

LAW OFFICES
CALLAWAY, BRAUN, RIDDLE & HUGHES P.C.

A PROFESSIONAL CORPORATION

TIMOTHY F. CALLAWAY, III
DANA F. BRAUN
R. KRANNERT RIDDLE
EDWARD M. HUGHES
D. SCOTT PORCH, IV
T. DANIEL TUCKER

301 WEST CONGRESS STREET
SAVANNAH, GEORGIA 31401
—
TELEPHONE (912) 238-2750
FACSIMILE (912) 238 2767

REPLY TO:
POST OFFICE BOX 9150
SAVANNAH, GEORGIA 31412

Voice Mail Extension - 108
E-Mail - Bhughes@cbrhlaw.com

March 3, 2011

VIA EMAIL ONLY

Mayor and Council
City of Tybee Island
P.O. Box 2749
Tybee Island, GA 31328-2749

RE: Agenda 03.10.2011 - Ordinances
Our File No. 572.14536

Dear Mayor and Council:

In connection with the upcoming agenda, I am attaching hereto a draft of a proposed ordinance prepared for discussion purposes relating to the short term rental of residential property. This is similar to, but an improved upon, version of the draft sent to Council in July of 2010.

I am also attaching a draft of an amendment to 58-179 regarding regulatory fees so as to establish a regulatory fee for conducting short term rentals. I am not aware of an amount having been set that would cover this but, in the event the ordinance is adopted, Council should set a regulatory fee for the activity. Actually, I would submit a regulatory fee be set for the activity to conform to our current practice even if the ordinance regarding short term rentals is not adopted at this time or in the future.

It is my understanding that the topic of short term rentals will be on the agenda for March 10, 2011, and the purpose of forwarding this draft is to at least have something on paper to be discussed. Hopefully, it will not be perceived as overreaching on the part of the City by those engaged in the operation of short term rentals. As I believe everyone has previously recognized, the short term rental businesses that are actually managed seem to work fairly well; however, others are not regulated adequately and the City needs to get a framework in place to address the issue. Hopefully, the attached will be a beginning point to that process.

Even with an ordinance as suggested, there will be enforcement issues that will continue. Ensuring compliance with the ordinance can be particularly challenging with out of state property owners who use the internet to make their properties available. Citations are not thought to be effective under those circumstances since they would likely be ignored and I am still looking into all potential methods of addressing that situation in a manner which will be effective. Some of these issues are "cutting edge" and I do not want to expose the City to liability concerns in an effort to address a situation that may not justify the risk. However, hopefully through continuing efforts, we will be able to improve on the current situation.

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I look forward to discussing all of this with you. With kindest regards, I am

Very truly yours,


Edward M. Hughes

EMH/md

Attachments

cc: Diane Schleicher, via email
Jan LeViner, via email

ORDINANCE NO. 07-2011
AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
PERTAINING TO SHORT TERM RENTAL PROPERTIES
FOR THE CITY OF TYBEE ISLAND, GEORGIA

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, 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, zoning, and home rule powers, and

WHEREAS, the City of Tybee Island desires to create a new ordinance to be Chapter 34, Article VII, Sections 34-195 through 34-200 of the Code of Ordinances pertaining to short term rental properties; and

WHEREAS, the City has become a vacation destination and residential properties are frequently used by tourists and guests who are not permanent residents of the island; and

WHEREAS, the City has experienced difficulties associated with parking, trash, noise and over-occupancy of properties in residential neighborhoods that are used for short term rental purposes and such properties have increased demands on City services by way of police services, utility services and have further caused disruption to other residents and tourists; and

WHEREAS, following investigation into the matter, the City Council has determined that the regulation of short term rental properties is necessary in order to protect the health, welfare and safety of the general public and the citizens, residents and visitors to the island; and.

NOW, THEREFORE, be it ordained by the governing authority of the City of Tybee Island in open meeting that the following shall be known as the “Tybee Island Short-Term Rental Ordinance” and shall be referred to herein as “this Ordinance:”

CHAPTER 34

ARTICLE VII

Sec. 34-195. All licenses or permits issued for Short Term Rentals shall be issued subject to the provisions of this Article. No person shall engage in the business of short term rental of improved property without a license issued under this Article.

