

## Synopsis of STVR working group guidance from members of city council

1. Review zoning districts (4-050) and Special review (5-070) to see if these should be applied to STVRs.
2. Should STVRs be required to submit a site plan.
3. Consider public safety issues such as fire alarms, parking, noise, etc.
4. Revisit the disorderly house ordinance to determine if it needs to be stricter
5. Review registration fees to determine if they are appropriate. Should they be tiered based on size of STVR.
6. Review level of code enforcement needed to enforce the rules
7. Explore stvr monitoring services/software to determine whether this may be necessary and/or advantageous for the city.

## POINTS FOR SHORT TERM VACATION RENTALS

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Subsequent to the Council's decision to send the STVR issue to Planning Commission (PC) for review and recommendations, I think the PC needs a Council Scope of Work (SOW) to proceed.

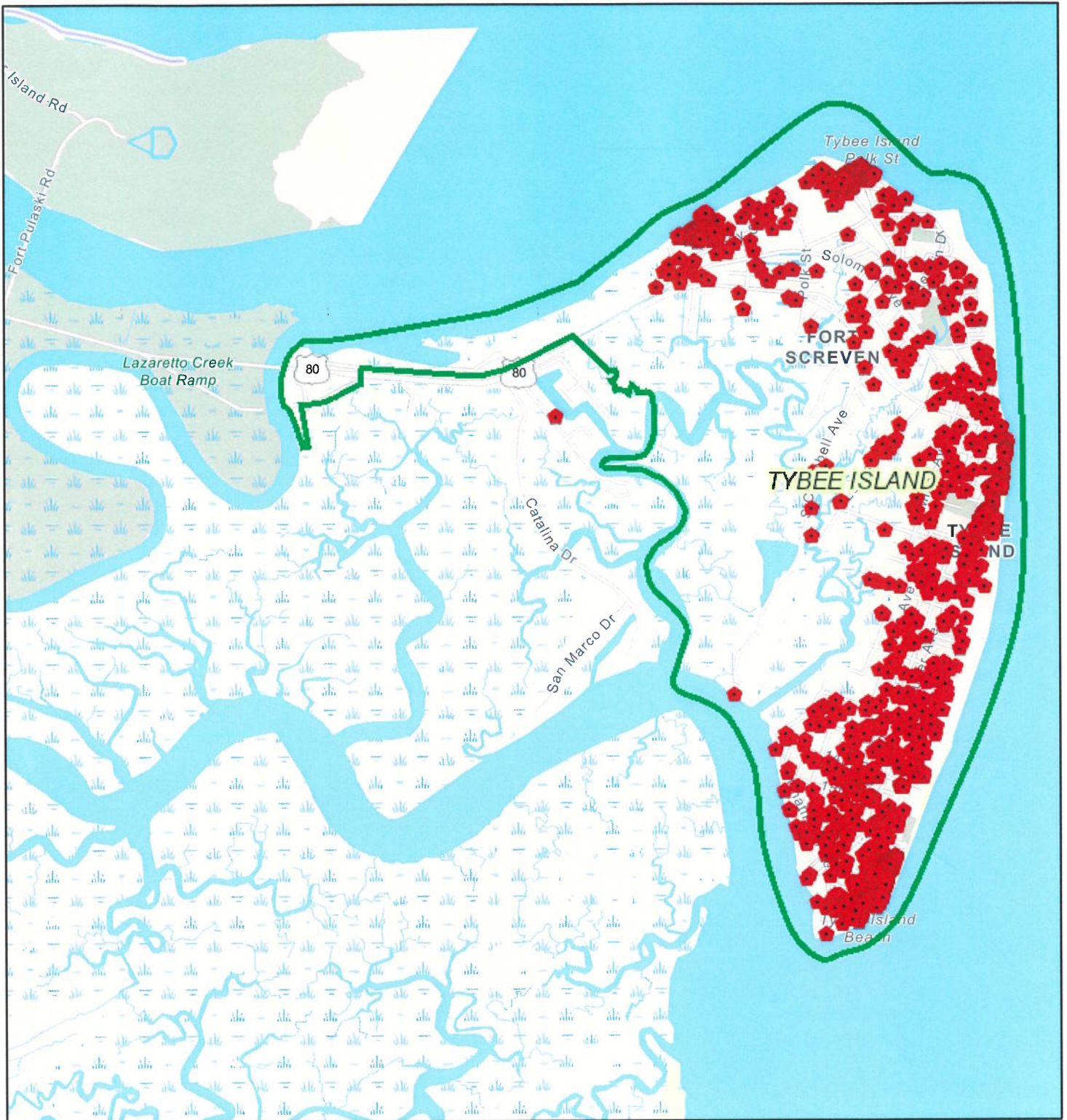
I opine that included in the SOW should be, but not necessarily limited to, the following items:

- 1) Review and, where necessary, amend all appropriate sections of the Tybee Island Land Development Code (LDC) having a possible nexus to STVR's, inclusive of Section 4-050, Zoning Districts, and 5-070, Standards for Special Review.
- 2) Consider all appropriate public safety issues associated with STVRs, to include, but not be limited to premises inspection for the purposes of determining adequate fire notifications, parking, noise abatement, outdoor activities hours of permission, etc.
- 3) The creation of a "Code Enforcement Office" within the City of Tybee Island to respond, investigate, etc all municipal-civil code (non criminal) potential violations. The use of certified police officers to carry out this task, I believe, is an ineffective and inefficient use of a "Peace Officer Standards and Training" certified police officer. To effectively review this, suggestion is to discuss the merits of the creation of the same type of entity within the City of Savannah.
- 4) Explore and provide additional insight into the current "3 Rule Violation" Act.
- 5) A valid and legal means of ensuring that the repeat violators of the applicable STVR ordinances are recorded and categorized to assist in the lawful means of the continuance of licensing of these STVR violators.

Having suggested the above, I recognize individual property rights are tantamount to real estate ownership. It seems that there is a tremendous amount of confusion as to what can be and cannot be carried out and enforced with respect to STVRs. The City of Tybee, as well as all governmental entities, have the responsibility of maintaining and preserving the property rights and attendant rights of all citizens, residents and visitors, alike.

Again, just some thoughts and suggestions, to begin a discussion and hopefully resolve the present apparent conundrum for all of Tybee.

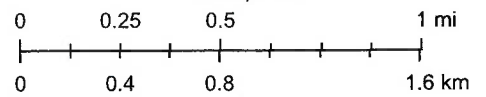
# Tybee Map Viewer



7/10/2020, 9:53:50 AM

1:36,112

- ◆ Tybee Short Term Vacation Rentals
- SAVANNAH
- BLOOMINGDALE
- GARDEN CITY
- POOLER
- PORT WENTWORTH
- THUNDERBOLT
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- VERNONBURG
- UNINCORPORATED



test

14 new comments added by your neighbors



[Nancy DeVetter](#)

• [3 hr ago](#)

STVRs. I want to talk about STVRs as council is talking about it, people are calling me about it, and there's been a lot of rumors. I'm excited to have this discussion and appreciate all the great ideas and information that have been shared with me. I want to preface this discussion by saying that when I was campaigning, the number one complaint I heard was STVRs. All across the island, residents complained to me that STVRs had diminished their quality of life. They mostly complained about trash, noise, parking, and water usage. They told me they didn't want to call the police, but they sometimes did. Sometimes there was no response. Sometimes multiple complaints went unanswered. One resident called the police and then watched the renters throw bottles at the officer who showed up. One resident woke up to find broken bottles all over their yard and in their pool. The thing that struck me the most were the residents that complained that their neighbors, and their neighborhood, had disappeared. When they bought their house, they moved into a quiet, family-friendly neighborhood. Now, they don't have neighbors; their neighbors are STVRs. One block on Miller had two residents; all the other homes were STVRs. And they couldn't buy what they have now because there's so many income-generating properties. Of course, most guests are great. We have some excellent rental companies here who take care of their business. And lots of residents and future residents buy STVRs and manage them responsibly. But the question remains how do we 1) deal with bad actors and 2) maintain our community? A bit more background. First, we already have rules addressing trash, noise (kinda), and parking (some), but our police are often too busy with drunk and dangerous visitors to focus on those issues, which I honestly do not believe are police work anyway. So we started a registration fee to fund two city marshals, but they weren't working nights and weekends. And then a working group came up with the Disorderly House ordinance, meant to regulate bad actors, but not a single citation has been issued under that. We heard Thursday from a rental agency owner that the police logged 47 complaints re: STVRs in 2018 and 35 in 2019. We know that only 911 calls are tracked, and, IIRC, the city didn't have the software to track STVR complaints otherwise. We also knew there were a bunch of unregistered STVRs. So we have unenforced rules and some rogue players and a lot of unofficial complaints. Here's some options we are exploring. Option 1 Pay for a service to help monitor STVRs. Last year, we researched and got a bid from Host Compliance. They serve many, many cities (Charleston uses them) and do lots of things we like. They have a 24/7 complaint line. You call them, they get in touch with the owner/agency and try to take care of it. They track the complaints. They track 50+ websites for STVR postings to make sure we know all of the active STVRs on Tybee, which would help us ID unregistered properties; they also use the postings to estimate tax proceeds that we could compare with actual remittances. They also do online registration (we are paper now). This costs approximately \$111,000 annually. We did not go forward with this because of our budget shortfall, but we can cover it if we raise STVR fees. Even though we got this bid in November 2019, tech in this area moves quickly. We would want a new bid from them and competitors.

Option 2 Beef up mid-level enforcement - more code enforcement, more marshals to address the issues residents care about, and to let the police do police work. If we want to have 24/7 staffing with two per shift, that's 9 officers. Cost is approximately \$369,000. That does not include equipment/vehicles. These folks could monitor compliance with registration, parking, trash, noise, etc. They could also act on info we get from Host Compliance. Yes, we would increase the STVR fee to pay for this. We desperately need non-police enforcement to address this and host of other issues. One more note on fees. I am proposing a tiered level. Tybee residents who rent a room in their own home (aka owner-occupied) would have a minimal fee. If you are in the home, issues from your renter are minimal. For 1-2 bedroom rentals, a different fee. For 3 and over bedrooms, another fee. (Maybe \$100; \$400; and \$800). We'll see how that plays out. We could also do a receipts-based fee. Option 3 A working group via the Planning Commission to review our ordinances and see what we can use to address this situation. I would like to see STVRs undergo special review. They could present their site plan (aka parking and guest plan) for approval and have us review. We could also consider complaints lodged against that property. This would not require court convictions – it would just be extra info for us to consider. (The Disorderly House Ordinance requires 3 convictions, which as a lawyer I'm telling you is never going to happen.) That way, if a certain property has major issues, we can deny the permit. Bad actors addressed. The work group will also hopefully look at safety issues (maybe require a self-attested safety checklist for owners to include). I'd like them also to look at rezoning and neighborhood caps to address the quality of life issues we're seeing. Option 4 A moratorium on new registrations for 90 days to work this stuff out. These are tough issues and we want to engage our community before we decide what to do next. I've gotten so many calls about this. People are rushing to register their house as an STVR just in case they might want to rent it in the future (and in case they want to sell, though STVR registrations are non-transferrable). Great. Times are a-changing and you should do what you think is best for your family. I'm going to do what I think is best for our community. One final statement before I get to answering a million questions: what about private property rights? Private property rights are not absolute. You cannot be a nuisance (legal term) to your neighbors and your community. There is a balance here and I hope we find it. Thanks everyone. A PS – there is a rumor that we are going to vote on the moratorium tomorrow. That is not on the agenda and we discussed last week to have an ordinance from our attorney for the July 9th meeting. Our attorney however does not think we need an ordinance – just a resolution that only needs to be read once. If that materializes today I'll certainly share that info.

Posted in General to Tybee Island



[Nancy DeVetter](#)

[City Council meetings.](#) City Council is back to work on non-COVID issues. Just as an FYI, the governor's orders still prevent us from acting independently on COVID issues. So, for example, we could not require residents or certain businesses to wear masks. Unfortunately, our hands are still tied there. On Monday, we met to discuss STVRs and tomorrow we have lots on the agenda – the tree ordinance, golf carts, STVRs, etc. Here's a few things to note. STVRs At the workshop on Monday, we discussed issues related to Short Term Vacation Rentals (STVRs). When I was running for city council, this was the number one thing people complained to me about, so I am glad we are working on this issue. The result of that discussion was to have the planning commission review our current ordinances and create a work group to see how/if we should address things like parking plans, property safety inspections, repeat offenders, and other issues. They will have their recommendations to us in 90 days. Separately, we are discussing raising the registration fee for STVRs from \$100 to an amount that would fund a STVR monitoring service (provided by Host Compliance) that would allow online registration for STVRs, review web postings for unregistered units, track complaints, and provide a 24-hour complaint line. The increase in fees would also fund additional marshals/code enforcement officers to monitor and address STVR-related issues (noise, trash, signage, parking, etc.) This would take the burden off our police department and allow us to have 24/7 enforcement available for these issues, which really affect resident quality of life but normally don't warrant police involvement. We are also discussing capping the amount of STVRs in residential zones (as Savannah does) and putting a moratorium on new pools until we can determine the impact on our water usage. (This would be for everyone, not just STVRs.) Tree Ordinance I am on the agenda to request that the tree ordinance be amended to prohibit anyone who has violated the tree ordinance from getting development permits from the city in the future. We've recently seen that the developers on Solomon and by the Fresh Air Home were comfortable facing \$1000/tree fines and clear cutting what they wanted, without approval by the city and in violation of our ordinance. \$1000 is the max we can charge under a municipal ordinance, so we can't solve this problem by increasing the fine. I'm hoping this solution will prompt companies to act more responsibly. Private Parking Lot The private parking lot at 10th and Butler is back on the agenda. If you live near there and have any thoughts, please let us know. Solomon Solomon residents are requesting barriers to make 6th through N. Campbell off access to vehicles. I support this effort and would love to see Solomon from 6th through Polk for pedestrians and bikes (and residents who live on Solomon) only. Golf carts We've gotten a lot of complaints recently about golf carts on the island. We've been discussing the fee, requiring better signage, and preventing golf cart rentals from using city parking stickers (since they turn over every weekend). I'd also like to provide an incentive (maybe no or low fee) for electric golf carts. Water Rates I'm also on the agenda to ask for us to adjust water rates per the water rate study. The water rate study that came out a few years ago advised us to adjust our rates so that we could fund the long-term water/sewer projects we need to do. The longer we wait to do that, the more drastic the impact will be on our budget and our water bills, so I think we should act now. In other news, I am working with a few others on a race equity plan for Tybee and will have more information on that effort soon. If you have questions about other agenda items or feedback on these issues, let me and the other council members know. Thanks! Nancy

## George Shaw

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**From:** Monty Parks  
**Sent:** Friday, July 10, 2020 6:36 AM  
**To:** Shawn Gillen; George Shaw  
**Cc:** Edward Hughes; Shirley Sessions  
**Subject:** Some requests

I would ask that the meetings for the STVR group be posted on the City calendar....that minutes be published....that an agenda be published....that all emails between participants be on City of Tybee email addresses, not personal email accounts.

