



AGENDA
PUBLIC SAFETY COMMITTEE
April 11, 2019 at 10:00 AM

Call to order

Approval of Minutes

Old Business

1. Article IIA, Disorderly House Nuisance Discussion

New Business

2. Public Safety Salaries

City Manager Comments

Adjournment

Item Attachment Documents:

1. Article IIA, Disorderly House Nuisance Discussion

ORDINANCE NO. ~~07~~ -201~~89~~

(Previously 07-2018)

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
BY ADDING AN ARTICLE DEFINING AND
REGULATING A DISORDERLY HOUSE NUISANCE
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 and home rule powers, and

WHEREAS, the governing authority desires to amend the Code of Ordinances for the City of Tybee Island to define and regulate a disorderly house nuisance,

NOW, THEREFORE, be it ordained by the governing authority of the City of Tybee Island that Chapter 22 of the Code of Ordinances of the City of Tybee Island is hereby amended to create a new article to be designated as Article IIA, Disorderly House Nuisance to hereafter read as follows:

ARTICLE IIA DISORDERLY HOUSE NUISANCE CODE.

SECTION 22-33 GENERAL DEFINITIONS.

For the purposes of this Article, the following definitions shall apply:

1. "Dwelling" means a house, duplex, condominium unit, apartment building, mobile home, manufactured home, trailer or any other structure(s) or place(s) used or intended to be used for human habitation, including common areas within the structure when buildings or structures are used for more than one (1) dwelling, and accessory buildings such as garages located on the same Premises.
2. "In or on the premises of any Dwelling" means either within a dwelling or the area within the boundary lines of any real property of the same ownership on which such dwelling is located.

3. "Occupant" means any person who lives in or has possession of, or holds an occupancy interest in, a Dwelling; or any person residing in or frequenting the premises of the Dwelling with the actual or implied permission of the Owner or lessee.
4. "Owner" means any person, agent, operator, firm or corporation having a legal or equitable interest in the Dwelling; or one with an interest recorded in the official records of the state, county or municipality as holding title to the Dwelling; or otherwise having a control of the Dwelling, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of such property by a court.

SECTION 22-34 DISORDERLY HOUSE NUISANCE DEFINED.

A "Disorderly House Nuisance" is a Dwelling within which, or on the premises of which, any of the following offense(s) have occurred within a three hundred sixty-five (365) day period.

1. One or more felonies or Three (3) misdemeanors, arising out of separate, and distinct facts and circumstances, as defined by the statutes of the State of Georgia, and/or the ordinances of the City of Tybee Island; or
2. Three (3) or more violations of Chapter 10 of the Code of the City of Tybee Island, relating to animals and fowls, arising out of separate and distinct facts and circumstances; or
3. Three (3) or more violations of Article II, Article III, or Article IV of Chapter 22 of the Code of the City of Tybee Island, relating to nuisances, property maintenance, and/or noises arising out of separate and distinct facts and circumstances; or
4. Three (3) or more violations of Chapter 42 of the Code of the City of Tybee Island, relating to various offenses, arising out of separate and distinct facts and circumstances; or
5. A combination of three (3) offenses s from any of the above categories, arising out of separate and distinct facts and circumstances.

SECTION 22-35 VIOLATION.

1. No owner or occupant or manager of any Dwelling shall allow or permit such Dwelling to be, or become, a Disorderly House Nuisance.
2. An owner and/or occupant, as the case may be, shall be deemed to have allowed or permitted a Dwelling to be, or become, a Disorderly House Nuisance, if:

- a. The owner or occupant has personally committed the acts set forth in Section 22-34; or
- b. Such acts were committed by invitees of the occupant or owner; or
- c. Such acts were committed by persons attending events, or functions, sponsored, permitted or allowed by the occupant or owner; or
- d. Such acts were committed by a combination of subsections a, b or c; or
- e. The owner, occupant and manager, if any, has or have been provided with the written notice of a Disorderly House Nuisance pursuant to Section 22-36, below, the facts alleged therein are true, and the owner or occupant and/or manager fails or refuses to enter into a Nuisance Abatement Agreement, or after entering into such Agreement, fails to comply with its terms.

