



City of Gulfport, Mississippi

Agenda City Council

2309 15th Street
Gulfport, MS 39501

Tuesday, April 2, 2019

10:00 AM

*Gulfport City Hall
Council Chambers*

10:00 A.M.

Declaration of Special Call Meeting

Discussion Items

- 1 Proposed Short Term Rental Ordinance

Adjournment

A. Short Term Rental Permits – Created and Required.

1. It shall be unlawful to operate a Short Term Rental, as defined in the Zoning Ordinance of the City of Gulfport, without first obtaining a Short Term Rental Permit issued by the City of Gulfport, by and through the Department of Urban Development, pursuant to this Ordinance and in compliance with any and all applicable ordinances, statutes, regulations, and laws.
2. An annual Short Term Rental Permit shall be issued to a property owner by the Department of Urban Development only after all requirements of this and any other applicable ordinances have been met. A Short Term Rental Permit shall be revoked, suspended, or not renewed based on non-compliance with the requirements of the Zoning Ordinance or the requirements provided herein.
3. Any holder of a Short Term Rental Permit issued pursuant to this Ordinance shall maintain on file with the Department of Urban Development a current address of a natural person in Harrison County upon whom service can be made including, without limitation, the service of legal process and other legal notices related to the operation of the Short Term Rental and/or compliance with this Ordinance and/or applicable provisions of the Zoning Ordinance. Service upon the person on file shall be deemed effective service upon the holder of the Short Term Rental Permit. Any corporation or other business entity holding a Short Term Rental Permit shall be qualified to do business in the State of Mississippi. Failure to comply with this paragraph or to keep current the agent for service shall be grounds for revocation of the Short Term Rental Permit.
4. General Requirements:
 - A. Each Short Term Rental Permittee (hereinafter, Permittee) must be a legal resident of the United States of America.
 - B. No person other than the owner of the property where the Short Term Rental is to be operated may be issued a Short Term Rental permit for that property.
 - C. Permittee shall secure current, valid liability insurance of \$500,000 per occurrence, \$1,000,000 aggregate or more which covers the premises where the Short Term Rental is to be operated and that the property owner will maintain the same during the entire period of the Short Term Rental permit.
 - D. Each Short Term Rental must be equipped with working smoke detectors installed in accord with the applicable Fire Code.
 - E. Each Short Term Rental must be equipped with a properly maintained and charged portable fire extinguisher (2A 10BC) which shall be serviced annually by an approved company and which is installed in a visible and accessible location.
 - F. Each Short Term Rental must be equipped with a carbon monoxide detector (installed per manufacturer's recommendations) (this paragraph applies only if there is natural gas or propane service to the Short Term Rental or if the Short Term Rental has a fireplace (gas or wood burning)).
 - G. Permittee shall post in the Short Term Rental emergency contact information (ie, contact information for the owner or the owner's local agent – name, street address, mailing address, cell and land line phone numbers and electronic mail address) and a floor plan indicating fire exits and escape routes. Posting shall be displayed in a visible location.

H. Each Short Term Rental shall be in compliance with applicable provisions of the City's duly adopted Property Maintenance, Building or Residential (as applicable), Electrical, Mechanical, Fire and Plumbing Codes.

I. That the property has no delinquent ad valorem taxes or municipal code violation liens.

J. Operation of the Short Term Rental shall not violate any applicable deed restriction or subdivision, homeowner association or property owner association covenant, regulation or other similar rule. If it is later determined that the operation of the Short Term Rental violates such covenants, regulations or rules, the Short Term Rental Permit shall be automatically revoked, held for naught and void ab initio.