The usual stuff....lessons learned.

Monty

## **STVR options**

- 1) The current Disorderly House Ordinance can take two years to before a residence reaches three strikes. By changing the ordinance to administrative fines instead of criminal citations, the three strike time could be dropped to six months. This will require at least two readings and if we don't start now, we may not be in place for next season.**
- 2) We need to start the bid process and purchase for compliance monitoring software. This will be a six month process and needs to be in place for next season.**
- 3) We need to hire the three additional code enforcement officers.**
- 4) We need to change the current noise ordinance from being mechanically based to being officer discretion. This will require at least two readings and will be needed before next season.**
- 5) Schedule at least one public forum for the month of August to allow for all to have input.**
- 6) Give the planning commission the option of reporting back on individual items rather than all at once, with a focus on special review requirements. Leave the time deadline for final report out open ended to allow for thorough review.**
- 7) Once the City can demonstrate that we can effectively enforce the rules on the books, then consider a**



**registration rate increase based on actual expenses for 2021.**

### **Water Options**

- 1) Require pool owners to do any fill up with a hired water contractor rather than use City water.**
- 2) Increase fine amount for any pool with a noise violation after 9 pm**
- 3) Start bid process for a third party water study**
- 4) Full update on progress of deep well lawsuit**
- 5) Current permit for a pool is \$50 permit fee with \$50 per \$1000 project value.**
- 6) Start a study on lawn irrigation and review best practices from other cities.**



Short Term Rental Registration Number: \_\_\_\_\_ (REQUIRED)

### Identification of Short Term Vacation Rental Business/Operation Location Form

*Please complete one form for each rental property. The Fee is \$100.00 per property. Annual Renewal Fee is \$100.00 per property*

*All short-term vacation rental property owners will need to secure a business license unless it is managed by a company with a City of Tybee Business License*

#### Property and Property Owner Information

Property Address: \_\_\_\_\_ Unit # \_\_\_\_\_ Property Name: \_\_\_\_\_

Type of Property: \_\_\_ Single Family Home \_\_\_ Condominium \_\_\_ Townhome \_\_\_ Apartment \_\_\_ Other

# Bedrooms: \_\_\_\_\_ Max Occupancy: \_\_\_\_\_ # Off-street Parking Spaces: \_\_\_\_\_

Property Owner Name(s): \_\_\_\_\_

Taxpayer I.D.# \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Owner's Physical Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email address: \_\_\_\_\_

#### Property Management Information

\_\_\_ None / Self-Managed \_\_\_ Property Manager \_\_\_ Other/Local Operator

Property Management Company Name: \_\_\_\_\_

Taxpayer I.D.# \_\_\_\_\_ Tybee Island Business License Number: \_\_\_\_\_

Property Management Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Manager's Physical Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Manager's email: \_\_\_\_\_ Contact Person/Title: \_\_\_\_\_

Company Phone #: \_\_\_\_\_ Manager 24 hour Emergency Phone #: \_\_\_\_\_

**Please check ONE  to indicate which mailing address correspondence from the City of Tybee will be sent.**

**Local Emergency Contact Information**

*Designate a local person to contact for problems. The local contact must be available 24/7 and must be able to respond within one hour. The local Contact must be able to respond to complaints regarding the condition, operation, or conduct of occupants, and be able to take remedial action to resolve complaints in a timely manner.*

\_\_\_ Contact Owner    \_\_\_ Contact Mgmt. Company Listed Above    \_\_\_ Other Local Emergency Contact

Other Local Contact Name: \_\_\_\_\_ Title/Relationship: \_\_\_\_\_

Local Contact's Physical Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ Email address: \_\_\_\_\_

**Identification of Short Term Vacation Rental Business/Operation Location Form – Page 2**

I, \_\_\_\_\_, the undersigned applicant:

- Understand that as a type of lodging establishments, owners are subject to all applicable state and local taxes to include the City of Tybee hotel/motel tax. Payments are due by the 20th of the month following the month of rental activity. Reports must be filed whether or not there was any rental activity.
- Agree to use my best efforts to assure that use of the premises by short-term vacation rental occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

## George Shaw

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**From:** Glenn Martin <glennspersonalemail@gmail.com>  
**Sent:** Tuesday, June 30, 2020 12:59 PM  
**To:** Glenn Martin  
**Subject:** make good choices...

Good afternoon,

**I am writing to strongly encourage you to follow a process guided by facts.** I have attended charity events, celebrated major milestones or otherwise invested myself in this community. I might rent my place short term, but I resent being unfairly categorized as some absent homeowner with only money at stake. I block off huge swaths of time on my STVR to enjoy the Island with my family. Please, make good choices and divorce solely emotional decision making from your role as leaders in our community.

Thank you.

Glenn

1217 Bay Street, Unit 219B

## George Shaw

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**From:** Demery Bishop  
**Sent:** Thursday, July 9, 2020 3:15 PM  
**To:** George Shaw  
**Subject:** Fwd: Homesharing

Interesting package material  
Get [Outlook for iOS](#)

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**From:** Monty Parks <mparks@cityoftybee.org>  
**Sent:** Thursday, July 9, 2020 1:36:24 PM  
**To:** Demery Bishop <dbishop@cityoftybee.org>  
**Subject:** Fw: Homesharing

For your consideration with the group

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**From:** Currie Heinze <currieheinze@gmail.com>  
**Sent:** Thursday, July 9, 2020 12:16 PM  
**To:** Shirley Sessions <ssessions@cityoftybee.org>; Shawn Gillen <sgillen@cityoftybee.org>; Monty Parks <mparks@cityoftybee.org>; Barry Brown <bbrown@cityoftybee.org>; John Branigin <jbranigin@cityoftybee.org>; Spec Hosti <spec.hosti@cityoftybee.org>; Nancy DeVetter <nancy.devetter@cityoftybee.org>; Jay Burke <jay.burke@cityoftybee.org>  
**Subject:** Fwd: Homesharing

From what I understand what the City of Tybee is doing is unethical and illegal. I have a business licence and the registration for STVRs. Once again I am not concerned regarding an entire home, but homesharing of an fulltime home owner who lives in there house and rents an INDIVIDUAL HOME??

I have paid all taxes for 6 years for a room I listed on Airbnb, not a house, just my private residence. So if I decide to rent my individual room I will be subjected to pay up to \$300 because I have a bedroom I rent to get the license.

Please fix the wording and address those who rent a bedroom not a house. There should be a seperate application for residents that rent a room in the house they live in full time. I have a 3 bdrm 3 bath home. I ONLY RENT THE ONE ROOM, AND ONLY WHEN I AM HERE. NO VISITORS ARE ALLOWED ON THE PREMISES WHEN I AM NOT PHYSICALLY ON THE PROPERTY.

It is lonely living by yourself. I do not want a full time roommate, therefore renting a room for a short period of time has been ideal. I did not renew my my STVR license for my individual home because of COVID-19, and the fact that I needed recovery time for me. Not from Guests, I have loved and addored them and had many returns.

Please reconsider how the fees will play out. A suggestion would be for a bedroom in and individual/private home with owner on the premises \$50 for a 1-4 bdrm \$150. 5 and up \$200. Also it should be based upone occupants. Some time a 2 bdrm will have up to 6 people. This is all knowledge you can look up on websites.

Once again I was here only 6 months, I was unaware that I needed to register with the city for a room. I paid my back taxes. I was caught with just a bedroom in my private home. I have now been here 6 years and have complied with ALL THE RULES. I can not imagine how many homes have flown un the radar.

I hear about home purchases all the time that the original home owner clamied so much and never reported to the ciyy. Tjis makes me sad. The city is not doing there part on absentee land owners but pick on the full time residents.

What about all the home listed on Booking.com, travago etc. Hope you find those people.

Regards,

Currie Heinze

From my phone.

----- Forwarded message -----

From: **Currie Heinze** <[currieheinze@gmail.com](mailto:currieheinze@gmail.com)>

Date: Thu, Jul 9, 2020, 12:50 AM

Subject: Homesharing

To: <[jleviner@cityoftybee.org](mailto:jleviner@cityoftybee.org)>

As a individual homeowner on Tybee and full time resident who has rented a room in the past should not pay the same fees as a one, two or three bedroom home. I took my home off of vacation rentals for a single room because it was not worth it after paying all the fees, licensing and taxes.

A person who rents one room in there home should not be subjected to the same fees as an entire home. For a single room drop the fees to \$50. 2-4 bedroom \$150 and \$200 for 4 and up. Or go through everyone's listings and see how many people the house accommodates. 12-16 people should not be sleeping in a 4 bedroom house. We know houses like this are offered or a 2 bedroom that sleeps 10. That is ridiculous.

When I first moved here the city had me pay back taxes for my one bedroom in my house that I rented through Airbnb, homesharing. I was in aware at the time that a person renting a room in there home had to file with the city. I question, after 6 months the city found me, my little one room induvidual room on Airbnb. Why was I targeted, when there are so many people who have never payed the city taxes for the entire home that they rent for STVR?

Currie Heinze

## George Shaw

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**From:** Kathy Sanford <justkath22@charter.net>  
**Sent:** Monday, July 13, 2020 1:30 PM  
**To:** Shirley Sessions; John Branigin; Barry Brown; Nancy DeVetter; Jay Burke; Spec Hosti; Monty Parks  
**Cc:** ownerservices@tybeevacationrentals.com; amy@tybeevacationrentals.com; Shawn Gillen; Edward Hughes; Jan LeViner; George Shaw  
**Subject:** Re: Short-Term Vacation Rental Issues

July 13, 2020

All,

Upon my review of the below letter sent on July 9, I realized I had omitted one of the suggestions I intended to include. As everyone is aware, despite best intentions, owners cannot absolutely control or guarantee guest behavior. Yet it is the owners who could be penalized. To increase guests' motivation to be good neighbors, I suggest consideration be given to either requiring or incentivizing a "good neighbor deposit" with guest reservations. This would be similar to a damage deposit that some owners and agencies require, and be refunded at the end of the stay in the absence of complaints. In the event of substantiated complaints, the deposit would not be refunded but would be remitted to a dedicated account for the administration and enforcement of STVR ordinances.

Thank you again for your consideration, and best of luck with the task ahead.

Sincerely,

Kathy Sanford, Owner  
Egrets' Landing, 15 Soda Rock Lane

[justkath22@charter.net](mailto:justkath22@charter.net)

518-596-5544

On 7/9/2020 6:13 PM, Kathy Sanford wrote:

*Transmitted via e-mail only*

July 9, 2020

The Honorable Shirley Sessions, Mayor of Tybee Island  
The Honorable John Branigin, Member, Tybee Island City Council  
The Honorable Barry Brown, Member, Tybee Island City Council  
The Honorable Michael "Spec" Hosti, Member, Tybee Island City Council  
The Honorable Monty Parks, Member, Tybee Island City Council  
The Honorable Jay Burke, Member, Tybee Island City Council

The Honorable Nancy DeVetter, Member, Tybee Island City Council

**Re: Short-Term Vacation Rental Issues**

Dear Mayor Sessions and Members of the City Council:

I respectfully request that this letter be included in the Council's official records, provided to the City's STVR work group and, if possible at this late date, entered into the minutes for tonight's meeting. I am an STVR owner who, with my late husband, was a part-time resident during 2016, 2017 and 2018, spending 105 consecutive days on Tybee per year each of those years. Although my husband's passing and the COVID-19 pandemic have precluded my spending significant time on Tybee in 2019 and 2020, I still envision it as either a part-time or full-time home in the future and am as interested as any other resident in a good quality of life.

Our property was purchased as our future retirement home, not an investment. While rental income offsets a portion of expenses, I do not make a profit nor was it ever our intent to make a profit on rental. We based our decision to participate in the STVR market primarily on our belief that it was better both for us and the neighborhood for the house to be monitored, maintained and occupied rather than vacant when we were not there. I prioritize my view of the property as a future year-round home over maximizing rental income in my decision-making regarding any repairs, improvements, or property enhancements. During the years that we maintained a guest book, our guests primarily consisted of adult "girl's trips" and families. To my knowledge, there have been no complaints regarding our guests, and my closest neighbor has told me she's never witnessed any problematic behavior. On the property's Facebook page, I have regularly encouraged guests to patronize local businesses, respect service workers and local residents, and be attentive to environmental concerns such as the yearly sea turtle nesting season.