Sec. 34-196. **DEFINITIONS**

- **“Local Contact Person,”** as defined herein is the owner(s) of the property or, if designated by the license, any person authorized to act on the owner’s(s’) behalf.
- **“Owner,”** as defined herein, is the owner or owners of a Short Term Rental Property.
- **“Person”** shall include every individual, firm, partnership, social or fraternal organization, corporation, estate, trust, receiver, or any other group or combination acting as a unit.
- **“Renter,”** as defined herein, is a person or the persons who rents a Short-Term Rental Property.
- **“Short Term Rental Activity”** or **“Short Term Rental Business”** includes when a person, persons, or entity engages in the rental of improved real property; or makes available, holds out, or advertises in any form whatsoever, improved property, for rent for periods of less than six (6) months; and specifically includes the actual rental of property for less than six (6) month terms other than on occasional or a casual basis as otherwise defined in the City ordinance.

• **“Short Term Rental Property,”** as defined herein, means any residential property used or available for rental to any person(s) on a day to day or, weekend, week, or monthly, basis, but not to property rented for one hundred eighty (180) consecutive nights or more.

Sec. 34-197. **GENERAL PROVISIONS**

Within ninety (90) days after the effective date of this Ordinance, any owner of a Short-Term Rental Property shall obtain and maintain a license and pay a regulatory fee in the amount currently in force at the time of the request. The license shall be valid for the year issued, unless the license is revoked as otherwise provided herein. All Short Term Rental Property licenses shall be renewed annually and are subject to the annual fee currently in force at the time of the renewal.

For any Short Term Rental Property constructed and/or built and/or established or continued after the effective date of this Ordinance, the owner, prior to renting the property as a Short-Term Rental Property, shall comply with all of the requirements of this Ordinance as set forth herein, and must also obtain a license prior to renting the Short Term Rental Property.

Any owner who fails to obtain a Short-Term Rental Property license prior to engaging in Short Term Rental Activity or Short Term Rental Business shall be penalized under the general penalty provided for violating business license ordinances.

Sec. 34-198. **APPLICATION; REQUIRED INFORMATION**

The license application shall include the following information:

(1) The complete street address, lot and block number, and the PIN as used by the Chatham County Tax Assessor.

(2) Proof of ownership, including the name, address and telephone number of each person or entity with an ownership interest in the property.

(3) The applicant(s) shall have a letter signed by all owner(s) of the property acknowledging that a violation of this Ordinance by the owner(s), local contact person, or renter(s), or the renter's(s') guests, shall be considered a violation by the owner(s).

(4) The name, address and twenty-four (24) hour telephone number of a local contact person who will be operating the Short Term Rental Property and available at all times for the purpose of promptly responding to complaints regarding the conduct of the renter(s), or the renter's(s') guests of the short term rental property. The Local Contact Person must be available twenty-four (24) hours per day, seven (7) days a week for the purpose of responding to complaints regarding the conduct and behavior of the occupants.

- (5) The regulatory fee required by the City must be timely paid.

In connection with each application for a short term rental property location, staff shall secure information regarding the nature and location of the property, the number of bedrooms, its size and available off-street parking. When available, this information may be secured from the records of the Tax Assessor of Chatham County or from such other sources as may be available to staff. Following review of such information, staff shall set an occupancy limit based upon the provisions herein. Staff shall also calculate the available parking and determine the maximum number of vehicles which may be lawfully parked on the property.

The maximum occupancy by individuals and the maximum number of vehicles shall be reflected on the licensing paperwork and acknowledged by the applicant and, where appropriate, the Local Contact Person.

Sec. 34-199. **REQUIREMENTS**

Any owner of a Short-Term Rental Property who obtains a license under this Ordinance shall comply with the following:

- (1) All Short Term Rental Properties shall comply with the terms of the current Tybee Island Code dealing with garbage and arrange to have garbage picked up consistent with the expiration of rental terms and checkout dates so that trash and trash containers do not accumulate on or near the property.
- (2) A contact person shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding promptly to complaints or inquiries regarding the conduct, parking, trash or other issues concerning the Short Term Rental Property or its occupants. The name and telephone number of the Local Contact Person shall be on file with the Police Department.
- (3) The occupancy of a Short Term Rental Property shall conform to the occupancy limits as set forth herein and as incorporated into the license and total occupancy in all cases shall be subject to the following:
 - (a) The maximum occupancy for a Short Term Rental Property for any continuous twenty-four (24) hour period or for overnight accommodations shall be calculated on the basis of two persons per sleeping area, plus an additional two persons. A sleeping area is a room or space within a Short Term Rental Property intended or used for sleeping. Tents, sleeping bags, etc., shall not increase the maximum occupancy allowed within a Short Term Rental Property. Children under two (2) years of age shall not be included in determining the maximum overnight occupancy. Prior to the license being granted to the owner(s), a representative of the City shall be permitted to inspect the proposed Short-Term Rental Property to determine its maximum occupancy.

