom plus two additional adults for the dwelling identified as existing on the property. Any person over the age of 15 years old will be considered an adult for purposes of this section. Occupancies beyond the established limits in the permit shall be a violation of this section;

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- (4) The name, address and telephone number of a short-term rental agent or local emergency contact if applicable; and
 - (5) Any other information that this chapter requires the owner to provide to the city, such as zoning designation, as part of the identification for a short-term rental. The city manager or his or her designee shall have the authority to obtain additional information from the applicant as necessary to achieve the objectives of this chapter.
 - (6) The emergency contact number required.
 - (7) The property shall be covered by a homeowner's or other structural coverage as well as liability coverage and the insurance declaration shall list the unit as the rental property. The applicant shall acknowledge as part of the application the insurance requirement and agrees that within 30 days of receipt of an STR to supply to the city a copy of a conforming insurance declaration.
- (d) The certification form pursuant to this section shall be processed and added to a database to be kept by staff or the manager's designee listing STR unit information and any citations that occur. The city shall notify the owner and agent of any instances that result in a citation for a code violation or other legal infraction.
 - (e) Owner or rental agent for a short-term rental shall submit, on an annual basis, an occupational tax certificate to the City of Tybee Island.
 - (f) All information supplied by the applicant to the city or the manager's designee shall be subject to verification as hereinafter provided.

(Ord. No. 2016-07B , 5-26-2016; Ord. No. 09-2019 , § 1, 5-9-2019; Ord. No. 2021-01 , 1-28-2021; Ord. No. 2021-29 , § 1, 11-10-2021)

Sec. 4-051.3. Regulatory fee/renewal.

- (a) The short-term rental application shall be accompanied by an initial regulatory fee and be subject to an annual fee every January 1 thereafter, as established by the mayor and city council.

An application, initial or renewal, is valid when completed and filed along with payment of the application regulatory fee set forth below. The fee shall be due January 1 of each year for short-term rental purposes and, if not paid within 90 days thereof, shall be subject to the delinquency and penalty provisions of section 58-163, as applicable, to occupation tax/business license provisions as well as the revocation of any right to use the unit for short-term rental purposes until payment of the penalties and fee. In addition to the regulatory fee license as specified herein, the applicant shall also pay the required occupation tax each year.
- (b) Each property or unit shall be issued a unique property identification number, which is not the same as the "PIN" assigned by the county for a parcel of land.
- (c) Failure to apply and/or identify as prescribed by this law will result in a fine of \$500.00 for each month that the unit continues to operate without compliance.
- (d) The annual identification of a unit and the regulatory fee are not transferrable.
- (e) In the event a property owner changes the management company it uses, the unit is to be re-identified by notice to the city.
- (f) Each applicant will pay a regulatory fee that is determined based upon the occupancy of the property to which the short-term rental application applies. Every applicant will pay a \$200.00 base fee. In addition to the base fee, each applicant will be responsible for an additional occupancy fee based upon the rental unit's occupancy. As part of the application, the applicant shall disclose the total occupancy for the rental unit. A fee will be charged for each person under the tiers below:

Total occupancy of one to five persons—\$10.00 per person.

Total occupancy of six to ten persons—\$15.00 per person.

Total occupancy of ten or more persons—\$20.00 per person.

(Ord. No. 16-2017-B, § 1, 12-19-2017; Ord. No. 09-2019, § 2, 5-9-2019; Ord. No. 2019-15, § 1, 11-11-2019; Ord. No. 2021-01, 1-28-2021; Ord. No. 23-2021, § 1, 9-9-2021)

Editor's note(s)—Ord. No. 16-2017-B, § 1, adopted Dec. 19, 2017, amended § 34-262 in its entirety to read as herein set out. Former § 34-262 pertained to registration fee/renewal, and derived from Ord. No. 2016-07B, adopted May 26, 2016; and Ord. No. 06-2017-A, § 1, adopted Mar. 9, 2017.

Sec. 4-051.4. Good neighbor policy.

The city shall make available on its website a list of STR good neighbor policies which STR agents must share with their clients, owners, and guests.

(Ord. No. 2016-07B, 5-26-2016; Ord. No. 2021-01, 1-28-2021)

Sec. 4-051.5. Signs.

All one- and two-family STR units shall post a sign that shall be visible and legible from the address side of the street listing emergency contact name and phone number. The emergency contact name and number shall be the STR agent as required by section 34-260(d) unless otherwise specified and approved by the city staff and any rental agency involved. Such sign shall not be less than 18 inches by 24 inches and shall not exceed 24 inches by 24 inches. The purpose of the required sign is to enable officers and third parties to identify appropriate contacts for issues with the property and/or the occupants and, therefore the sign shall be located in such a location that it faces the street which is listed as the real property address or otherwise located at such location as approved by staff consistent with that purpose. The view of the sign shall not be obstructed by fencing, cars, vegetation, etc.

