

## **An initial draft of a short-term rental ordinance to use as a starting point for discussions:**

### **Section 415. Short-Term Rental Ordinance**

#### **415.01 General Description**

This ordinance is to provide for a balance of economic opportunities and growth, sustainable housing developments, and preservation of the neighborhoods of the City of Waveland. Short-term rentals shall be allowed in certain residential and commercial zoning districts by special use permit only.

#### **415.02 Definitions**

- **Adjacent property owner-** A Property which adjoins the subject property in any way to the north, south, east, and west. In the case that a street, right-of-way, or alley adjoins the property in question, the adjacent property is one which, by extending the property lines across the street, right-of-way, or alley would adjoin the property in any way.
- **Applicant-** the owner or a person acting as a representative on the owner's behalf.
- **Guest-** means any person or persons renting and occupying a dwelling unit.
- **Local Property Manager-** a person who will respond to questions or concerns regarding the short-term rental twenty-four (24) hours a day. The name, address, and phone number(s) of the local property manager shall be posted prominently inside the short-term lodging rental unit. The local property manager and owner shall be responsible for the management and upkeep of the rental unit in compliance with the provisions set forth herein, and all applicable building codes, zoning ordinances, subdivision ordinances, and other regulations duly adopted by the City of Waveland. The name, address, and telephone number of the owner and the local property manager shall be submitted at the time that the application is filed, and said information shall be made available to the public. The owner shall be responsible for providing written notice of any change concerning the name, address, and telephone number of the local property manager to the city within five (5) days of any such change. The local property manager may be the owner or agent of the owner and shall reside within two (2) miles of the Waveland city limits.
- **Owner-** any person who, alone or with others, has title or interest in any building, property, dwelling unit, or portion thereof, with or without accompanying actual possession thereof, and including any person who as agent, executor, administrator, trustee, or guardian of an estate has charge, care, or control of any building, dwelling unit, or portion thereof.
- **Privilege license-** a license that allows an individual or company to conduct business.
- **Short-Term Rental-** Any dwelling or condominium or portion thereof that is available for use or is used for accommodations or lodging of guests, paying a fee or compensation for a period of less than thirty (30) consecutive days.

Consistent with existing Mississippi law regarding a tax levy on lodging rentals, short-term rental "means any establishment engaged in the business of furnishing or providing rooms intended or designed for dwelling, lodging or sleeping purposes to transient guests and which are known in

the trade as such." The term "short-term rental" does not include any hospital, convalescent or nursing home, shell houses, group homes, or sanitarium or any facility associated with a hospital providing rooms for medical patients and their families. The term "short-term rental" shall also not include mobile homes, manufactured homes, group homes, travel trailers, tents, recreational vehicles, campers, or other similar vehicles or structures nor does the term include a bed and breakfast permitted by city ordinances.

- **Short-Term Rental Unit-** a room or housing unit that is rented to a person or group for a fee for a duration of time from one to thirty-one days, not to exceed thirty-one consecutive (31) nights.
- **Special Use Permit-** a permit that allows a property or parcel of land to be used in a manner that deviates from generally accepted activities within a specific area or zone.
- **Zoning Ordinance-** an established set of rules that governs how properties, structures, and land can be used in a specific area.

#### **415.03 Uses Permitted :**

A short-term rental is only permitted by obtaining a special use permit. Short-term rental establishments shall only be allowed in residential (R-1, R-2, R-3, and R-4) and commercial (C-1, C-2, C-3, and C-4) zoning districts and are subject to all applicable building codes, zoning restrictions, overlay districts, and any other regulations and shall comply with such codes and regulations. Homeowner Associations (HOA) may have covenants that prohibit short-term rentals, even if permitted by city zoning, in which case, the HOA shall govern. Except in R-1 areas, multiple units are allowed in a structure in the approved residential and commercial zones.

- In R-1 areas: only one (1) short-term rental unit per single-family structure shall be permitted. Short-term rental units shall be limited to two (2) units per lot, when there is an existing structure or outbuilding separate from the primary, single-family structure, [i.e., one (1) per structure]. This restriction is placed to control and maintain the density, traffic flow, and integrity of residential neighborhoods. A special exception regarding this particular requirement, in so far as it pertains to the existing structure or outbuilding separate from the primary single-family structure, may be requested and addressed by the Planning Commission with final approval by the Board of Mayor and Aldermen.
- It is unlawful to conduct or operate a short-term rental without prior obtaining a special use permit. Listing a property for short-term rental before receiving an approved permit from the City of Waveland Inspection Department shall result in a one (1) year suspension of permit eligibility.