Having read and participated in numerous extensive discussion threads on nextdoor.com and reviewed a proposed work scope dated June 25, 2020, along with other information provided to me by Tybee Vacation Rentals, I offer the following comments. Please note that my comments represent my personal views and may or may not coincide with positions taken by TVR. I support TVR's positions to the extent they do not materially conflict with my own.

**Future Approvals, Registrations and Fees**

- Existing properties where there have not been complaints should be grandfathered without additional approval requirements and should retain grandfathered status upon sale of the property.
- Assuming a significant fee increase, there should be a provision for deferring and/or partially refunding fees for times when the property is unavailable for rental for reasons beyond the owner's control (e.g., storm damage, government orders such as any that might be issued in response to events such as the current public health emergency, etc.). Previously approved or grandfathered properties should retain that status during any such period and not be required to undergo a new approval process.



- In addition to special provisions under review for owner-occupied properties, consideration should be given to prorated fees based on long-term owner-occupancy during the previous year (i.e., not year-round, but longer than a typical vacation). There would be no need for enforcement of the STVR ordinance at the property during these times, and the owners are somewhat likely to be active in the community while there for longer stays.
- To the extent that a specific portion of a larger fee is dedicated to supporting complaint response, consideration should be given to a fee reduction for the year following a year where there were no complaints regarding the property. An alternative to fee reduction would be allowing the owner of a complaint-free property to designate the complaint response portion of the fee to support community needs or resources, such as the YMCA, the food pantry, community gardens, Post Theater, Marine Science Center, etc.
- Presuming consideration to the above issues and accountability for the fees being used for their intended and dedicated purposes, I do not generally oppose an increased annual fee for STVR's.

### **Encouraging Neighborly Behavior and Community Engagement**

This section of my comments is included in hopes of fostering collaboration rather than addressing the issues solely through punitive measures and restrictions.

- The work group should evaluate the feasibility of requiring and/or incentivizing owners and agencies to take extra steps to encourage neighborly behavior by guests. Incentives could range from fee reductions the following year in the absence of complaints to a City-sponsored award system that would provide “bragging rights” to a compliant agency. Examples of potential required or eligible actions include:
  - o Increased outdoor signage, i.e., specific signs on decks, porches, patios and in pool areas reminding guests of noise ordinances, fireworks prohibition and other requirements (instead of just one general sign inside the house) and outdoor parking signs adjacent to the allowed parking area,
  - o Posting in the property of detailed reminders regarding the City’s parking, golf cart and trash/recycling rules and procedures,
  - o Implementation by the owner or rental agency of a documented system of reminder phone calls, text messages and random visits to ensure compliance with ordinances,
  - o Implementation by the owner or rental agency of protective policies such as prohibiting house parties, not renting to non-family groups all under the age of 25 or 30, etc., and
  - o Implementation by agencies of next-day owner notification of complaints, to allow the owners to (1) participate in problem-solving and (2) consider the agency’s response in future decision-making regarding whether to continue with that agency or make a change.
- The work group should also consider the feasibility of rewarding non-resident owners for documented community engagement and participation. For example, owners could document participation in beach or marsh cleanups, tree-planting events, dune restoration, volunteering at the Post Theater or Marine Science Center, etc., in return for a

credit against future fees. It may be reasonable to limit this credit to properties where there are no complaints.

### **Parking**

- A property's location and parking configuration should be considered in establishing parking limits. For example, although it only has three bedrooms, my home can accommodate 4 cars in the carport and driveway and is on a private road. It is conceivable that adult groups who share bedrooms could travel individually and park their cars without impeding traffic.

### **Moratorium**

- Any moratorium should not impact a property's status in the face of a pending sale and/or existing reservations, particularly if there have been no or few complaints regarding that property.

### **Consistency in Complaint Response and Evaluation**

- While complaints should have consequences – particularly at properties with frequent, unaddressed complaints – it is imperative that there be consistency in complaint verification, attempts at resolution and application of fines and/or citations. Consequences should be commensurate with the severity of the violation and, to the extent there are applicable ordinances and regulations (e.g., noise, parking, fireworks), consistent with the consequences for year-round residences that may generate similar complaints. A suggestion that noise enforcement be left to “officer discretion” could be problematic with respect to consistency.

### **Due Process**

- Adequate due process is required for any owner whose registration may be revoked or not renewed as a result of complaints. Notice prior to revocation or non-renewal should be sufficient to provide time for negotiation, dispute resolution and corrective actions. There should be an opportunity for a property to continue to operate under an order on consent or other similar mechanism prior to a final decision. (I have not had a chance to closely review the current “noise abatement agreement” portion of the disorderly house ordinance; perhaps this suffices. If so, it should continue.)

### **Insurance/Indemnification Requirements**

- Any proposed requirements should be well-researched to ensure there are companies willing to write the required policies at reasonable cost on Tybee Island. As it is, insurance is expensive and somewhat difficult to obtain. A specific need based on past

examples should be demonstrated before requiring all STVR owners to incur additional expense. Perhaps this should be reserved for property-specific negotiations rather than imposed on all STVR owners.

Thank you for considering my comments. I am available by phone or email to answer questions or further discuss any of the suggestions and ideas set forth herein.

Sincerely,

Kathy Sanford, Owner  
Egrets' Landing, 15 Soda Rock Lane

[justkath22@charter.net](mailto:justkath22@charter.net)

518-596-5544

c: Shawn Gillen, City Manager  
Bubba Hughes, City Attorney  
Jan LeViner, Clerk of Council  
George Shaw, Planning & Zoning Director  
Amy Gaster, Tybee Vacation Rentals  
Tybee Vacation Rentals Owner Services

Sec. 5-070. - Standards for special review.

Land uses listed in Article 4 of this Land Development Code that are permitted after special review must follow an administrative procedure prior to the issuance of any land development permit.

- (A) *Review criteria.* The planning commission shall hear and make recommendation upon such uses in a district that are permitted after special review. The application to establish such use shall be approved by the mayor and council on a finding that:
- (1) The proposed use will not be contrary to the purpose of this Land Development Code;
  - (2) The proposed use will not be contrary to the findings and recommendations of the master plan;
  - (3) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood or adversely affect the health and safety of residents and workers;
  - (4) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, vehicular movement associated with the use, noise or fumes generated by or as a result of the use, or type of physical activity associated with the land use;
  - (5) The proposed use will not be affected adversely by the existing uses of adjacent properties;
  - (6) The proposed use will be placed on a lot which is of sufficient size to satisfy the space requirements of said use;
  - (7) The parking and all development standards set forth for each particular use for which a permit may be granted will be met.
- (B) *Additional mitigation requirements.* The planning commission may suggest and the mayor and council may impose or require such additional restrictions and standards (i.e., increased setbacks, buffer strips, screening, etc.):
- (1) As may be necessary to protect the health and safety of workers and residents in the community; and
  - (2) To protect the value and use of property in the general neighborhood.

- (C) *Adherence to requirements.* Provided that wherever the mayor and council shall find in the case of any permit granted pursuant to the provisions of these regulations, noncompliance of any term, condition, or restrictions upon which such permit was granted, the mayor and council shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for a public hearing.
- (D) *Permit longevity.* If a building permit or other preparations or conditions are required prior to implementing special review approval granted by the mayor and council such permitting or other preparations or conditions must occur within 12 months from the date of special review approval. Such approval is based on information provided in the application. Building permits may only be granted for plans consistent with the approved application. Any deviation from the information submitted will require separate approval by planning commission and mayor and council. In the event of a hardship or other extenuating circumstance the permit holder may apply to the designated city official for a one-time extension of permit approval. Permit extensions may not be approved in extenuating circumstances for a period of no more than 180 days. Should the permit not be exercised in the extension period it will expire.

(Ord. No. 05-2013, 1-10-2013)

Sec. 4-050. - Zoning districts.

(A) *R-1 residence district.* This land use district is established to minimize development densities in certain portions of the island to prevent overall development on the island from exceeding its environmental carrying capacity. Also, to provide for quiet, livable, low-density single-family neighborhoods including compatible and supporting low impact educational, religious, and public institutions, as well as limited provisions for bed and breakfast operations. The character of development in these areas is oriented for permanent residents. This district shall remain single-family residential with some light family oriented service uses. Commercial and industrial uses are incompatible with this district.

(1) *Uses permitted by right.* In a R-1 residence district, land may be used and buildings or structures may be erected or used for the following purposes:

- a. Single-family dwellings;
- b. Nonhabitable accessory buildings;
- c. Public utility structures;
- d. Home business offices; and,
- e. Public community buildings, libraries, recreation centers and museums.

(2) *Uses permitted after special review.* In an R-1 residence district, land may be used and buildings or structures may be erected or used for the land uses listed below after a hearing has been held by the planning commission and the mayor and council has granted approval at a scheduled meeting:

- a. Bed and breakfast, residential;
- b. Reserved;
- c. Primary and secondary schools;
- d. Nursing homes and ancillary activities;
- e. Public parks and neighborhood playgrounds;
- f. Churches, including Sunday schools or educational buildings;
- g. Schools of general education, including kindergarten and day nurseries;
- h. Guest cottages; and,
- i. Home occupations.

(B)

*R-1-B residence district.* In an R-1-B residence district, land may be used and buildings or structures may be erected or used for the purposes stated above in the R-010 residence district regulations; the only distinguishing factor being one of density. [See section 3-090(1), "schedule of residential district dimensional requirements."] The purpose of R-010-B districts is to provide a transition from R-010 to higher density development. This is intended to ensure adequate infrastructure capacity and mitigate adverse impacts associated with more intensive land uses.

(C) *R-2 one- and two-family residential district.* The purpose of this district is to provide for affordable development of single-family and duplex style development. This district is intended for medium density residential neighborhoods which are quiet and livable. This district includes a mixture of one- and two-family homes with compatible educational, religious, and public institutions as well as limited home occupations.

(1) *Uses permitted by right.* In an R-2 residence district, land may be used and buildings or structures may be erected, altered, or used for the following purposes:

- a. Uses permitted in R-1 residence district; and
- b. Two-family dwellings, (see also subdivision regulations).

(2) *Uses permitted after special review.* In an R-2 residence district, land may be used and buildings or structures may be erected or used for the land uses listed below after a hearing has been held by the planning commission and the mayor and council has granted approval at a scheduled meeting.

- a. Uses permitted after special review in R-1 residence district.

(D) *R-T residential tourist district.* The purpose of this district is to provide for areas where tourists and residents are mixed. Development in this district is primarily residential; however, limited accommodations are made for the housing of the tourist population visiting overnight, weekends, weeks, or extended periods.

(1) *Uses permitted by right.* In an R-T residential tourist district, land may be used and buildings or structures may be erected, altered or used for the following purposes:

- a. Uses permitted by right in R-2 residence district only.

(2)

*Uses permitted after special review.* In an R-T residence district, land may be used and buildings or structures may be erected or used for the land uses listed below after a site plan has been submitted to the zoning administrator, a hearing has been held by the planning commission, and the mayor and council has granted approval at a scheduled meeting.

- a. Apartment houses and condominiums exceeding two units.
- b. Bed and breakfast inns, exceeding five units per lot subject to an approved site development plan as required in Article 5.
- c. Theater facilities or houses that are historical in nature, when the review process includes standards and/or restrictions as to hours of operation, and requirements with respect to lighting, signage, and buffering so as not to unreasonably interfere with the residential uses of abutting properties. A parking plan shall also accompany any such application. Any permitted use must adhere to the approved standards, restrictions and parking plans and any other conditions imposed by the mayor and council.

Neither a site plan nor special approval is required on internal changes to existing structures unless it causes or requires external changes to meet the requirements of this Land Development Code.

- (E) *C-1 beach business district.* The purpose and intent of commercial districts is to provide central locations for city business and services to meet the market needs of the city's residents and visitors. The focus of the C-1 beach business land use district is to provide for commercial and residential land uses that support and complement recreational use of the beach and general tourism of the island. The land uses permitted in this district provide for a substantial amount of the island's employment base. The amount of C-1 acreage is directly proportional to the city's economic activity. These land uses are designed to harness economic activity of the daytime visitor as well as residents and overnight visitors.

Multi-family uses are not permissible in the following areas included within the C-1 beach business district:

- (i) On the lots abutting Butler Avenue on the east and west sides thereof, from 14th Street, commencing at its southernmost intersection with Butler Avenue, to Izlar Avenue at its southernmost intersection with Butler Avenue;



(ii) On lots abutting Tybrisa Street on the north and south sides from Butler Avenue to Strand Street; and

(iii) On lots on Strand Street abutting that street on the western boundary thereof from 14th Street beginning at its northernmost intersecting point with Strand Street to 17th Street at its northernmost intersecting point with Strand Street. Notwithstanding the foregoing, multi-family residential uses shall be permissible on floors above the first or ground floor of business establishments located in such areas.