ANY NOTICE OF ABATEMENT DECISION OR AGREEMENT AND THE REQUIREMENTS THEREIN SHALL ATTACH TO THE PROPERTY INVOLVED REGARDLESS OF ANY CHANGE IN OWNERSHIP, OCCUPANCY OR MANAGEMENT AND ANY SUCH AGREEMENT OR DECISION SHALL SO PROVIDE

SECTION 22-36 WRITTEN NOTICE OF DISORDERLY HOUSE NUISANCE.

No person shall be prosecuted for a violation of Section 22-35 until the Director of Community Development-Economic Director or such similar position as then exists (hereafter "Director"), or his designee, shall serve such person or persons or entity with the notice provided herein, and the persons, or entity have or has either failed, or refused, to enter into the Nuisance Abatement Agreement, provided for hereinafter, or after entering into such Agreement, fails to comply with its provisions. Such Notice may be served on any person by personal service, or in the case of an occupant who has not been personally served, by restricted mail addressed to the address of the Dwelling, or, in the case of a Non-Occupant Owner, by restricted mail to his/her last known address, or, if none, to the address to which any tax statement is provided to such owner for the Dwelling and in the case of a property manager, to the business address of such manager. Such notice shall contain, at a minimum, the following:

- 1. That a Disorderly House Nuisance exists, as defined by Section 22-34, at the location specified in the notice.
- 2. The date of the commission of the acts which constitute the basis for the Disorderly House Nuisance, the name(s) of the person(s) committing such acts, if known, and

the offense committed, the violation time, date and type and the code section making such conduct or occurrence an offense with the case number, if applicable, and include a notice that additional violations of laws or ordinances at the location may result in the suspension or cancellation of a business permit or license to operate a non-owner occupied residential dwelling STVR at the location following a hearing or an opportunity for a hearing thereon before the city manager.

3. The date, time and place where the person is to appear, and meet with the Director or his designee, to participate in the Nuisance Abatement Conference.
4. That failure to appear, or failure to make satisfactory arrangements for an alternative date and time, at the time and place designated in the notice may result in prosecution of a violation of Section 22-35 and the imposition of penalties, as proscribed by the Article and the Code of Ordinances.

SECTION 22-37 NUISANCE ABATEMENT CONFERENCE.

At the nuisance abatement conference, the Director or his designee, and the owner And/or occupant, and/or manager shall discuss the facts constituting the Disorderly House Nuisance and shall attempt to agree on specific actions that the owner and/or occupant can take to abate said Disorderly House Nuisance.

SECTION 22-38 NUISANCE ABATEMENT AGREEMENT.

1. At the conclusion of the nuisance abatement conference, the Director or his designee shall submit to the owner and/or occupant a proposed written nuisance abatement agreement. If at the conclusion of the conference, the Director or his designee needs more time to draft said proposed agreement, then a follow-up meeting shall be scheduled with the owner and/or occupant, within ten (10) days of the initial conference for submittal and review of the completed proposed nuisance abatement agreement.
2. Any nuisance abatement agreement under this article shall include a list of specific actions and specific schedule of deadlines for said actions to abate the Disorderly House Nuisance. It may also include provisions for a periodic reassessment of the agreement effectiveness, and the procedure for a modification of the agreement. A nuisance abatement agreement or any written modification to said agreement may impose conditions or requirements on the owner and/or occupant and/or manager for a period of twelve(12) months from the date of the original agreement entered into by the owner and/or occupant and/or manager and the City. A nuisance abatement agreement may impose one or more of the following conditions or requirements on the owner and/or occupant.
 - a. Eviction of identified individuals from the dwelling in question,

- b. Written notification from the owner and/or occupant and/or manager to an identified individual or individuals that they are prohibited from entering onto the Premises of the Dwelling,
 - c. Utilization of written leases containing a provision or provisions requiring eviction for criminal activity,
 - d. The completion of improvements upon the Premises of the Dwelling which have the impact of mitigation of crime, including but not limited to the erection of fences, installation of security devices upon the entrances or increased lighting,
 - e. Any other reasonable condition or requirement designated to abate the Disorderly House Nuisance.
3. Once a proposed written nuisance abatement agreement or written modification to nuisance abatement agreement has been submitted to the owner and/or occupant and/or manager said owner and/or occupant and/or manager shall have forty- eight (48) hours to review it and enter into said agreement by signing it and returning it to the Community Development Director or his designee.