K. Permittee shall collect all applicable charges and fees and remit the same to the appropriate entity.

B. Application Requirements.

An applicant for a Short Term Rental Permit shall:

1. Fully complete and execute an Application for Short Term Rental Permit.
2. Certify and attest to the following, under penalty of perjury, as to the following:
 - A. That the applicant is a legal resident of the United States of America.
 - B. That the applicant is owner of the property where the Short Term Rental is to be operated.
 - C. That the applicant has secured current, valid liability insurance of \$500,000 per occurrence, \$1,000,000 aggregate or more which covers the premises where the Short Term Rental is to be operated and that the applicant will maintain the same during the entire period of the Short Term Rental permit.
 - D. That the Short Term Rental is equipped with working smoke detectors installed in accord with the applicable Fire Code.
 - E. That the Short Term Rental is equipped with a properly maintained and charged portable fire extinguisher (2A 10BC) which shall be serviced annually by an approved company and which is installed in a visible and accessible location.
 - F. That the Short Term Rental is equipped with a carbon monoxide detector (installed per manufacturer's recommendations) (this paragraph applies only if there is natural gas or propane service to the Short Term Rental or if the Short Term Rental has a fireplace (gas or wood burning)).
 - G. That posted in the Short Term Rental is emergency contact information (ie, contact information for the owner or the owner's local agent – name, street address, mailing address, cell and land line phone numbers and electronic mail address) and a floor plan indicating fire exits and escape routes. Posting shall be displayed in a prominent location.
 - H. That the property is in compliance with applicable provisions of the City's duly adopted Property Maintenance, Building or Residential (as applicable), Electrical, Mechanical, Fire and Plumbing Codes.
 - I. That the property has no delinquent ad valorem taxes or municipal code violation liens.
 - J. That the operation of the Short Term Rental does not violate any applicable deed restriction or subdivision, homeowner association or property owner

association covenant, regulation or other similar rule. Any and all other information as may be requested by the Department of Urban Development on the Short Term Rental Permit Application.

3. Furnish the following documentation to the Department of Urban Development with the completed and executed application:
 - A. A floor and/or site plan that indicates the location of the required smoke detectors, fire extinguisher, carbon monoxide detector and emergency contact/fire-exit posting and where the Short Term Rental permit will be posted.
 - B. A list of the short-term rental hosting platform(s), if any, that will be utilized to advertise or solicit the property for use as a short-term rental. If none, please advise accordingly.
 - C. An insurance declarations page showing liability insurance coverage covering the Short Term Rental in at least the required amount and an Insurance Certification statement from the insurer of the property indicating that the coverage noted in the declarations page affords liability coverage for the Short Term Rental identified in the Short Term Rental Application.
 - D. A copy of the deed vesting ownership in the property in the applicant.
 - E. A Certificate of Zoning Compliance from the Department of Urban Development.
 - F. A copy of the applicant's sales tax certificate.
4. Pay all applicable permit fees.
5. Pass a fire inspection per check list attached hereto.

Where information provided by Applicant on the Short Term Rental Permit Application and/or the documentation provided along with the Application is found by the City to be fraudulent, false or constitute a material misrepresentation the City Short Term Rental Permit shall be automatically revoked, held for naught and void ab initio. All requirements of this Section shall be continuously maintained throughout the duration of the permit.

An application shall not be accepted or considered by the Department of Urban Development unless the same is complete, contains all required documentation and is fully executed by the Applicant.

C. Permit Issuance.

1. Upon satisfactory submission of the required and completed and fully executed application, certification and documentation, approval by the Gulfport Fire Department after on-site inspection and payment of permit fees, the Department of Urban Development shall issue an annual Short Term Rental Permit to the applicant. Said Permit shall contain:

- A. The address of the Short Term Rental.
- B. The Permittee's name, mailing address, phone number where Permittee may be reached during the stay and electronic mail address.

C. The permit number.

D. Occupancy Limit as established by the City (criteria: two persons (adult or child) per sprinkled or double access bedroom plus three persons).

E. Parking limit (three vehicles).

F. Contact Information for the Owner's Local Agent (name, cell and land (if applicable) phone and e-mail), if different from owner, for complaints or concerns by renters. The Local Agent shall be an individual able to respond on-premises to complaints and concerns twenty-four hours a day.