- (1) *Uses permitted by right after site plan approval.* In a C-1 beach business district, land may be used and buildings or structures may be erected or used for the land uses listed below after a site plan has been submitted to the zoning administrator, the planning commission has reviewed the site plan and made comments, and the mayor and council has granted site plan approval at a scheduled meeting.
- a. Apartments, condominiums, townhouses, guest cottages, hotels, motels, time shares, tourist homes, bed and breakfast inns; plus single-family, two-family, three-family, and four-family dwellings;
  - b. Apothecary shops;
  - c. Gift shops;
  - d. Barbershops, beauty shops;
  - e. Finance, investment and insurance offices;
  - f. Florist shops;
  - g. Restaurants, concession stands;
  - h. Commercial amusements, including amusement parks and other commercial games and sports;
  - i. Retail stores; and
  - j. Public structures.
- (2) *Uses permitted after special review and site plan approval.* In a C-1 beach business district, land may be used and buildings or structures may be erected or used for the land uses listed below after a site plan has been submitted to the zoning administrator, a hearing has been held by the

planning commission, and the mayor and council has granted approval at a scheduled meeting. At these public meetings, the proposed land is reviewed under criteria for both site plan approval and special approval.

- a. Lounges and package shops, for the retail sale of malt and alcoholic beverages.
- b. Dwellings or structures rented for special events. For all uses in a dwelling or structure to be rented for special events as defined herein, special approval and review shall include consideration of all relevant factors including but not limited to the availability of parking or an appropriate parking plan, the hours of operation and any limitations to be placed thereon, the capacity of the dwelling or structure in terms of occupancy, compliance with applicable noise limitations with the express authority of the mayor and council to impose stricter requirements than would otherwise be permissible for the impacted zoning districts; the use of live entertainment or amplified sound equipment subject to limitations to be placed thereon; and approval by the planning and zoning department; the methods of lighting signage and buffering as necessary to provide reasonable protection to nearby property owners.

Each such authorized structure shall be subject to an established occupancy as determined by the fire marshal and events that are likely to result in an occupancy greater than that permitted shall require an additional application to the city with adequate information for staff to assess the additional impact from the anticipated occupancy including all of the factors listed herein and to permit staff to grant a permit for such event with additional conditions. For events that contemplate the use of premises outdoors, the occupancy shall be based upon a calculation of one person per 15 square feet of usable exterior space.

As used herein the term "dwellings or structures rented for special events" means a facility used or available for hire for festivities, parties, receptions, weddings, ceremonies and similar activities or occasions conducted on the property.

A "parking plan" as used herein may include off-site parking arranged by the applicant or owner subject to the approval of the planning and zoning department; parking must accommodate one place per four persons as determined by occupancy as specified herein.

Any permitted use must adhere to the approved standards, restrictions, plans and conditions imposed by the mayor and council and/or the planning and zoning department.

- (3) Notwithstanding any approved site plan or any other ordinance to the contrary, the city has adopted a policy pertaining to special use of designated off-street parking areas in C-1 beach business district so as to allow a commercial business to use its private off-street parking area for an outdoor event when all of the conditions are met under the policy. The policy is on file with the clerk of council and with the zoning department. The policy may be changed from time to time by the mayor and council in accordance with this Code.

Neither a site plan nor special approval is required on internal changes to existing structures unless it causes or requires external changes to meet the requirements of this Land Development Code.

- (F) *C-2 highway business district.* The purpose and intent of commercial districts is to provide central locations for city business and services to meet the market needs of the city's residents and visitors. The focus of the C-2 highway business land use district is to provide for commercial land uses that support and complement the motorized consumer. C-2 districts are intended for location along arterial streets where the negative impacts of traffic congestion, noise, intrusions into residential neighborhoods will be minimized.

- (1) *Uses permitted by right after site plan approval.* In a C-2 business district, land may be used and buildings or structures may be erected, altered or used only for the following purposes once the required site plan has been reviewed by the planning commission and approved by the mayor and council:
  - a. Service stations;
  - b. Restaurants, including drive-in restaurants;

- c. Gift shops (goods sold within an enclosed building);
- d. Motels;
- e. Grocery stores;
- f. Tourist homes and bed and breakfast inns;
- g. Parks, playgrounds and recreation facilities under the supervision of the city;
- h. Professional and business offices;
- i. Retail stores;
- j. Marinas; and
- k. Seafood warehouses, retail and wholesale sales.

(2) *Uses permitted after special review and site plan approval.* In a C-2 highway business district, land may be used and buildings or structures may be erected or used for the land uses listed below after a site plan has been submitted to the zoning administrator, a hearing has been held by the planning commission, and the mayor and council has granted approval at a scheduled meeting. At these public meetings, the proposed land is reviewed under criteria for both site plan approval and special approval.

- a. Lounges and package shops for the retail sale of malt and alcoholic beverages.
- b. Dwellings or structures rented for special events. For all uses in a dwelling or structure to be rented for special events as defined herein, special approval and review shall include consideration of all relevant factors including but not limited to the availability of parking or an appropriate parking plan, the hours of operation and any limitations to be placed thereon, the capacity of the dwelling or structure in terms of occupancy, compliance with applicable noise limitations with the express authority of the mayor and council to impose stricter requirements than would otherwise be permissible for the impacted zoning districts; the use of live entertainment or amplified sound equipment subject to limitations to be placed thereon; and approval by the planning and zoning; the methods of lighting signage and buffering as necessary to provide reasonable protection to nearby property owners.

Each such authorized structure shall be subject to an established occupancy as determined by the fire marshal and events that are likely to result in an occupancy greater than that permitted shall require an additional application to the city with adequate information for staff to assess the additional impact from the anticipated occupancy including all of the factors listed herein and to permit staff to grant a permit for such event with additional conditions. For events that contemplate the use of premises outdoors, the occupancy shall be based upon a calculation of one person per 15 square feet of usable exterior space.

As used herein the term "dwellings or structures rented for special events" means a facility used or available for hire for festivities, parties, receptions, weddings, ceremonies and similar activities or occasions conducted on the property.

A "parking plan" as used herein may include off-site parking arranged by the applicant or owner subject to the approval of the planning and zoning department. Parking must accommodate one place per four persons as determined by occupancy as specified herein.

Any permitted use must adhere to the approved standards, restrictions, plans and conditions imposed by the mayor and council and/or the planning and zoning department.

- c. Miniature golf courses.
  - d. Uses as of right:
    - 1. Residential uses permissible in the R-2 district including those permissible as of right and after special review. The uses permissible in R-2 after special review shall also require special review to be permissible in the C-2 zone.
    - 2. Following required site plan approval for commercial development residential uses above commercial shall be allowed by right if onsite parking is available.
- (3) Notwithstanding any approved site plan or any other ordinance to the contrary, the city has adopted a policy pertaining to special use of designated off-street parking areas in C-2 highway business district so as to allow a

commercial business to use its private off-street parking area for an outdoor event when all of the conditions are met under the policy. The policy is on file with the clerk of council and with the zoning department. The policy may be changed from time to time by the mayor and council in accordance with this Code.

Neither a site plan nor special approval is required on internal changes to existing structures unless it causes or requires external changes to meet the requirements of this Land Development Code.

(G) *N-M neighborhood marina district.* The purpose of this district is to reserve those waterfront areas which have value for commercial land uses involving pleasure and commercial watercraft. The N-M district is intended to be used for neighborhood marina facilities with a modest scale of operation. These facilities shall be developed to be compatible with any adjacent residential properties and shall not be detrimental to persons or property on or off the site.

(1) *General requirements.* A site plan shall be submitted to the planning commission for review and to the mayor and council for approval that meets the requirements of Article 5 and contains the following information:

a. A document indicating the general operating hours of all activities to be included in the marina and what safeguards are to be used to insure that the marina's activities will not become or represent a nuisance or hazard to the surrounding property owners or tenants thereof. Examples of additional subjects to be covered shall include, but not necessarily be limited to, probable flooding, erosion, fire, explosion and subsidence of the proposed buildings and structures.

(2) *Design standards.* The development plan shall comply with the following standards:

a. Access shall be located, designed and improved for safety, convenience, efficient circulation, on the property and minimum interference with normal traffic flow on adjoining streets. Driveways and curb cuts intersecting with public rights-of-way shall be marked and shall not exceed a maximum width of 30 feet. Curbs, blockades, bumper blocks or other devices shall be used to control and channel traffic, to separate pedestrian ways from vehicular ways, and to prevent entry to and from adjoining streets except via a designated driveway.

- b. Yards shall be provided as required for the adjoining districts and shall be landscaped and improved in a manner appropriate to the residential character of the adjacent district; provided, however, that a street front and residential side setback be a minimum of five feet when a six-foot minimum height solid faced and continuous fence, or other structure with no openings shall be erected and maintained. Any hedge and other screening structures shall screen the adjoining property from the activities of the marina.
  - c. The structure(s) housing the activities of the marina shall not occupy more than 40 percent of the total lot area.
  - d. Only one principal use sign shall be visible from the adjacent public street. That sign shall not exceed a maximum size of 32 square feet in area nor eight feet in any outer dimension. Any sign if illuminated shall be externally lit, nonflashing and containing no neon illumination. The maximum height of the sign shall not exceed 15 feet above the average ground elevation of the base of the sign or from the structure foundation to which it is attached. No sign shall be located closer than five feet to the property line or street right-of-way.
  - e. Plans for extensions and/or business expansion will be accompanied by a detailed proposal and submitted to the governing body for approval prior to implementation.
  - f. All structures built within this district shall comply with the same height requirements specified in section 3-090 for R-020.
- (3) *Uses permitted by right after site plan approval.* In an N-M neighborhood marina district, land may be used and buildings or structures may be erected or used for the land uses listed below after a site plan has been submitted to the zoning administrator, the planning commission has reviewed the site plan and made comments, and the mayor and council has granted site plan approval at a scheduled meeting.
- a. Boat launching facilities;
  - b. Bait shops; and
  - c. Retail sale of boating provisions.

(4)

*Uses permitted after special review and site plan approval.* In an N-M neighborhood marina district, land may be used and buildings or structures may be erected or used for the land uses listed below after a site plan has been submitted to the zoning administrator, a hearing has been held by the planning commission, and the mayor and council has granted approval at a scheduled meeting. At these public meetings, the proposed land is reviewed under criteria for both site plan approval and special approval.

- a. Lounges and package shops, for the retail sale of malt and alcoholic beverages;
  - b. Restaurants;
  - c. Watercraft and equipment rental;
  - d. Watercraft sales and dry dock storage;
  - e. Wholesale and retail seafood sales; and
  - f. Machine repair shops.
- (5) Notwithstanding any approved site plan or any other ordinance to the contrary, the city has adopted a policy pertaining to special use of designated off-street parking areas in N-M neighborhood marina district so as to allow a commercial business to use its private off-street parking area for an outdoor event when all of the conditions are met under the policy. The policy is on file with the clerk of council and with the zoning department. The policy may be changed from time to time by the mayor and council in accordance with this code.

Neither a site plan nor special approval is required on internal changes to existing structures unless it causes or requires external changes to meet the requirements of this Land Development Code.

(H) Reserved.

- (I) *PC public parks-conservation district.* The purpose of this zoning district is to create an area or areas to be conserved for public use, to preserve areas established by tradition and custom for public use, and to prevent development of these areas for other than approved public and/or municipal use. Permitted uses include parks-public, playgrounds; ball fields and/or sports arenas, picnic facilities, public schools, public libraries, public parking and municipal buildings/structures, other public uses as approved by the governing body of the city.



Notwithstanding the above-described permitted uses within public parks, special review (section 5-070) and site plan approval (section 5-080) requirements shall be applicable to any proceedings (to include motions of council or petitions by the public) to alter the uses currently in existence within the area of Memorial Park that is generally depicted on the diagram attached hereto, so that public hearings in connection with any alteration of structures or the installation or addition of new structures or facilities or uses is required before any construction, building activities or preparation therefore may occur or any new uses permitted.

- (J) *EC environmental-conservation district.* The purpose of this district is to protect the ecologically sensitive areas of the city and to limit the active development to those uses which are compatible with natural limits of the land. No building permit can be issued for either a use permitted by right or a use permitted after special approval until the proper state and federal permits have been acquired by the applicant.
  - (1) *Uses permitted by right.* In an EC environmental-conservation district, land may be used and structures may be erected or used for the following purposes:
    - a. Growing of gardens; and
    - b. Piers, docks, and wharfs.
- (K) *PUD planned unit development district* The existing planned unit development districts, at the time of the adoption of the ordinance from which this section is derived, shall remain. No further planned unit development district shall be created. The existing planned unit development districts are Northshore Subdivision, Seaside Colony, Oceanside Dunes, Oceanview Townhomes, and Gulick Row.
- (L) *Maritime district.* The purpose of this district shall be to protect the character of the commercial development along Lazaretto Creek within the city limits. In the maritime district, land may be used and buildings or structures may be erected or used for the following purposes.
  - (1) Uses permitted after site plan approval. In a maritime district, land may be used and buildings or structures may be erected or used for the land uses listed below after a site plan has been submitted to the designated city

official, the planning commission has reviewed the site plan and made comments, and the mayor and council has granted site plan approval at a scheduled meeting.

- a. Boat launching facilities;
  - b. Bait shops; and
  - c. Retail sale of boating provisions;
  - d. Aquaculture projects;
  - e. Assembly hall, club, or lodge;
  - f. Boat building and repair facilities;
  - g. Commercial charter or sightseeing watercraft facilities;
  - h. Commercial fishing and crabbing;
  - i. Government buildings;
  - j. Marina;
  - k. Recreational activities carried on wholly within a building including theaters, dance halls, and activities of a similar nature;
  - l. Reserved.
  - m. Private or community dock;
  - n. Public utility structures;
  - o. Wholesale/retail seafood/sales/warehouses;
  - p. Restaurant — (no alcohol) — limited to sit down facility with no drive through;
  - q. Restaurant, sit down facility which serves alcoholic beverages (must have council approval for liquor, beer, wine, and Sunday sales) and no drive through;
  - r. Watercraft rentals.
- (2) Notwithstanding any approved site plan or any other ordinance to the contrary, the city has adopted a policy pertaining to special use of designated off-street parking areas in the maritime district so as to allow a commercial business to use its private off-street parking area for an outdoor event when all of the conditions are met under the policy. The policy is on file with the clerk of council and with the zoning department. The policy may be changed from time to time by the mayor and council in accordance with this code.