#### **415.04 Obtaining A Permit:**

The short-term rental process requires the submission of a completed application, per the following criteria, which application can be obtained from the Inspection Department. Each application shall be reviewed by the Planning Commission, with the aid of the Inspection Department, on its own

merit. The Planning & Zoning Commission shall conduct a public hearing regarding said permit before approving the permit. The applicant shall be provided written notification of the date, time, and place of the public hearing. The Planning & Zoning Commission shall ensure all requirements have been met in addition to all citizen comments and shall submit their recommendations to the Board of Mayor and Aldermen for final disposition. Upon approval from the Board of Mayor and Aldermen, a permit shall be issued by the Inspection Department. Please note that a preliminary inspection must be performed and deemed satisfactory before final approval of the permit.

**415.04.01** The Inspection Department shall provide notification by mail not less than seven (7) days prior to the scheduled public hearing, to property owners of property located within five hundred (500) feet of the applicant's land boundaries that the proposed property is being considered for use as a short-term rental. Said notification shall provide the date, time and place of the public hearing during which the Planning & Zoning Commission will consider the application for the proposed property and at which time and place property owners/residents may appear and be heard.

Notice will also be posted on the bulletin board at city hall and a sign will be posted in the applicant's yard until the permit is granted or denied. Notice shall be published in a local newspaper of general circulation within the city at least fifteen (15) days prior to the hearing. Each landowner within five hundred (500) feet of the applicant's boundary line who appears in the public hearing shall be allowed to be heard.

After the public hearing, the Planning & Zoning Commission shall recommend approving or disapproving the application and send its decision, along with the reason for its decision, to the Board of Mayor and Aldermen. The matter shall be set on the agenda of the next meeting of the Board of Mayor and Aldermen.

**415.04.02** Application shall contain such information including, but not limited to, the property location/address of the short-term rental establishment; the number of sleeping areas contained therein; the maximum number of persons the property proposes to accommodate; the name, address, and telephone number of the local property manager; a copy of the rental agreement; proposed parking plan; the rules of the rental property; a plan for trash management related to curbside pickup; and any signatures of all owners of record of the subject property.

**415.04.03** While the City does not require proof of insurance, it shall be the duty of the applicant to ensure that the homeowner's fire, hazard, and liability insurance coverage does not exclude short-term rentals from coverage.

**415.04.04** The application shall include a statement from the applicant affirming compliance with all applicable zoning requirements, building codes, deed restrictions, and/or covenants, including any HOA bylaws.

**415.04.04.1** It shall be the duty of the applicant to notify the city planning department of any homeowner's association which may have jurisdiction over the applicant's property. It shall be the further duty of the applicant to notify the affected homeowner's association of

the application process and to provide the city planning department with a written statement of support from the homeowner's association which approves the request of the applicant for use of the owner's property as a short-term rental. Failure to notify the city planning department of the existence of a homeowner's association may result in the suspension or revocation of the permit.

**415.04.05** Proof of payments of all applicable taxes, fees, and other charges, including all taxes approved and imposed by the State of Mississippi, shall be provided with the application.

**415.04.06** The application shall include execution of a written statement acknowledging that a violation of the ordinances of the City of Waveland, as it relates to short-term rentals, may result in a one (1) year suspension or revocation of an existing permit.

**415.04.07** At the time of the filing of the application with the Inspection Department: A nonrefundable permit fee of three hundred fifty dollars (\$350.00) per unit shall be paid by the applicant.

**415.04.08** Approval of a short-term rental permit does not legalize any nonpermitted use or structure. Short-term rental units are not to be used to distribute retail products or personal services to invitees for marketing or similar purposes. The outdoor display of goods and merchandise for sale is prohibited.

**415.04.09** Short-term rental permits are not transferable. Upon sale or at the time of transfer of the property, any permit issued pursuant to the terms set forth herein shall automatically expire. Any new owner(s) or transferee(s) shall be required to apply for a new permit, in accordance with this ordinance.

**415.04.10** It shall be the duty of the applicant to produce proof of any mortgage or deed of trust that may encumber the property and submit proof that the mortgage or deed of trust does not prohibit the use of the property as a short-term rental. (OS) Any structure or unit that is deed-restricted for affordable housing shall not be eligible for a short-term rental permit.