G. Dates the permit is valid.

2. The Permittee shall place the permit number on any listing advertising or offering the property for use as a Short Term Rental. The Permittee shall also ensure place the following language on any listing advertising or offering the property for use as a Short Term Rental: "Potential tenants are advised that the City of Gulfport has adopted a "Noise Ordinance" and tenants are expected to abide by the provisions of that "Noise Ordinance." The Permittee shall only advertise the Short Term Rental as allowed by this Ordinance.

3. The Permittee shall post the following information in a prominent location in the interior, clearly visible to guests:

A. The Short Term Rental Permit;

B. Trash and recycling collection rules and dates;

C. Floor and/or site plan that indicates the location of the required smoke detectors, fire extinguisher, and emergency contact/fire-exit posting; and

D. The Noise Ordinance for the City of Gulfport, found in Section 7-10 of the Code of Ordinances.

4. Where planning commission approval is required,

A. No application for a Short Term Rental Permit may be accepted by the Department of Urban Development until the expiration of the appeal period applicable to decisions of the Planning commission or, if appealed, until expiration of the appeal period applicable to decisions of the City Council.

B. An applicant shall apply for the Short Term Rental permit no later than forty-five (45) days after a final decision of the Planning Commission or, if appealed to the City Council, no later than forty-five (45) days after the decision of the City Council.

D. Permit Renewal.

The Short Term Rental Permit shall be valid one year from the date of issuance. The Permit may be renewed upon application to the Department of Urban Development by submission of a fully completed and executed renewal application (which shall require the same information and documentation as the initial application), proof of payment of taxes and required fees. A fire inspection shall be required. A renewal permit, assuming it is issued, shall be dated the date the application for renewal is submitted.

E. Permit Fees.

1. Fee for the initial permit shall be two hundred dollars (\$200.00).
2. Fee for the renewal permit shall be one hundred dollars (\$100.00).

F. Permit non-transferrable

A permit issued under this Ordinance is property and owner specific and shall not be transferred from one property or owner to another. Notwithstanding the foregoing, a permit issued for a pre-existing Short Term Rental (ie, the Short Term Rental existed prior to the effective date of Ordinance No. ____) may be transferred from one owner to another, upon conveyance of the property housing the Short Term Rental, for a period of forty-five (45) days following the conveyance of the property. The new owner shall, within forty-five (45) days of the purchase of the property, apply for a permit in the new owner's name. Failure of the new owner to apply for the permit within forty-five (45) days of the conveyance of the property to the new owner shall result in the immediate expiration of the permit.

G. Owner Requirements

1. The owner of the property shall be responsible for any nuisance violations arising at a property during short-term rental activities.
2. The owner shall keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax and fees as he/she may have been liable for the collection of and payment to the appropriate entity, including renter name, address, telephone number and electronic mail address, the number and length of each short-term rental stay, and the price paid for each stay. The City shall have the right to inspect these records at all reasonable times and upon reasonable notice.
3. The owner shall sign an indemnification and hold harmless agreement in a form approved by the City Attorney, agreeing to indemnify, save, protect, hold harmless, and defend the City of Gulfport, and the City of Gulfport representatives, officers, officials, employees, agents, and volunteers from any and all claims, demands, damages, fines, obligations, suits, judgments, penalties, causes of action, losses, liabilities, or costs at any time received, incurred, or accrued as a result of, or arising out of owner's actions or inactions in the operation, occupancy, use, and/or maintenance of the property.

H. Penalties

Any violation of this Ordinance or the correlating provisions in the Zoning Ordinance shall constitute a misdemeanor offense to be charged against the property owner. Violations under this Ordinance may be fined up to the sum of one thousand dollars (\$1,000.00), sentenced to serve ninety (90) days in jail or both.