*Existing structures.* Site plan approval is not required for interior changes to existing structures. Site plan approval is required for exterior changes to existing structures.

(M) Reserved.

(N) Reserved.

(O) *South End business overlay district.*

- (1) *Purpose.* The purpose of this district is to promote the welfare and vitality of the city's original main commercial and resort area and preserve its historic character and identity for future generations.
- (2) *Uses.* All commercial and multi-family residential uses are permissible subject to site plan approval, or special review and site plan approval, as is required by the particular zoning classification of the property. In this district, the site plans established herein shall prevail over any setbacks in any other part of this Code, specifically including section 3-090 regardless of the use of the property. Mixed uses of the property are permissible. Site plan approval and special review is required for new construction and redevelopment of existing sites. New construction when a project includes the redevelopment of a parcel, a development agreement with the owner/developer and the city specifying the site plan, location of utilities, improvements, setbacks, driveway locations and dimensions and lot coverage may be required.
- (3) *Signs.* Signage within the district shall be as specified herein to the extent of any inconsistency with the sign ordinance. Permissible signage shall include sandwich boards not to exceed three feet by five feet, which may be displayed during business hours on sidewalks immediately adjacent to the business advertised on the sandwich board. No advertising benches shall be permissible in the district. The existing advertising benches located in the Fourteenth Street parking lot may remain until such time the city provides public benches.
  - a. Within the district, café style seating on sidewalks may be permissible provided that sidewalks in the area involved, must be at least ten feet in width.
  - b. Notwithstanding any other provision of this Code, no outdoor selling of merchandise on public or private sidewalks is permissible in the district except as may be allowed in connection with authorized special events.

- (4) *Demolition and relocation of historic buildings.* The following standards apply to all historic buildings within the overlay district that are 50 years of age or older and identified as listed, eligible, or may be eligible for listing in the National Register of Historic Places within the 2016 City of Tybee Island Historic Resources Survey, Phase 1. The Historic Preservation Commission shall review permit applications for demolition and relocation and provide recommendations to the zoning administrator.
- a. *Demolition.* Demolition of historic buildings undermines the character of Tybee Island and shall only be permitted if the demolition is required to alleviate a threat to public health or public safety as determined by the zoning administrator based on supporting documentation from a licensed structural engineer licensed in the State of Georgia.
  - b. *Relocation.* Relocation of historic buildings can impact the character of Tybee Island and should only be considered as a last resort in order to preserve the building. It shall only be permitted if all of the following conditions are met:
    1. The current location and surrounding context no longer contribute to the overall character of the property (i.e. residential property now surrounded by new construction and commercial development).
    2. The character of the property onto which the building will be relocated and its surrounding context are compatible with the historic building (i.e. relocating a residential building within a residential area).
    3. The relocation is as close to the original site as possible (i.e. the relocation of a building to a new location on the same parcel or an adjacent parcel).
- (5) *Appeals.* Any applicant for a permit shall have the right to appeal to the planning commission and mayor and council should the zoning administrator refuse to approve the issuance of a permit in accordance with section 9-030.
- (6) *Definitions.* In addition to existing definitions in section 2-010, the following terms apply to this overlay district:
- Compatibility.* The positive relationship of existing buildings, relocated buildings, and/or designs for new construction to their environs.

*Demolition.* The act of either demolishing or removing 50 percent or more of the exterior walls of a building; or any primary exterior wall facing a public street or beach; or 50 percent or more of the roof area.

*Historic building.* A building that is worthy of preservation by reason of value to Tybee Island, Chatham County, State of Georgia, region, or nation, for one of the following reasons:

- a. It is an example of a building representation of its era;
- b. It is one of the few remaining examples of past architectural style, or building type;
- c. It is associated with an event or persons of historic or cultural significance to Tybee Island, Chatham County, State of Georgia, region, or nation; or
- d. It contributes to the cultural or historical development and heritage of Tybee Island, Chatham County, State of Georgia, region, or nation.

Policies and procedures applicable in this district are on file in the offices of the planning and economic development director and are incorporated herein.

(P) *North end parks and public overlay district.*

- (1) *Purpose.* The purpose of the north end parks and public overlay is to promote the development of properties in a manner that integrates public uses, open space, municipal uses, and recreational uses compatibly into a residential area. The north end parks and public overlay will provide for a livable environment for residents and visitors alike.
- (2) *Applicability.* The north end parks and public overlay may only be implemented within specific geographic areas as defined in exhibit A (water/sewer plant, DPW, campground, TIPD). The north end parks and public overlay shall be restricted to the redevelopment and enhancement of uses existing at the time of adoption of this subsection and to the development of uses to enhance or further support existing uses. Such uses include but are not limited to expansion of the water and sewer plant, expansion of the department of public works, expansion and/or enhancement of the River's End Campground, expansion and/or enhancement of the city's police

department, the dedication of areas for parks, recreational facilities, or open space. Regulations applicable in the R-1 Zone shall not apply in the overlay district.

(3) *Permitted uses.* The following uses, though not exclusive, are specifically permitted within the north end parks and public overlay:

- a. Municipal and public safety uses including but not limited to the city water and sewer department, the city department of public works, the city police department;
- b. Public campgrounds;
- c. Parks and open space to include passive and active parks;
- d. Picnic grounds, barbecue pits and similar cooking facilities;
- e. Shelters, observation decks, platforms, pavilions, storage sheds; patios, and restroom facilities;
- f. Pedestrian walkways, sidewalks, and bicycle trails; and
- g. Jogging trails, tennis courts, swimming pools and bicycling paths.

(4) *Prohibited uses.* The following uses, though not exclusive, are specifically prohibited within the north end parks and public overlay:

- a. Any activity involving operating, riding, or the use of the following:
  1. Survival games;
  2. Any activity involving the use of firearms, including hunting, skeet shooting and target practice;
  3. Crossbow or archery;
  4. Private dumping of trash, waste or other materials of any kind; and
  5. Fireworks.

(5) *Site plan review.* Any expansion of existing uses requires site plan review by the planning commission and approval by the mayor and council.

Any new use that is expressly permitted by this subsection requires site plan review by the planning commission and approval by the mayor and council.

All submittals for site plan review must comply with section 5-040 of this Land Development Code.

(Q) *North end cultural overlay district.*

(1) *Purpose.* The purpose of the north beach overlay is to promote the development of properties in a manner that promotes arts, cultural, heritage, and educational opportunities in conjunction with recreational and light commercial uses while protecting surrounding residential uses from adverse impact. The north beach overlay will provide for a livable environment for residents and visitors alike.

(2) *Applicability.* The north beach overlay may only be implemented within specific geographic areas as defined in exhibit A [attached to the ordinance adopted January 8, 2009, codified in this subsection].

Existing conditions of zoning which apply to north beach overlay properties shall be repealed upon official designation of the north beach overlay.

(3) *Permitted uses.* The following uses, though not exclusive, are specifically permitted within the north beach overlay:

- a. Municipal and public safety uses;
- b. Cultural, educational and historical facilities, including re-enactment activities;
- c. Parks and open space to include passive and active parks;
- d. Picnic grounds, barbecue pits and similar cooking facilities;
- e. Shelters, observation decks, platforms, pavilions, storage sheds; patios, and restroom facilities;
- f. Pedestrian walkways, sidewalks, and bicycle trails;
- g. Jogging trails, tennis courts, swimming pools and bicycling paths; and
- h. Publicly owned facilities operated under lease or agreement with the city for commercial or fraternal purposes.

(4) *Prohibited uses.* The following uses, though not exclusive, are specifically prohibited within the north beach overlay:

Any activity involving operating, riding, or the use of the following:

- a. Golf courses, except for miniature golf courses.
- b. Survival games.
- c. Any activity involving the use of crossbows, archery, firearms, including hunting, skeet-shooting and target practice.

- d. Dumping of trash, waste or other materials of any kind.
  - e. Fireworks.
- (5) *Site plan review.* Any expansion of existing uses requires site plan review by the planning commission and approval by the mayor and council.

Any new use that is expressly permitted by this article requires site plan review by the planning commission and approval by the mayor and council.

All submittals for site plan review must comply with section 5-040 of this Land Development Code.

(R) *Neighborhood grocery store district.*

- (1) *Purpose.* The purpose of the neighborhood grocery store district is to preserve what was previously an existing non-conforming use and to protect adjoining and nearby properties from intrusion of commercial property and to further preserve the residential character of the area while meeting the needs of the community for a grocery store. The neighborhood grocery store district will provide a means of improving the existing parcels within the district without negatively affecting the aesthetic character of the area. The neighborhood grocery store district is to provide a livable environment for residents and visitors while preserving a grocery store operation and to provide for the operation to adequate parking and improved traffic flow into and out of the grocery store area.
- (2) *Applicability.* The neighborhood grocery store district shall encompass those properties currently described as Property Identification Numbers 4-0006-19005 and 4-0006-19013, also known as Lots 21A, 21B, 22A and 22B, Ward 3, Tybee Island, Georgia, and Property Identification Numbers 4-0006-19-14 and 4-0006-19015, also known as Lots 20-A and 20-B, Ward 3, Tybee Island, Georgia.
- (3) *Permitted uses/setbacks.*
- a. The following uses are the exclusive permitted uses within the neighborhood grocery store district and are subject to site plan review:
    - 1. A grocery store with associated parking as required. A grocery store is herein defined as a store where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and



personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores. The grocery store is not allowed to have facilities for providing gasoline to motor vehicles or other service, mechanical or garage type activities for motor vehicles.

2. Single-family residences.
  3. Multi-family residential above grocery associated warehouse of no more than two units.
  4. Non-habitable accessory buildings, public utility structures; home business offices and, following special review: bed and breakfast residential, guest cottages, home occupations, and two family dwellings.
- b. Setbacks in this district for new structures shall be as provided in the R2 district under section 3-090.
  - c. This district shall have the same lot size and height restrictions applicable in the R2 district under section 3-090 for new construction or new structures.
- (4) *Parking.* Off-street parking for a grocery store operation shall require one parking spaces per every 370 feet of gross grocery store floor area under roof on a square foot basis regardless of the use of such area so as to include offices, stock rooms, freezers, etc. Parking for all permitted uses other than a grocery store shall be as required in section 3-080.
- (5) *Buffer.* A buffer of not less than three feet, including arboreal features and suitable fencing, shall be provided where the grocery store and parking is adjacent to the right-of-way of Lovell Avenue and neighboring residential property.
- (6) Notwithstanding any approved site plan or any other ordinance to the contrary, the city has adopted a policy pertaining to special use of designated off-street parking areas in the neighborhood grocery store district so as to allow a commercial business to use its private off-street parking area for an outdoor event when all of the conditions are met under the policy. The policy is on file with the clerk of council and with the zoning department. The policy may be changed from time to time by the mayor and council in accordance with this Code.

(7) Notwithstanding anything to the contrary, the following conditions shall be applicable to the parcel described as Parcel Identification Number 4-0006-20-009:

a. Parking of vehicles. The only motor vehicles that may be parked on this property are those which are either owned or leased by the owner of the adjacent grocery store, the store employees, located on the lot on the east side of Lovell Avenue adjacent to the subject lot and residents of the building on this identified parcel.

b. Temporary storage containers used to store products which are sold in the grocery store located on the lot on the east side of Lovell Avenue adjacent to the subject lot are allowed.

The temporary storage containers must be capable of being removed immediately upon notice provided by the appropriate authorities.

Provided, however, that if a permanent structure is built on this lot, pursuant to R(3)(a)(3), the parking of temporary storage containers shall be impermissible.

c. A warehouse to be used solely by the grocery store located across Lovell on Butler Avenue and any allowable residential uses above is permissible.

d. Notwithstanding the lot size restrictions applicable to this district, the minimum lot area a two family shall be at least 4,680 square feet.

e. Any two family residential units constructed on the parcel shall not be used as short term rentals and, therefore, no rentals for occupancy of such a unit may be for a period of less than 30 days.

(Ord. No. 2001-24, 11-8-2001; Ord. No. 2003-22, 10-9-2003; Ord. No. 1999-10, 4-22-1999; Ord. No. 1995-17, 12-7-1995; Ord. No. 2004-7, amended 1-31-2005; Ord. No. 2004-07, amended 4-8-2004; Ord. No. 2004-02, amended 2-26-2004; Ord. No. 2003-22 Business Districts, amended 12-2-2003; Ord. No. 2001-24, amended 12-12-2001; Manual, amended 11-10-1999; Ord. No. 1999-10, amended 5-24-1999; Ord. of 2-27-2007; Ord. of 4-26-2007(2); Ord. of 6-26-2008(2); Ord. of 6-26-2008(3); Ord. of 10-23-2008(2); Ord. No. 29-2008, § I, 1-8-2009; Ord. of 5-14-2009; Ord. No. 15-2009, 10-22-2009; Ord. No. 08-2010, 5-27-2010; Ord. No. 37-2011, 8-25-2011; Ord. No. 22-2012, 7-12-2012; Ord. No. 23-2012, 7-12-2012; Ord. No. 08-2013, 1-10-2013; Ord. No. 26-2013-A, § 1, 8-22-

2013; Ord. No. 35-2013-A, § 1, 12-12-2013; Ord. No. 50-A-2014, § 1, 8-28-2014; Ord. No. 56-2014, § 1, 10-9-2014; Ord. No. 03-2015, § 1, 1-15-2015; Ord. No. 2016-01, 2-11-2016; Ord. No. 30-2016, §§ 1—3, 11-10-2016; Ord. No. 1-2019, 1-10-2019; Ord. No. 2020-01, § 1, 1-9-2020)

ORDINANCE NO. 28-2015  
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,

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

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

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;

WHEREAS, the City is a popular tourist destination;

WHEREAS, the City's tourist industry has continued to grow; and,

WHEREAS, the following extensive debate and review on the matter of short term vacation rentals, the City Council has determined that the regulation of short term rental properties is appropriate in order to protect the health, welfare and safety of the general public and the citizens, residents and visitors to the island.