Multi-family units shall post a sign which shall be visible and legible from a publicly accessible area outside the unit listing the required emergency contact name and phone number. Signs for multi-family units shall be eight and one-half inches by 11 inches. All such signs shall be located no further than four feet from the outer most edge of the front entry door or otherwise located at such location as approved by city staff consistent with that purpose. Multi-family units may have one additional sign on the exterior of the property which complies with the standards of the one and two family STR unit for the purposes of advertising, branding and way finding.

To the extent that the requirements herein are inconsistent with the sign ordinance the provisions hereof shall control in the case of short-term rental properties and shall supersede any inconsistent provisions of homeowner association agreements or policies or condominium association agreements or policies pertaining to signage.

(Ord. No. 2016-07B, 5-26-2016; Ord. No. 16-2017-B, § 1, 12-19-2017; Ord. No. 2019-15, § 1, 11-11-2019; Ord. No. 2020-02, § 1, 2-27-2020; Ord. No. 2021-01, 1-28-2021)

Sec. 4-051.6. Unique location identification number required.

Each short-term rental property or unit is to have a unique location identification number, as referenced in 34-262(b). Any advertising, promotion or notice of availability of a property or unit for a short-term rental occupancy shall include the location identification number or numbers for every available property or unit which is the subject matter of the advertisement, promotion or notice. The phrase "advertisement, promotion or notice" as used herein shall include, but not be limited to, brochures, marketing material and any online, digital, social media or published promotion of any such property or unit. The failure to include such number as required herein shall be a violation hereof and punishable as otherwise provided in this code.

(Ord. No. 2019-15 , § 1, 11-11-2019; Ord. No. 2021-01 , 1-28-2021)

Sec. 4-051.7. Compliance.

- (a) It shall be the responsibility of the owner or agent to pay all required taxes required by chapter 58, article IV, room excise tax.

(Ord. No. 2016-07B, 5-26-2016)

Sec. 4-051.8. Homestead Exemption/Estate Planning.

For a property location that has been continuously in individual or joint ownership by natural person(s) for a period of at least five (5) years and which has been homesteaded for purposes of any of the City ordinances, (Tybee Code Section 58-30 and/or 58-33) such owner, may elect, upon proper application and permitting, to operate as a STR and to include the property as an authorized STR for a period of up to three (3) years. Further, an estate of a deceased owner who qualified as stated above regarding ownership and homestead may have a one-time opportunity within one year of the death of the decedent to make the election provided for herein to secure an STR permit for a period of three (3) years.

Sec. 4-051.9. Additional Compliance and Enforcement of Requirements.

- (a) In the event taxes, license fees, fines or other assessments relating to the operation or ownership of a STR property remain unpaid or if there is evidence of improper advertising of the STR property or improper conduct at the STR property violating any of the below City ordinances or rules, notice of these deficiencies will be sent to the STR owner or the owner's designated agent. Ordinances which will result in a notice to the owner or the owner's agent are: failure to comply with marketing restrictions as provided in Subsection b. hereof. Following notice to the owner or owner's designated agent of the deficiency and a failure to address such deficiency within 30 days of receipt of the notice of deficiency, following notice and an opportunity to be heard there may be a determination of abandonment of the permit for a STR use and such permit may terminate and not be renewed.
- (b) Any marketing or advertisement relating to the use of a Short-Term Rental location which markets occupancy beyond or in excess of the occupancy contained in the application for the Short-Term Rental permit, tax certificate or license, as required, shall be a violation of this ordinance. This violation may result in the permit being revoked, suspended or addressed as found appropriate by the City Official and/or the Mayor and Council.
- (c) The refusal to participate in or cooperate with a verification process as provided hereafter shall be a violation of this ordinance and any intentional misstatements or inaccuracies contained in the application including the insurance obligation shall be a violation of this ordinance subject to penalties as provided above.

Sec. 4-051.10. Right to Require Verification of Compliance.

The verification program will be conducted under a policy to be established by the Mayor and Council and shall specifically cover all ordinance compliance requirements and obligations of the applicant, including, but not limited to, insurance requirements, zoning designation, parking site plan and occupancy.

Sec. 4-051.11. Transfers.

Upon a bona fide transfer of ownership of a properly permitted location, the new owner, when requirements for an application are satisfied, will be granted a permit for the same location.

Sec. 4-051.12. Severability.

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance. It is hereby declared as the intent of the City of Tybee Island Mayor and Council that this ordinance would have been adopted had such invalid or unconstitutional portion not been included herein.

Secs 4-051.13 – 4-051.99. Reserved.