Further, upon first conviction of a violation of this ordinance or the related provisions of the zoning ordinance, the Director of Urban Development, or his designee, shall suspend the Short Term Rental Permit for a period of thirty (30) days. Upon a second conviction of a violation of

this ordinance or the related provisions of the zoning ordinance within a period of two (2) years, the Director of Urban Development, or his designee, shall suspend the Short Term Rental Permit for a period of 90 days. Upon a third conviction of a violation of this ordinance or the related provisions of the zoning ordinance with a period of two (2) years, the Director of Urban Development, or his designee, shall suspend the Short Term Rental Permit for a period of 365 days. Any suspension of the Short Term Rental Permit under this provision may be appealed to the City Council.

Upon conviction for rental of a Short Term Rental without proper permitting, or operating a Short Term Rental while a permit has been suspended, the property owner shall not be eligible for the issuance, or reinstatement, of a Short Term Rental at any location in the City of Gulfport for a period of three hundred sixty five (365) days.

Nothing contained herein shall be construed to limit the civil or equitable legal remedies available to the City or any other person for the correction of violations of this Ordinance and the correlating provisions in the Zoning Ordinance.

I. Registration Created

The City will maintain any such records as it deems necessary from time to time to administer the provisions of this ordinance.

J. Platform Data Sharing

1. Short Term Rental Hosting Platforms that list Short Term Rentals in the City of Gulfport must provide certain information about activity on the platform on a monthly basis. This information includes:

- A. The total number of short term rentals listed on the platform during the applicable reported period;
- B. The total number of nights that each listing on the platform was rented to guests during the applicable reporting period;
- C. A cumulative tally to date of the number of nights that each listing on the platform is booked for rental during the remaining months of the applicable calendar year; and
- D. The total amount of tax collected by the platform and remitted to the city.

In providing the information required by this subsection, the Short Term Rental Hosting Platform is not required to provide personally identifiable information.

2. The City shall have the authority to subpoena information from Short Term Rental Hosting Platforms. Any such administrative subpoena shall:

- A. Be submitted in writing by the City attesting that the City has a reasonable belief based on evidence that a short term rental may be in violation of this Ordinance or of applicable provisions of the Zoning Ordinance;
- B. Be sent to the Short Term Rental Hosting Platforms via regular and certified mail; and

C. Be related to a specific investigation by the City relating to a single short term rental that is specifically identified in the subpoena, and alleges the specific violations of this Article or of the applicable provisions of the Zoning Ordinance.

The Platform shall notify their user of the information requested in the subpoena within 10 days of receipt of the subpoena and produce the responsive records within 21 days of providing notice to the user, except to the extent that the user has sought relief in a court of competent jurisdiction.

3. For purposes of this Ordinance, Short Term Rental Hosting Platforms are defined as any marketplace that facilitates Short Term Rentals, as defined in the Zoning Ordinance, through advertising, matchmaking or other means, from which the Platform derives revenues, including booking fees or advertising revenues, from or maintaining the marketplace.

Short-Term Rental Fire Inspection Checklist

General Precautions Against Fire:

- ☐ Address must be clearly marked in accord with IFC § 505.1.
- ☐ Fireplaces/Wood Stoves: a non-combustible ash receptacle with lid must be provided outside the structure meeting the distance requirements per IFC § 305.2.
- ☐ Combustible materials shall not be stored near fuel fired heating equipment or in special rooms containing fuel fired equipment as per IFC § 315.2.3.
- ☐ Portable fuel fired heaters shall not be permitted as per IFC § 603.4.

Fire Suppression & Detection Equipment:

- ☐ Single Station Smoke Alarms must be provided as per IFC § 907.2.10.1.2.
- ☐ At least one (1) 2A 10BC Portable Fire Extinguisher shall be mounted in a visible and accessible location as per IFC § 901.6.
- ☐ Fire Extinguisher(s) shall be serviced annually by an approved company as per IFC § 906.2.
- ☐ Any installed fire alarm or automatic fire sprinkler system must be inspected annually by an approved company as per IFC § 901.6.
- ☐ Carbon Monoxide Detector installed per manufacturer's directions

Means of Egress:

- ☐ If no automatic fire sprinkler system, each sleeping room shall have, in addition to the exit door, one other means to provide an emergency escape, which may be a second door that leads directly to the outside of the structure, or an openable window that is operational from within the area in which it serves without the use of any special tools or keys. If bars or grills are installed, a release mechanism shall be installed. (IRC § 311.4, IFC § 1026.1 and IFC § 1026.4).