(b) Notwithstanding any other provisions cited herein, there shall be no weddings or special events in or on the Short Term Rental Property in the absence of a specific permit for that purpose.

(c) The owner(s) or the Local Contact Person shall maintain renter and vehicle registration which shall include the name and address of each renter(s), all occupants expected to stay overnight or longer on the property, and include the make, year and tag number of all such vehicle(s). This information shall be readily available upon request of any officer of the City responsible for the enforcement of this Ordinance.

(d) There shall be one (1) parking space available for each approved sleeping area in a Short-Term Rental Property. Off street parking shall be provided for these vehicles and under no circumstances may a vehicle be parked on the street except in a designated parking space. Prior to the license being granted to the owner(s), a representative of the City shall be permitted to inspect the Short-Term Rental Property to determine the maximum number of vehicles allowed. Once the maximum number of vehicles for a property is established, it shall be unlawful for vehicles in excess of the permitted number to be parked at or on the property or adjacent rights of way except in designated parking areas.

(e) A written notice provided by the City which contains information about certain ordinances generally impacting renter(s) of Short-Term Rental Properties shall be posted conspicuously and maintained in the property by the owner and displayed at all times.

(f) There shall be a written lease between a Short-Term Rental Property owner and the renter(s) and it shall contain the renter's(s') agreements to comply with all of the regulations contained within this Ordinance;

Sec. 34-200. **VIOLATIONS**

In the event of a violation of this Ordinance, the City, through the Mayor and Council, may direct notice to the Short-Term Rental Property owner(s) or Local Contact Person to show cause before the City Manager and Director of the appropriate City department, why the license should not be revoked. Notice shall be given at least fifteen (15) days before any such hearing. Upon no representative for the Short-Term Rental Property appearing at the hearing, the license will be revoked and any Short-Term Rental Activities or Business at the location is thereafter prohibited without a new license being applied for and issued.

In the event the owner, Local Contact Person, or a representative thereof, appears for the hearing, the City officials shall make a determination as to whether a violation has occurred and, if so, determine the appropriate action to be taken. Action to be taken can include revocation of the license, imposing a probationary status on the license, and/or additional restrictions on occupancy or parking limits or other specific conditions. In the event a probationary license is issued, such license may be revoked upon notice of not

less than twenty-four (24) hours of a hearing and a determination at such hearing that an additional violation has occurred.

In the event of an adverse determination, the owner, Local Contact Person, or a representative thereof, may appeal the decision of City staff to the Mayor and Council of the City which shall conduct a hearing thereon and make a final determination.

Each determination following any warning shall be sent by certified mail to the owner, Local Contact Person, or a representative thereof, to the address listed on the application or at such other address as has been supplied to the City for such purpose in writing on behalf of the applicant, owner, or agent.

It is a violation of this ordinance for any owner, Local Contact Person, or property manager to violate the terms hereof in the following manner:

1. Operating a short term rental business or performing short term rental activities without the required license and the payment of required regulatory fees.
2. Allowing occupants of a short term rental property to exceed the capacity permitted under the approved application and as established on the application as to occupancy or parking.
3. Failure to comply with applicable regulations regarding trash or trash container pickup.
4. Failure of the owner's(s') agent or Local Contact Person to be available as required by the terms of this ordinance.
5. Violation of any special conditions imposed upon the licensing at the time of issuance or at any time thereafter.
6. Conducting any unlawful or unpermitted activities on the premises.

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

This Ordinance shall become effective on _____ day of _____, 2011.

ADOPTED THIS __ DAY OF _____, 2011.

MAYOR

ATTEST:

CLERK OF COUNCIL

FIRST READING: _____

SECOND READING: _____

ENACTED: _____

EMH/Tybee/Ordinances/2011/07-2011 - Short term rentals 03.03.11

EMH/Tybee/582-Short Term Rental Properties/07-2011 - Short term rentals 03.03.11