**415.04.11** Each separate unit or listing shall require an individual permit, regardless if multiple listings are located at the same address or location or owned by the same owner. Documentation and/or proof of permit issuance shall be included in the listing on all short-term rental postings.

**415.04.11.1** The maximum occupancy of each short-term rental shall be as determined by the building official and/or fire marshal based on the inspection of the premises and applicable laws, regulations, and codes. Each permit shall specify the maximum number of occupants, which may be limited due to building or parking constraints.

***Number of vehicles.*** The maximum number of vehicles will be determined upon site inspection by the building department and should be compatible with the zoning and applicable parking ordinance. This number will be based on off-street parking availability and on-street conditions. It will be preferred that the applicant/owner provide off-street parking. In certain circumstances where no off-street parking exists and on-street constraints exist, the planning department may require that an off-street parking space be constructed or secured.

***Registry of guests.*** Each person granted a short-term rental permit shall keep or cause to be kept a registry of guests. Such registry or list shall be available for inspection upon ten (10) days written notice by the planning department.

***Noise.*** Property owners and local property managers shall ensure that the occupants of the short-term lodging rental are aware of city noise ordinances and state laws regarding disturbing the peace.

***Premises and garbage management.*** It shall be the duty of every local property manager and/or owner to keep all of the rooms in connection with the short-term rental provided for the use of guests, in clean and sanitary condition; and to provide each guest with effective protection against flies, mosquitoes and other vermin. Garbage shall be disposed of in covered containers and placed in the scheduled pick-up location in accordance with all City ordinances, rules, and regulations addressing solid waste in the city.

***Posting of rules.*** Short-term lodging rental unit rules shall be posted inside the rental unit in a location readily visible to all tenants. The rules shall include: occupancy; parking limits; noise, rules and garbage management. Reference to the most current short-term rental ordinance shall be posted within the unit and displayed at all times.

**415.04.12** Each short-term rental permit shall expire one (1) year from the date of issuance.

**415.04.12.1** The total number of permits issued for residential short-term rental shall not exceed seventy-five (75) at any given time.

#### **415.05 Taxes, License, and Registration**

**415.05.01** A local privilege license is required to be obtained by the applicant from the Building Department's office.

**415.05.02** Registration and compliance with all state tax rules and regulations are required.

**415.05.03** All other state and local tax requirements must be satisfied and in good standing.

#### **415.06 Short-Term Rental Code Requirements**

**415.06.01** Short-Term Rental Establishments shall meet and comply with all applicable building and property maintenance codes, as adopted by the City of Waveland.

**415.07 Denial or Revocation of a Special Use Permit Conditions for denial or revocation of a permit to operate a short-term rental unit shall include, but not be limited to, the following:**

**415.07.01** Failure by the applicant to conform to the criteria set forth herein for the current or previous year.

**415.07.02** Guests and/or users of the property were issued citations for violating the noise ordinance or disturbing the peace during the previous or current year.

**415.07.03** Any other reasonable or rational factors as determined by the Board of Mayor and Aldermen.

**415.07.04** The Inspection Department is authorized to revoke or deny permits. The permitted owner shall be provided with a written notice of the reason(s) the permit is subject to revocation. The applicant shall be allowed fourteen (14) days from the date written notice is issued to correct the defective conditions. If the condition is not corrected within fourteen (14) days to the satisfaction of the Inspection Department, the inspector is authorized to provide the applicant an additional fourteen (14) days to complete the corrective defective conditions in the event he/she determines the applicant is making every effort to complete the deficiency, otherwise, the permit shall be revoked by a revocation order of the Inspection Department. Upon receipt of the revocation order by the owner or property manager, the unit shall cease operation as a short-term rental.

**415.07.05** The owner may appeal any denial of a permit application or order revoking the permit application or application renewal. The owner's appeal must be in writing and filed with the Inspection Department within ten (10) days of entry of the applicable order. The revocation shall remain in full effect for the duration of the appeal. The appeal should be presented to the Board of Mayor and Aldermen at the next scheduled meeting, following the filing of the appeal. The owner shall be provided notice of the meeting for the opportunity to be heard. The Mayor shall preside over any such appeal.