Electrical Safety:

- ☐ Multi-plug adapters, such as cube adapters, un-fused plug strips or any other devices not complying with the electrical code are prohibited as per IFC § 604.4.
- ☐ Extension cords shall not be utilized as permanent wiring as per IFC § 604.4.

- ☐ When utilized, portable electric heaters shall comply with IFC § 605.10 (remember that portable fuel fired heaters are prohibited as per IFC § 603.4).

IFC 2018 – The International Fire Code is protected under copyright laws and cannot be distributed or photocopied. A copy of the IFC 2018 is on hand at the Downtown Fire Station located at 1515 23rd Avenue Gulfport, Mississippi 39501, Gulfport, MS. An appointment can be made to sit down with a Fire Inspector to review the Code by calling (228) 868-____. City of Gulfport Fire Prevention's office hours are Monday through Friday, 8:000 AM to 5:00 PM.

There came on for consideration at a duly constituted meeting of the City Council and Mayor of the City of Gulfport held on the _____ day of _____, 2018, the following Ordinance:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE OFFICIAL TEXT OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF GULFPORT, MISSISSIPPI ADOPTED THE 29TH DAY OF JUNE, 1979, AS AMENDED, TO AMEND **SECTION I. DEFINITIONS, (B) WORDS AND PHRASES - HOTEL; AND AMEND BY ADDING TO SECTION I. DEFINITIONS, (B) WORDS AND PHRASES – SHORT TERM RENTAL; AND, TO AMEND SECTION III. DISTRICT REGULATIONS (J) CHART OF PERMITTED USES (2) SCHEDULE OF USES - RESIDENTIAL: TO ADD SHORT TERM RENTAL**

WHEREAS, the City wishes to adopt regulations for short term rentals in one- and two-family dwelling units that differ from those regulations for other hotel enterprises.

WHEREAS, in an effort to address the specific scope of operation of various uses to ensure that harmony and orderly development of the neighborhood can be maintained, it is deemed necessary to amend the ordinance.

WHEREAS, the Mayor and City Council of the City of Gulfport, Mississippi, find and do so determine, based upon the recommendation of the Gulfport City Planning Commission, that the Comprehensive Zoning Ordinance should be amended as follows. **The case file number is 1201PC004.**

To amend Section I. **Definitions (B) Words and Phrases – Hotel; and to amend by adding Section I. Definitions (B) Words and Phrases – Short Term Rental, and, to amend Section III. District Regulations (J) Chart of Permitted Uses (2) Schedule of uses – Residential: to add Short Term Rental**

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GULFPORT, MISSISSIPPI, AS FOLLOWS:

SECTION 1: That Section **I. Definitions (B) Words and Phrases – Hotel** of the official text of the Comprehensive Zoning Ordinance of the City of Gulfport, adopted the 29th day of June, 1979, as amended, be and the same is hereby amended;

EXISTING:

Hotel: A building or group of buildings in which any sleeping quarters are furnished on a commercial basis to transients or to any person or persons for a period of less than one (1) month; the term includes "motel", "tourist court" and nightly and weekly vacation rentals located in one- and two-family dwelling units.

AMEND TO READ:

Hotel: A building or group of buildings in which any sleeping quarters are furnished on a commercial basis to transients or to any person or persons for a period of less than one (1) month; the term includes "motel" and "tourist court."

And

AMEND BY ADDING (in the appropriate alphabetical spot):

Short Term Rental: Rental of all or any portion thereof of a residential dwelling unit for dwelling, lodging or sleeping purposes to one party with duration of occupancy of less than thirty (30) consecutive days.