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. Definitions**

(a) “Owner,” as defined herein, is the owner or owners of a Short-term vacation rental. That includes any owners, shareholder, partner or interested party of any legal entity which owns a short-term vacation rental.

(b) “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.

(c) “Short-term Vacation Rental Occupants” means guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupy a dwelling unit for lodging for a period of time not to exceed thirty consecutive days.

(d) “Short-term Vacation Rental” means an accommodation for transient guests where, in exchange for compensation, a residential dwelling unit is provided for lodging for a period of time not to exceed thirty 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 and shall exclude both bed and breakfast as they are defined by the City of Tybee’s Land Development Code.

(e) “Short-term Vacation Rental Agent” means a natural person designated by the owner of a Short-term Vacation Rental on the short-term vacation rental certificate application. Such person shall be available for and responsive to contact at all times.

(f) “Bedrooms” means a room or space within a Short-term vacation rental intended or used for sleeping that is designated as such by the Short-term Vacation Rental Owner.

#### **Sec. 34-196. Application**

(a) Within one hundred and twenty (120) days after the effective date of this Ordinance, no person shall rent, lease or otherwise exchange for compensation all or any portion of a dwelling unit as a short-term vacation rental, as defined in Sec. 34-196, without first obtaining an occupation tax certificate and complying with the regulations contained in this section.

(b) No certificate issued under this Chapter may be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued. In the case of property transfer or change in management company the property can continue to operate for thirty (30) days under the previous certificate until the new owner/manager obtains a new certificate. A transfer fee as

determined by the City Manager may be applicable. Applicant for a short-term vacation rental certificate shall submit, on an annual basis, an application for a short-term vacation rental certificate to the City of Tybee Island. The application shall be furnished under oath on a form specified by the City Manager, accompanied by a non-refundable application fee as established by City Council and on file with the Clerk. Such application should include:

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

(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 and location of off-street parking spaces on the premises and any off-premises parking applicable;

(4) The owner's agreement to use his or her best efforts to assure that use of the premises by short-term vacation rental occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties

(5) The name, address and telephone number of a short-term vacation rental agent who will be operating the short-term vacation rental and be available at all times for the purpose of promptly responding to complaints regarding the conduct of the occupant(s), or the occupant's(s') guests of the short-term vacation rental. The short-term vacation rental agent must be available twenty-four (24) hours per day, on all days that the residence is booked to have guests for the purpose of responding to complaints regarding the conduct and behavior of the occupants.

(6) Any other information that this Chapter requires the owner to provide to the City as part of an application for a short-term vacation rental certificate. 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.

(c) In connection with each application for a short-term vacation rental location, staff shall secure information regarding the nature and location of the property, the maximum allowable occupancy and available off-street parking. 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 Short-term vacation rental agent.

(d) An application pursuant to this Code section shall be processed, including all determinations made by staff, and a written response given to the applicant within thirty (30) days of the application being submitted.

(e) Interpretation with Zoning Codes. An application will only be considered if the use is authorized under the property's applicable zoning classification.

(f) Grant or Denial of Application. Review of an application shall be conducted in accordance with due process principles and shall be granted unless the applicant fails to meet the conditions and requirements of this Ordinance, or otherwise fails to demonstrate the ability to comply with local, state or federal law. Any false statements or information provided in the application are grounds for revocation, suspension and/or imposition of penalties, including denial of future applications.

(g) Appeals of Determinations of Staff Pertaining to Grant Or Denials of Applications.

- (1) In the event an applicant believes that the staff erred in making any determinations under this code section, the applicant may appeal to the City Manager by supplying the Clerk written notice of appeal within thirty (30) days of a staff determination. Upon receipt, a hearing before the City Manager shall be held within thirty (30) days, and the applicant will be given written notice of the hearing at least ten (10) days prior to the hearing. In the event, an applicant is currently lawfully leasing the property under pursuant to this Article, then this appeal shall stay any revocations or determinations by staff.
- (2) Appeals from the City Manager and Variances. In the event an applicant believes that the City Manager erred in making any determinations under this code section, or in the event the applicant wishes to seek a variance, the applicant may apply to the Mayor and Council by supplying the Clerk written notice of appeal or request for variance within thirty (30) days of the City Manager's decision. Timely filing of an Appeal shall stay any revocation. Applicants may seek a variance at any time following the submission of an application and payment of all requisite fees. Upon receipt, a hearing before Mayor and Council shall be held at the next scheduled meeting, the applicant will be given written notice of the hearing at least ten (10) days prior to the hearing, and the applicant will be allowed to present evidence as to the alleged error of the City Manager, or reasons for the requested variance.

#### **Sec. 34-197. Requirements and Regulations**

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 in conjunction with the short term vacation rental's trash pickup schedule, and shall otherwise comply with the City's Code and regulations regarding solid waste/refuse. 22-191 et. seq.

(2) A Short-term Vacation Rental Agent shall be available twenty-four (24) hours per day on days the property is occupied by guests for the purpose of responding promptly to complaints or inquiries regarding the conduct, parking, trash or other issues concerning the Short Term Rental Unit or its occupants. The name and telephone number of the Short-term Vacation Rental Agent shall be on file with the Police Department.

(3) All regulatory and administrative fees must be timely paid.

(4) The occupancy of a Short-term vacation rental 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 vacation rental for any continuous twenty-four (24) hour period or for overnight accommodations shall be calculated on the basis of two adults per bedroom, plus an additional two adults. Persons twelve (12) years of age and younger shall not be included in determining the maximum overnight occupancy. Notwithstanding the designation offered by the Short-term Vacation Rental Owner for number of bedrooms, the number of bedrooms shall not exceed the number designated on the County Assessor's property record card unless staff shall determine that the property is unusual and extraordinary, in which case staff may set the occupancy limits without regard to this subsection. **I don't like the idea of staff having to determine occupancy.**

(b) Staff shall determine the number of off-street parking locations on the short-term vacation rental property and it shall be incorporated into the license. It shall be a violation to have more cars parked on the property that is depicted on the license. **I also would prefer the owner designate parking. We don't enforce this for owner occupied property.**

(c) 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.

(d) Written Rental Agreement.



(1) There shall be a written rental agreement between a short-term rental property owner or agent and the occupant(s) and it shall contain the occupant's(s') agreements to comply with all of the regulations contained within this Ordinance. The Written Rental Agreement shall substantially reflect the approved written exemplar agreement, and contain all of the relevant material terms. The short-term rental property owner or agent is required to get signatures of at least one adult occupant and a list of all adult occupant(s) and keep those documents on file for at least going back two years. The short-term rental property owner or agent is required to permit inspection of these rental agreements upon demand by the City for tax collection and public safety. Inspection shall be deemed met if the short-term rental property owner or agent provides a copy of any agreement(s) to the City within five (5) days notice of the request.

(2) Attached to and concurrent with submission of the application described in this section, the owner shall provide a written exemplar agreement, which shall consist of the form of document to be executed between the owner and occupant(s) and which shall contain the following provisions: (A) The occupant(s)' agreement to abide by all of the requirements of this Ordinance, any other City of Tybee ordinances, state and federal law and acknowledgement that his or her rights under the agreement may not be transferred or assigned to anyone else; (B) The occupant(s)' acknowledgement that it shall be unlawful to allow or make any noise or sound that exceeds the limits set forth in the City's noise ordinance; and (C) The occupant(s)' acknowledgement and agreement that violation of the agreement or this Ordinance may result in immediate termination of the agreement and eviction from the short-term vacation rental unit by the owner or agent, as well as the potential liability for payments of fines levied by the City. *I am not a fan of this section. I think it sounds a bit heavy handed. I would prefer that the owner supply a list of codes/laws that the renters should be aware of.*

(3) Proof of the owner's current ownership of the short-term vacation rental property; and,

(4) A written certification from the short-term vacation owner or agent that he or she agrees to perform the duties specified in this Ordinance. The license holder shall publish a short-term vacation rental license number in every print, digital, or internet advertisement and any property listing in which the short-term vacation rental is advertised.

(e) Notification of Violations. Within seven (7) days of any behavior which results in a citation or incident report being issued at a short-term vacation rental property, the City shall provide written notice to the short-term vacation rental owner and agent of said citation or incident report and reference to a citation or incident report number. When a property has three citations, which are supported by probable cause, related to it within a twelve (12) month period, then the license shall be revoked by the City in accordance with this Ordinance. The City Manager shall make the determination

whether the three citations were supported by probable cause and order any revocations pursuant to this subsection. **Which staff member is responsible for this?**

**Sec. 34-?. Information sign**

- (a) All short term rental units shall have a sign mounted to the building or front fence. No free standing signs. The signs shall include a contact name and phone number and unit license number.

**Sec. 34-198. Violations**

(a) In addition to other means of enforcing violation of laws including charging individuals with certain crimes, in the event of multiple violations of this Ordinance, the City, through the City Manager, may direct notice to the short-term rental property owner(s) or short-term vacation rental agent to show cause before the City Manager why the license should not be revoked pursuant to Sec. 34-197(e) or any other provisions which authorize revocation of the license. Notice shall be given at least ten (10) 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 at the location is thereafter prohibited without a new license being applied for and issued.

(b) In the event the owner, short-term vacation rental agent, or a representative thereof, appears for the hearing, the City Manager 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.

(c) In the event of an adverse determination, so long as it is done within ten (10) days of the decision of the City Manager, the owner, short-term vacation rental agent, or a representative thereof, may appeal the decision of the City Manager to the Mayor and Council of the City which shall conduct a hearing thereon and make a final determination. A timely filed appeal to the Mayor and City Council shall stay any revocation until such time as the Mayor and City Council have made a decision on the merits.

(d) Each determination shall be sent by certified mail to the owner, short-term vacation rental agent, 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.

(e) It is a violation of this ordinance for any owner, short-term vacation rental agent, 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 vacation rental to exceed the capacity permitted under the approved application and as established on the application as to occupancy or parking.
3. Failure of the owner's(s') agent or Short-term vacation rental agent 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. Knowingly conducting any unlawful or unpermitted activities on the premises.

(f) In addition to termination of licensure or probation, among other penalties, violations of this Chapter are subject to the following fines, to be levied after the City brings the violator before the municipal Court, which may not be waived or reduced and which may be combined with any other legal remedy available to the City:

- (1) First violation: \$250;
- (2) Second violation within the preceding 12 months: \$500; and,
- (3) Third violation within the preceding 12 months: \$1,000.

(g) Violations and revocations only relate to individual properties, and violations at one short-term vacation rental property will not be applied to any other property(ies). Revocations shall only be for one calendar year.

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 \_\_\_\_\_, 2015.

ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK OF COUNCIL

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

ENACTED: \_\_\_\_\_

EMH/Tybee/Ordinances/2011/28-2015 - Short term rentals 09.28.15  
EMH/Tybee/582-Short Term Rental Properties/28-2015

## ARTICLE VIII. - SHORT-TERM RENTAL PROPERTIES

*Footnotes:**-- (4) --*

**Editor's note**— Ord. No. 2016-07B, adopted May 26, 2016, set out provisions intended for use as Art. VII, §§ 34-195—34-201. Inasmuch as there were already provisions so designated, these provisions have been included as Art. VIII, §§ 34-260—34-266.

Effective date of Ord. No. 2016-07B is May 26, 2016.

## Sec. 34-260. - Purpose and intent.

- (a) The purpose of this article is to establish regulations for the use of residential dwelling units as short-term vacation rentals and to ensure the collection and payment of hotel/motel fees and occupation tax certificate fees.
- (b) "Short-term vacation rental" means an accommodation for transient 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 and shall exclude bed and breakfast accommodations as they are defined by the City of Tybee's Land Development Code. This is also identified as "STVR".
- (c) An owner shall be required to designate an agent for any short-term vacation 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 vacation 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 STVR. Such person is customarily present at a location within the city for purposes of transacting business, and is responsible for taking remedial action to promptly resolve issues.
- (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 vacation rental unit.

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

## Sec. 34-261. - 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 vacation 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 STVR 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 STVR.
- (c) Owner or rental agent for a short-term vacation rental shall submit, on an annual basis, a location identification/occupational tax certificate to the City of Tybee Island. The certificate shall be furnished on a form specified by the city manager, accompanied by a non-refundable occupational tax and regulatory fee. Such certificate should include:
  - (1) The complete street address of the STVR;
  - (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 of location of off-street parking spaces on the premises and any off-premises parking applicable;
  - (4) The name, address and telephone number of a short-term vacation rental agent or local emergency contact if applicable; and
  - (5) Any other information that this chapter requires the owner to provide to the city as part of the identification for a short-term vacation 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 by section 34-265.
- (d) The certification form pursuant to this section shall be processed, and added to a database to be kept by staff listing STVR 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.

(Ord. No. 2016-07B, 5-26-2016; Ord. No. 09-2019, § 1, 5-9-2019)

Sec. 34-262. - Regulatory fee/renewal.