SECTION 22-39 COMMENCEMENT OF PROSECUTION.

The Director or his designee, may commence prosecution alleging a violation of this Article under the following circumstances:

- 1. The owner and/or occupant does not attend a conference with the City within the time period described previously.
- 2. The owner and/or occupant fails or refuses to sign a proposed written nuisance abatement agreement or proposed written modification to said agreement within the prescribed time period set forth in this section.
- 3. The owner and/or occupant agent subsequently fails or refuses to comply with any conditions or requirements set forth in a nuisance abatement agreement, including any prescribed deadlines for taking particular actions.

Sec. 22-39.1. NON-OWNER OCCUPIED SHORT TERM RENTAL PROPERTIES.

Notwithstanding any other provisions of the Code, in the event the property or dwelling in question is a location authorized or permitted for non-owner occupied short term vacation rentals, the permit and/or occupational tax certificate and/or license for the operation of such location may be revoked for ordinance or other violations as provided herein. Such revocation may occur following a notice being delivered to the owner, occupant and/or agency managing the property from the city manager requiring that an administrative hearing before the manager be held. Following such a hearing, or an effort

to hold such a hearing in the event that the owner, occupier, or agent does not appear, the manager is authorized to suspend, revoke, place on probation with restrictions, or take other appropriate action with regard to the permit, occupational tax certificate, or business license for the location. The owner, occupant, or agent may appeal the manager's decision to the Superior Court of Chatham County but, in the absence of a court order providing otherwise, the decision of the manager goes in force immediately, and an appeal does not act as a supersedeas. At the option of the manager, the procedures of Sec. 34-39 may be used to address license revocation proceedings in lieu of the above.

SECTION 22-40 ACTION TO ABATE PENALTIES.

In addition to prosecution of the offense defined in this Article or pursuing any other remedies available under this Code, the Director or his designee, upon receipt of reliable information that any Dwelling within the corporate limits of the City is being maintained as a Disorderly House Nuisance, may prosecute an action for equitable relief, in the name of the City, to abate the nuisance and to enjoin any person who shall own, rent, or occupy the Dwelling in question from using or permitting its use in violation of the provisions of this ordinance.

SECTION 22-41 JUDGMENT.

No judgment finding a violation of this ordinance shall be entered against an owner and/or occupant who has, in good faith, endeavored to prevent the nuisance. Any owner and/or occupant who has complied with all conditions or requirements of a nuisance abatement agreement and any modifications to said agreement, as defined by the ordinance, shall be deemed to have endeavored in good faith to prevent the nuisance.

SECTION 22-42 PENALTIES.

Upon a finding of guilt under this Article, the Court may, in addition to other remedies permitted by the Code, impose a term of probation for a term of up to one (1) year, conditioned on any or all of the following:

1. The completion of improvements upon the Premises of the Dwelling which have the impact of mitigating crime and criminal activity, including but not limited to the erection of fences, installation of security devices or increased lighting; and
2. Requirement of a written lease for occupants which includes provisions requiring eviction for criminal activity;
3. Submitting tenancy lists on a periodic basis to the Police Department;
4. Posting a cash bond of no less than the minimum fine and up to the amount of the maximum fine for the period of court supervision or conditional discharge imposed by the Court, such bond to be retained by the Court in

an interest bearing account and conditioned on successful completion of the period of court supervision on conditional discharge.

5. Any other condition reasonably related to the objective of abating the Disorderly House Nuisance.

The paragraph, section, or article numbers referred to herein and the order thereof may be changed or renumbered in the codification process without further action by the Mayor and Council.

This Ordinance shall become effective on _____ day of _____, 2019.

ADOPTED THIS ___ DAY OF _____, 2019.

MAYOR

ATTEST:

CLERK OF COUNCIL

FIRST READING: _____

SECOND READING: _____

ENACTED: _____