#### **415.08 Renewal of Short-term Rental Permit**

**415.08.01** Short-term rental permit may be renewed through the Inspection Department for the fee as cited in 415.04.07

**415.08.02** The permit renewal process shall consist of a staff review of City records, complaints, and any other issues pertaining to the property under consideration. Filed complaints that violate any zoning codes, building codes, property maintenance, and other applicable laws or regulations will be considered as part of the renewal process. A violation of applicable local, state, and federal laws or regulations may be cause for the denial of a permit renewal. If permit renewal is denied, the city planning department shall provide notice as to the reason for denial and the landowner shall be allowed ten (10) days to correct any deficiencies itemized. At the expiration of ten (10) days, a landowner may appeal the denial of permit renewal to the board of aldermen. The appeal must be in writing and must be filed within ten (10) days following the expiration of the ten-day period within which to file correct deficiencies.

#### **415.09 Complaints**

**415.09.01** A concerned party should contact the Inspection Department regarding complaints and violations of this Ordinance that cannot otherwise be resolved through contact with the local property manager and/or property owner. If the issue is related to public safety and/or noise

violations, the Waveland Police Department shall be contacted. The Waveland Police Department shall be provided with an updated list of all contact persons for short-term rentals by the Inspection Department. Verified complaints concerning noncompliance with the terms of this Ordinance may be considered in determining whether a permit should be revoked.

***Denial or revocation of a license.*** Conditions for denial of permit or revocation of permit to operate a short-term rental unit shall include, but in no way limited to, the following:

- (1) Property within a subdivision with an active homeowner's association with adopted covenants that do not allow short-term rentals will not be considered for a permit. A letter of acknowledgment and support will be required from the homeowner's association to continue in the pursuit of a permit. Failure of the applicant to notify the city that his/her property is a part of a homeowner's association shall result in the denial of a permit or revocation of a permit.
- (2) The applicant failed to conform to the conditions set forth herein over the previous twelve-month period.
- (3) Guests and/or users of the property were issued noise ordinance and/or disturbing the peace citations during the previous or current year.
- (4) Any other reasonable factor or combination of factors including, but not limited to, inadequate lot size, inadequate street parking, lack of response from the local property manager or contact person, filed complaints of violation of the applicable zoning and building codes, property maintenance code and/or applicable laws or regulations (may be a basis for denying permit).
- (5) The planning department head is authorized to revoke permits. A permitted owner shall be provided with written notice of the reason(s) the permit is subject to revocation. The applicant shall be allowed ten (10) days from the date written notice is issued to correct defective conditions. If the condition is not corrected within ten (10) days to the satisfaction of the planning department. In that case, the permit will be revoked by issuing a stop order, which shall be posted on the premises and mailed to the property manager and owner. Upon receipt of such order by the owner or local property manager, the unit shall cease operation as a short-term rental. The owner may appeal the order revoking the permit. The owner's appeal must be in writing and received by the planning department within ten (10) days of entry of the order. The revocation shall remain in full force and effect during the pendency of the appeal. The appeal should be presented to the mayor and board of aldermen at the next scheduled meeting following the filing of the appeal. The owner should be afforded notice and the opportunity to be heard. The city may appoint a hearing officer to preside over any such appeal.

#### **415.10 Violations**

**415.10.01** Any person or user who allows such use of a residential property in violation of this Ordinance shall be guilty of a misdemeanor.

**415.10.02** For prosecution of violations of this chapter, each day that any violation occurs is deemed to constitute a separate violation. Those found guilty of such violation shall, upon conviction, be fined for each violation, not to exceed an amount of one thousand dollars

(\$1,000.00) for the first offense within a calendar year and permit revocation for up to one year; not to exceed an amount of two thousand dollars (\$2,000.00) for the second offense within a calendar year and permit revocation for up to two years; and not to exceed more than five thousand dollars (\$5,000.00) for other offenses within a calendar year and permit revocation for up to five years, in addition to all court-related fees.

#### **415.11 Constitutionality**

**415.11.01** Should any portion, provision, or section of this Ordinance be held void, unconstitutional, or invalid, the remaining portion of the Ordinance shall remain in full effect.

#### **415.12 Conflicts**

**415.12.01** It is hereby provided that the provisions of these regulations shall not be construed as conflicting with the provisions of any of the laws or regulations of the City of Waveland, Mississippi. In any case, where the provisions in these laws or regulations and provisions of the other regulations both apply, the provisions of this Ordinance shall govern for short-term rentals of residential dwellings.

#### **415.13 Review.**

**415.13.01** The city shall review the ordinance from which this section was derived annually to evaluate the benefits recognized by the use of short-term rentals, as well as any adverse impact the use of short-term rentals may have on the city.