- (a) The short-term vacation 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.
  - (1) The regulatory fee shall be \$100.00 per rental unit. An application is valid when completed and filed along with payment of the application regulatory fee. 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 shall be issued a location identification number.
- (c) Failure to comply as prescribed by this section will result in a fine of \$100.00 for each month that the unit continues to operate without registration.
- (d) The annual application documentation of a unit and the regulatory fee are not transferrable. In the event ownership of a unit changes and even if there is no change in the management company managing the unit, the fee upon ownership change shall be \$100.00 if the change occurs prior to July 1 of the year and \$50.00 if after July 1 of the year.
- (e) In the event a management company changes, the unit is to be re-documented by notice to the city identifying the property/unit to the city and the regulatory fee will be \$50.00 if the management company change is after July 1; otherwise, the fee is \$100.00.

(Ord. No. 16-2017-B, § 1, 12-19-2017; Ord. No. 09-2019, § 2, 5-9-2019)

**Editor's note**— 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. 34-263. - Good neighbor policy.

The city shall make available on its website a list of STVR good neighbor policies which STVR agents are encouraged to share with their clients.

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

#### Sec. 34-264. - Signs.

All one- and two-family STVR units shall post a sign visible from the street listing emergency contact name and phone number. Such sign shall not exceed 24 inches x 24 inches. The emergency contact name and number shall be the STVR agent as required by section 34-260(d) unless otherwise specified to and approved by the city staff and any rental agency involved. 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 at such locations as approved by staff consistent with that purpose.

Multi-family units shall post a sign visible from outside the unit listing the required emergency contact name and phone number. Multi-family units shall not exceed 8½ inches x 11 inches. All such signs shall be located at locations approved by staff consistent with the purpose of the sign requirements.

(Ord. No. 2016-07B, 5-26-2016; Ord. No. 16-2017-B, § 1, 12-19-2017)

Sec. 34-265. - Reserved.

**Editor's note**— Ord. No. 16-2017-B, § 1, adopted Dec. 19, 2017, repealed § 34-265, which pertained to emergency contact and derived from Ord. No. 2016-07B, adopted May 26, 2016; and Ord. No. 06-2017-A, § 1, adopted Mar. 9, 2017.

Sec. 34-266. - 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)

Secs. 34-267—34-299. - Reserved.



The House Committee on Regulated Industries offers the following substitute to HB 523:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,  
2 so as to allow limited regulation of the use of properties as short-term rentals by local  
3 governing authorities; to provide for definitions; to provide for exemptions; to provide for  
4 statutory construction; to provide for related matters; to repeal conflicting laws; and for other  
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

8 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
9 by revising Chapter 77, which is reserved, as follows:

10 "CHAPTER 77

11 36-77-1.

12 As used in this chapter, the term:

13 (1) 'Entity' means any business, company, marketplace, partnership, or service including,  
14 but not limited to, a corporation, partnership, limited liability company, or sole  
15 proprietorship.

16 (2) 'Long-term rental' means any residence that is offered for occupancy for a fee or  
17 other consideration for 30 consecutive days or more. The term shall not include a  
18 residence that is used for any nonresidential use, including, but not limited to, use as a  
19 retail establishment, restaurant, banquet space, event center, or similar use.

20 (3) 'Residence' means an owner-occupied house; a single-family house or dwelling unit;

25 residence that is used for any nonresidential use, including, but not limited to, use as a  
26 retail establishment, restaurant, banquet space, event center, or similar use.

27 36-77-2.

28 An ordinance, resolution, regulation, or code of a local governing authority of a county,  
29 municipality, or consolidated government may regulate activities that arise when property  
30 is used as a short-term rental if such ordinance, resolution, regulation, or code does not  
31 prohibit the use of property as a short-term rental or long-term rental, does not require the  
32 registration of residential rental property, and applies uniformly to all residences without  
33 regard to whether such properties are used as short-term rentals, long-term rentals, or not  
34 rented at all.

35 36-77-3.

36 Nothing in this chapter shall be construed to affect the validity or enforceability of private  
37 covenants restricting residences used as short-term rentals or long-term rentals or of other  
38 contractual agreements among property owners that relate to the use of residences as  
39 short-term rentals or long-term rentals."

40 **SECTION 2.**

41 All laws and parts of laws in conflict with this Act are repealed.

**ORDINANCE NO. 2019-15**  
**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES**  
**PERTAINING TO THE OPERATION OF SHORT TERM VACATION RENTAL**  
**PROPERTIES AND TO MAKE CHANGES THEREIN TO ELIMINATE**  
**AMBIGUITIES AND TO CLARIFY THE IDENTIFICATION OF SHORT TERM**  
**VACATION RENTAL UNITS AND TO PROVIDE FOR EACH UNIT TO HAVE A**  
**UNIQUE IDENTIFICATION NUMBER; TO REQUIRE ALL ADVERTISING OR**  
**PROMOTION OF ANY UNIT TO INCLUDE THE IDENTIFICATION NUMBER OF**  
**SUCH PROPERTIES AND TO REVISE REQUIREMENTS REGARDING**  
**EMERGENCY NOTIFICATION SIGNAGE AND FOR OTHER PURPOSES**  
**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;

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

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

WHEREAS, the Code of Ordinances at Sections 34-260 through 34-265 deal with the topic of short term rentals; and

WHEREAS, the operation of short term vacation rental properties necessitates additional City time and resources devoted to the specific operation of such properties; and

NOW, THEREFORE, Be it ordained by the Mayor and Council of the City of Tybee Island in open meeting that the Code of Ordinances, Sections 34-262 through 34-265, be amended so that hereafter the sections and subsections addressed below shall read as hereinafter provided.

## SECTION 1

The Code of Ordinances is hereby amended as to Sections 34-262(b), 34-264 and 34-265 so that hereafter the section and subsections shall provide as follow:

- **Sec. 34-262. – Regulatory fee/renewal.**

(a) The short-term vacation 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.

(1) The regulatory fee shall be \$100 per rental unit. An application is valid when completed and filed along with payment of the application regulatory fee. 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 registration number.

(c) Failure to register as prescribed by this law will result in a fine of \$100.00 for each month that the unit continues to operate without registration.

(d) The annual registration of a unit and the regulatory fee are not transferrable. In the event ownership of a unit changes and even if there is no change in the management company managing the unit, the fee upon ownership change shall be \$100 if the change occurs prior to July 1 of the year and \$50 if after July 1 of the year.

(e) In the event a management company changes, the unit is to be re-registered by notice to the city and the regulatory fee will be \$50 if the management company change is after July 1; otherwise, the fee is \$100.

- **Sec. 34-264. - Signs.**

All one- and two-family STVR units shall post a sign visible from the street listing emergency contact name and phone number. Such sign shall not exceed 24 inches × 24 inches. The emergency contact name and number shall be the STVR agent as required by Section 34-260(d) unless otherwise specified to and approved by the city staff and any rental agency involved. 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 at such locations as approved by staff consistent with that purpose. The contact phone number shall be visible from a street nearby.

Multi-family units shall post a sign visible from outside the unit listing the required emergency contact name and phone number. Signs for Multi-family units shall

not exceed 8½ inches × 11 inches. All such signs shall be located at locations approved by staff consistent with the purpose of the sign requirements. The phone number on the sign shall be visible from a publicly accessible area.

Section 34-265 is amended to hereafter read as follows:

Each short term vacation rental property or unit is to have a unique location identification number. Any advertising, promotion or notice of availability of a property or unit for a short term vacation 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 the Code of Ordinances.

## **SECTION 2**

The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared illegal or invalid by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

## **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.

**SECTION 5**

This ordinance shall be effective upon its adoption by the Mayor and Council pursuant to the ordinances of the City.

ADOPTED THIS 11 DAY OF November, 2019.

  
MAYOR



ATTEST:

  
CLERK OF COUNCIL

FIRST READING: 10/24/2019

SECOND READING: 11/14/19

ENACTED: 11/14/19

Tybee/Ordinances 2017/16-2017-A STVR FEES 12.06.17  
16-2017-B revised 12.19.17

## ARTICLE IIA. - DISORDERLY HOUSE NUISANCE CODE

## Sec. 22-33. - General definitions.

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

*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 dwelling, and accessory buildings such as garages located on the same premises.

*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.

*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.

*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.

(Ord. No. 04-2019, 5-9-2019)

## Sec. 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 365-day period.

- (1) One or more felonies or three 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 or more violations of chapter 10 of this Code, relating to animals and fowls, arising out of separate and distinct facts and circumstances; or
- (3) Three or more violations of article II, article III, or article IV of chapter 22 of this Code, relating to nuisances, property maintenance, and/or noises arising out of separate and distinct facts and circumstances; or
- (4) Three or more violations of chapter 42 of this Code, relating to various offenses, arising out of separate and distinct facts and circumstances; or
- (5) A combination of three offenses s from any of the above categories, arising out of separate and distinct facts and circumstances.
- (6) For purposes of this section and this article, a person's unexcused failure to appear to answer a charge or the failure to pay a fine in lieu of an appearance is to be considered the equivalent of a conviction and therefore, a violation.

(Ord. No. 04-2019, 5-9-2019)

## Sec. 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.

(Ord. No. 04-2019, 5-9-2019)

## Sec. 22-36. - Written notice of disorderly house nuisance.

No person shall be prosecuted for a violation of section 22-35 until the city manager or his designee (hereinafter sometimes referred to herein as "director") 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 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 this Code.



(Ord. No. 04-2019, 5-9-2019)

Sec. 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.

(Ord. No. 04-2019, 5-9-2019)

Sec. 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 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, the owner's occupant and/or the owner's manager for a period of 12 months from the date of the original agreement entered into by the owner or his authorized designee, including the occupant or the manager, who are conclusively identified as authorized agents of the owner for all purposes in reference to an abatement agreement 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 devises 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 48 hours to review it and enter into said agreement by signing it and returning it to the community development director or his designee.

(Ord. No. 04-2019, 5-9-2019)

Sec. 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.

(Ord. No. 04-2019, 5-9-2019)

Sec. 22-39.1. - Non-owner occupied properties.

Notwithstanding any other provisions of this Code, in the event the property or dwelling in question is a location authorized or permitted for non-owner occupied 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 section 34-39 may be used to address license revocation proceedings in lieu of the above.

(Ord. No. 04-2019, 5-9-2019)

Sec. 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 article.

(Ord. No. 04-2019, 5-9-2019)

Sec. 22-41. - Judgment.

No judgment finding a violation of this article 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 article, shall be deemed to have endeavored in good faith to prevent the nuisance.

(Ord. No. 04-2019, 5-9-2019)

Sec. 22-42. - Penalties.

Upon a finding of guilt under this article, the court may, in addition to other remedies permitted by this Code, impose a term of probation of up to one 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.

(Ord. No. 04-2019, 5-9-2019)

Secs. 22-43—22-67. - Reserved.

## Short Term Vacation Rentals

### The Business of Short Term Vacation Rentals (STVR) on Tybee Island

#### General Introduction and Requirements

The City of Tybee Island Defines a Short Term Vacation Rental (STVR) as an accommodation rented to a guest for less than 30 days. The STVR Ordinance can be found by clicking on the link below. To summarize, STVR properties must be registered with the City, must have a tax certificate number (business license), and must comply with sign requirements contained within this code. Hotel tax and state sales tax must also be collected and paid on rental receipts. More information can be found by reviewing the Ordinance and in the information below.

Review [City Ordinances related to the Vacation Rental Business](#)

#### Applying to become a registered Short-Term Vacation Rental

STVR property owners must complete an application prior to advertising or operating. Applications along with the check or money order for the registration fee can be mailed to:

STVR Applications

Tybee City Hall

PO Box 2749

403 Butler Ave

Tybee Island, GA 31328

or dropped off at City Hall at 403 Butler Avenue. STVR property owners will need to secure a business license unless the property is managed by a company with a Tybee Business License.

Download the [Short Term Vacation Rental Registration form](#)

Download the [Business License Registration form](#)

#### Local Hotel/Motel Taxes

Short-term vacation rentals are required to remit a 6% local hotel/motel tax to the City's Revenue Department by the 20th day of the following month. Please follow the process outlined on the Hotel/Motel Tax Monthly Return to remit your payment. A report must be filed on time even if there is no revenue.

Download the monthly [Hotel Motel Tax Reporting form](#)

#### State Use And Sales Tax

In addition to the local hotel/motel tax, the 7% State Use and Sales Tax must be remitted to the Georgia Revenue Department by the 20th day of the following month. To file State Sales Tax, register with the State's Department of Revenue to obtain a State Sales Tax Number. Please refer to the Georgia Department of Revenue for more information about the State Use and Sales.

Check out the [Georgia Department of Revenue Business Registration and Sales Tax page](#)

### **Good Neighbor Policy**

The Tybee community is dedicated to maintaining a safe and peaceful family atmosphere for all residents and visitors of Tybee Island. Tybee Island has implemented a "Good Neighbor Program", and STVR owners and managers pledge to inform their guests about local laws, subdivision rules, and beach rules. STVR owners and managers must use their best efforts to assure that use of the premises by rental guests will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties. STVR Owners must designate a local emergency contact person to contact for problems. The local contact must be available 24/7 and must be able to respond to complaints regarding the condition, operation, or conduct of occupant, and be able to take remedial action to resolve complaints in a timely manner.

Tybee's Good Neighbor Policy is described in the first articles on this page. Please scroll up to review this information.