SECTION 2. That Section III. District Regulations (J) Chart of Permitted Uses (2) Schedule of uses, Other: Home Occupation of the official text of the Comprehensive Zoning Ordinance of the City of Gulfport, adopted the 29th day of June, 1979, as amended, be and the same is hereby amended as follows:

EXISTING:

OTHER:

R = Allowed by Right, P = Planning Commission approval, X – Special Exception,
-- = Not allowed

Names of Uses and Conditions	A- 1, T 1, T 2	R - E	R- U E	R - 1- 1 5	R - 1- 1 0	R- 1- 7. 5, T3	R - 1- 5	R - 2	R - 3	R - 4	R- O, T4 L	R- B, T4 +	B - 1, T 5	B - 2, T 6	B - 3	B - 4	E - G	I- 1	I- 2	I- 3	S B	W F	A E
RESIDENTIAL																							
Dwelling, one-family	R	R	R	R	R	R	R	R	R	R	R	R	—	—	P	—	—	—	—	—	—	—	—
Dwelling, one-family, as an accessory or industrial use	—	—	—	—	—	—	—	—	—	—	—	—	P	P	P	P	—	P	P	P	—	—	—
Dwelling, two family	—	—	—	—	—	—	P	R	R	R	R	R	—	—	P	—	—	—	—	—	—	—	—
Dwelling, multiple- family	—	—	—	—	—	—	—	R	R	R	R	R	P	P	R	—	—	—	—	—	—	—	—
Dwelling, townhouse	—	—	—	—	—	—	—	R	R	R	R	R	P	P	P	—	—	—	—	—	—	—	—
Dwelling, zero lot line	—	—	—	—	—	P	P	R	R	R	R	R	—	—	P	—	—	—	—	—	—	—	—
Mobile home, on an individual lot	R	R	—	—	—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Hotel, motel, including restaurant and lounge enclosed within the structure of the main building	—	—	—	—	—	—	—	—	—	—	—	R	R	R	R	R	R	—	—	—	—	—	—
Hotel, motel, including automobile filling station as an accessory use only	—	—	—	—	—	—	—	—	—	—	—	—	R	R	—	R	—	—	—	—	—	—	—
Mobile home subdivision	—	—	—	—	—	—	—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Mobile home park	—	—	—	—	—	—	—	P	P	—	—	P	—	—	—	—	—	—	—	—	—	—	—
Recreational vehicle park	—	—	—	—	—	—	—	—	—	—	—	—	P	P	—	—	—	—	—	—	—	—	—
Rooming house	—	—	—	—	—	—	—	X	—	—	R	—	R	—	—	—	—	—	—	—	—	—	—
Bed and breakfast	—	—	—	—	—	—	—	X	X	X	R	R	P	P	—	X	—	—	—	—	—	—	—
Modular structures	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

AMEND TO ADD: Short term rental TO READ as follows:

_____ day of _____, 2018.

(SEAL:)

ATTEST:

ADOPT:

CLERK OF THE COUNCIL

PRESIDENT

The above and foregoing Ordinance, having been submitted and approved by the Mayor, this the _____ day of _____, 2018.

MAYOR

ZONING ORDINANCE -

Pre-existing Short Term Rental. A Short Term Rental, as defined herein, which existed on the date of the adoption of this Ordinance and which is located in a zoning classification where a Short Term Rental is not allowed or is allowed only upon Planning Commission approval, may be permitted without regard to the Zoning Ordinance only so long as the owner thereof applies for the Short Term Rental Permit within ninety (90) days following the adoption of this ordinance and otherwise complies with applicable ordinances governing Short Term Rentals. Said Short Term Rental, which shall be a non-conforming use, may remain permitted so long as the permit is renewed, as required, and does not lapse or is not revoked for any reason. Should the Short Term Rental Permit issued pursuant to this paragraph lapse or be revoked for any reason, the Short Term Rental may no longer be offered as such until such time as the Short Term Rental complies with any and all applicable ordinances.