### **Enforcement and Questions about a STVR?**

If you have a complaint or question about a certified or uncertified STVR, contact the City's business license manager, Sharon Shaver, at [sshaver@cityoftybee.org](mailto:sshaver@cityoftybee.org) or 912.472.5072. If you believe a STVR is being advertised but is not registered or paying taxes, or if you believe there is a STVR that does not meet the sign posting requirements please report this information and the matter will be investigated. Please include the property address, time of complaint and nature of complaint.

## ***Tybee's Short Term Vacation Rental Ordinance and Good Neighbor Policy***

### ***Welcome to Tybee Island!***

We are pleased you have chosen to spend your vacation on Tybee Island. Tybee is famous for the miles of sandy beaches along with its rich history that spans back to the late 1800s. There's so much to see and do that it would be impossible to do it all in one trip, so we invite you to come back again! In the meantime, be sure to make some time to sit back, relax and just do nothing at all. This is what the locals call "Tybee time", and it's part of the reason so many people flock to our little three mile island ... to escape and enjoy a slower pace of life.

Like many of our visitors, you have decided to rent a residential home or condominium for your own special vacation getaway. That's great! This lodging option has become a popular choice for families since it provides more privacy and a sense of togetherness that comes from staying in a private residence. Perhaps the greatest benefit is the pleasure of "living like a local" in one of our unique residential neighborhoods or condominium communities. By choosing to stay in a short term vacation rental, you will be residing among the many permanent residents who have chosen to call Tybee Island "home."

Staying in a private home or condo allows visitors to experience a sense of community immersion, and much like any small community, the residents of Tybee Island value peaceful surroundings, and an environment that is quiet and safe.

### ***What You Need To Know About Tybee's Good Neighbor Program***

This brochure is intended to highlight a few ways you can be a good neighbor during your stay on Tybee Island. City leaders along with the residents of Tybee ask for your cooperation to help keep Tybee Island an enjoyable place for everyone. Follow the golden rule and treat others the way you would want to be treated back at home. Staying at a short term rental means being a good neighbor and having consideration for those around you.

Please keep in mind that you may be cited or fined by the City, or even evicted by the homeowner or property manager, for creating a disturbance or for violating other provisions of the public nuisance ordinances. The surrounding neighbors have access to a 24-hour number to call should they need to file a complaint. Property managers and vacation rental homeowners are committed to keeping the peace.

### ***What Noise? Enjoy Your Stay While Being a Good Neighbor***

Vacation time with family and friends can be fun and exciting with plenty of conversations, laughter and music, and everyone on vacation wants to enjoy a good time away from their normal routines. It is important to balance the vacation fun with the neighbor's own quiet enjoyment of their homes – many of them are not on vacation and are leading normal lives during your stay. Consider how you would want your neighbors to behave in your own neighborhood. Chances are your Tybee neighbors will expect the same of you while you are here. A little bit of consideration goes a long way. Keep in mind that loud music is not allowed outside of your home, so please don't bring the speakers outside or crank up the music. Quiet time is 10pm to 7am.

Please do not create noise or disturbances or engage in disorderly conduct. A call from the neighbors to the local property manager or the Police Department will bring either the manager or the police to your door. So, please keep the noise down. Our officers can issue you a citation if you violate the city's noise ordinance or any other local laws.

### ***Occupancy - How Many is Too Many?***

Each short term rental has an occupancy limit that varies according to the size of the home and number of beds. Always check with the homeowner or property manager before bringing additional persons into the property, and verify that you are not breaking any rules.

Compliance with these rules will assure that you and your neighbors will both enjoy your stay. We're glad you're here and want you to have a great time!

### ***Parking – Where to park and what are the limits?***

Many of Tybee's homes were constructed before the widespread use of automobiles, and some properties do not have garages or large driveways. Each short term rental has a parking limit that varies according to the number of designated off-street parking spaces available. Guests are asked to only park in assigned spaces and to not park in City right-of-ways, front yards, or blocking neighboring driveways or streets. Cars blocking access can be towed. Legal street parking spaces are available on a pay-to-park first-come-first-serve basis and public parking rules are enforced 365 days per year.

## ***Advice for those traveling with their pets***

Visitors are reminded the City of Tybee Island has a leash law that requires all dogs be on leashes whenever they are outside and not in a fenced area. You are responsible for maintaining control of your dog to ensure the safety of others. Please be considerate and pick up your pet waste to dispose of properly. Never leave your pet unattended in a vehicle; it is illegal, your pet may be removed to Animal Control at 78 Van Horn, and you could face a citation. And, just like at home, a barking or whining dog disturbs the neighbors. Dogs are not allowed on any of Tybee's beaches at any time.

***Tybee Island Short Term Vacation Rental (STVR) managers and homeowners are committed to welcoming our guests into the Tybee community while encouraging good neighbor behaviors in our neighborhoods.***

*We work with guests and neighbors to avert potential problems and to ensure that developing issues are resolved.*

*We ask that guests recognize our community's dedication to maintaining a safe and peaceful family atmosphere for all residents and visitors of Tybee Island.*

*Tybee Island has implemented a Good Neighbor Program and STVR owners and managers pledge to inform our guests about local laws, subdivision rules, and beach rules.*

*Compliance with these rules will assure that you and your neighbors will both enjoy your stay. We're glad you're here and want you to have a great time.*

*We welcome you to Tybee and hope you enjoy your vacation!*

### ***Guests are asked to abide by the following basic Rules and Guidelines:***

- Please respect the neighborhood and your neighbor's right to quiet enjoyment of their home. Loud Music and noise is prohibited. Quiet time: 10pm to 7am, please be a good neighbor!
- Overnight guests shall not exceed the property's posted occupancy. Only Registered Guests shall occupy the Rental Property.
- All rental properties are designated for residential use consistent with the City Of Tybee code. Prom groups, large groups, events, receptions or like-kind events are not allowed at STVR properties.
- Cars parked on premises shall not exceed published parking capacity of property. Cars should display appropriate parking pass issued by the owner or manager and must be parked in the driveway or designated parking area of the rental property. Parking in neighboring yards or driveways of rental property is prohibited. Vehicles may not be driven or parked where not allowed.
- Posted street signage (speed limits, parking, etc.) will be obeyed.
- Motor homes, campers, and tents are prohibited and may not be parked or hooked up at STVR property.
- Charcoal grilling on deck is prohibited; it is a fire hazard.
- Only registered pets are allowed in designated rental properties. Leash laws must be obeyed and no pets are allowed on the beach (City Fines range upwards of \$280 per incident).
- Help keep Tybee clean! Garbage will be bagged securely and placed in the trash and recycling carts provided. The City has contracted weekly "side door" trash pickup so do not roll trash or recycling carts to

the curb, but please be sure to take your trash out to the cart the night before your property's designated trash/recycling pick up day.

- Most STVR properties do not allow indoor smoking (Please refer to your Rental Agreement). No "butts on the beach" or anywhere else; cigarette butts shall be properly disposed of.
- Support the Turtle "Lights Out" Program. Turn your beachfront porch lights off by 9pm. (May-Nov)

### ***City of Tybee Official Beach Rules***

- No Pets on the Beach (Current fine: \$280+)
- No Glass or Breakable Containers
- No Motorized Vehicles on Beach
- No Littering-this includes cigarette butts!
- No Fires or Grilling
- No Disorderly Conduct
- No Nudity
- No Disturbing Dune Vegetation or Walking in the Dunes
- Swim Within 50 Yards of Shoreline
- Obey Lifeguards
- No Motorized Watercraft within 1000 Feet of Water Line
- Surfing and Fishing Only in Designated Areas
- No beer kegs

## **Connect with Tybee Island**

Post Office Box 2749 | 403 Butler Avenue | Tybee Island, GA 31328 | Phone: 912-786-4573



Caution  
As of: July 11, 2019 2:38 PM Z

Supreme Court of Georgia  
February 18, 2019, Decided  
S18A1622, S18X1623.

**Reporter**  
305 Ga. 305 \*; 824 S.E.2d 365 \*\*; 2019 Ga. LEXIS 105 \*\*\*; 2019 WL 654190

MORGAN COUNTY v. MAY; and vice versa.

Civil Procedure > Appeals > Record on Appeal

**Prior History:** Zoning ordinance. Morgan Superior Court. Before Judge Burleson.

[HN1](#) Record on Appeal

The appellate court views the record in the light most favorable to the trial court's findings and orders.

May v. Morgan County, 343 Ga. App. 255, 807 S.E.2d 28, 2017 Ga. App. LEXIS 478 (Oct. 20, 2017)

**Disposition:** Judgment affirmed in Case No. S18A1622. Appeal dismissed in Case No. S18X1623.

Governments > Legislation > Effect & Operation > Retrospective Operation

**Core Terms**

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > Scope of Protection

rentals, ordinance, zoning ordinance, days, renting, amended ordinance, short-term, dwellings, trial court, residential, vague, grandfathered, single-family, detached

[HN2](#) Retrospective Operation

Ga. Const. art. I, § I, para. X prohibits retroactive laws.

**Case Summary**

Business & Corporate Compliance > ... > Real Property Law > Zoning > Ordinances

**Overview**

**HOLDINGS:** [1]-The trial court's order dismissing a home owner's criminal citation for violating the county's amended zoning ordinance by renting out her lake house for a week was affirmed because the zoning ordinance in effect at the time the home owner began renting the lake house for short periods was unconstitutionally vague as applied, meaning that use of the house for such rentals was grandfathered and not subject to the amended ordinance's explicit prohibition of short-term rentals for fewer than 30 days.

Governments > Local Governments > Ordinances & Regulations

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > Scope of Protection

**Outcome**

Judgment affirmed in one case; appeal dismissed in other case.

Governments > Legislation > Vagueness

[HN3](#) Ordinances

To satisfy due process, a challenged statute or ordinance must give a person of ordinary intelligence fair warning that specific conduct is forbidden or mandated and provide sufficient specificity so as not to encourage arbitrary and discriminatory enforcement. Vagueness challenges to statutes and ordinances that do not implicate First Amendment freedoms must be examined in the light of the facts of the case to be decided.

**LexisNexis® Headnotes**

305 Ga. 305, \*305; 824 S.E.2d 365, \*\*365; 2019 Ga. LEXIS 105, \*\*\*105

Business & Corporate Compliance > ... > Real  
Property Law > Zoning > Local Planning

#### HN4 [↓] Local Planning

To the contrary, a person may legally establish a residence in only one day. No definite amount of time spent in a place is essential to make that place a home. A family that moves into a new house actually lives there on the day they move in — not only after 30 days have passed. That the family has not yet lived in their new home for 30 days does not mean that they are merely temporarily sojourning there. Likewise, people can stay in a place even longer than 30 days without actually residing there. It requires both act and intent to establish a residence, and either without the other is insufficient. A construction worker may stay in a rented house for several months while she completes a project, but that house does not automatically become her new residence on day 30 of her stay. Nor do vacationers who plan to return home after spending their whole summer in a rented lake house necessarily establish a residence at the lake after 30 days of rental.

### Headnotes/Summary

#### Headnotes

Georgia Advance Headnotes

#### GA(1) [↓] (1)

Constitutional Law. > Procedural Due Process. > Scope of Protection.

To satisfy due process, a challenged statute or ordinance must give a person of ordinary intelligence fair warning that specific conduct is forbidden or mandated and provide sufficient specificity so as not to encourage arbitrary and discriminatory enforcement.

#### GA(2) [↓] (2)

Real & Personal Property Law. > Zoning & Land Use.  
> Judicial Review.

Trial court's order dismissing home owner's criminal citation for violating county's amended zoning ordinance

by renting out lake house for week was affirmed because zoning ordinance in effect at time home owner began renting lake house for short periods was unconstitutionally vague as applied, meaning that use of house for such rentals was grandfathered and not subject to amended ordinance's explicit prohibition of short-term rentals for fewer than 30 days.

**Counsel:** *Hall Booth Smith, Christian G. Henry*, for appellant.

*DuBose Law Group, C. Wilson DuBose, Jennifer L. Pridgeon, Matthew R. Frick*, for appellee.

**Judges:** [\*\*\*1] NAHMIAS, Presiding Justice. All the Justices concur.

**Opinion by:** NAHMIAS

### Opinion

[\*305] NAHMIAS, Presiding Justice.

[\*\*366] Morgan County appeals the trial court's order dismissing Christine May's criminal citation for violating the County's amended zoning ordinance by renting out her house near Lake Oconee for a week. The court concluded that the zoning ordinance in effect at the time May began renting her house for short periods was unconstitutionally vague as applied, meaning that her use of the house for such rentals was "grandfathered" and not subject to the amended ordinance's explicit prohibition of short-term rentals for fewer than 30 days. May cross-appeals, but we need not address her claimed errors, because we affirm the trial court's dismissal of her citation.

1. May built a vacation home in Morgan County, and in 2008 she began renting her house to others, typically for periods of about a week.<sup>1</sup> The County's zoning ordinance in effect at that time did not contain any specific language addressing rentals of any duration for houses in May's zoning district. In practice, the County took the position that fewer-than-30-day rentals were

<sup>1</sup> HN1 [↑] We view the record in the light most favorable to the trial court's findings and orders. Additional details about this case and its complicated procedural history can be found in *May v. Morgan County*, 343 Ga. App. 255, 255-257 (807 SE2d 28) (2017).

305 Ga. 305, \*305; 824 S.E.2d 365, \*\*366; 2019 Ga. LEXIS 105, \*\*\*1

prohibited but rentals for 30 days or longer were permitted. In October 2010, the [\*\*\*2] County amended its zoning ordinance to explicitly prohibit most "short-term rentals," which were defined as rentals for fewer than 30 consecutive days. May had continued to rent her house, and in August 2011, after she again rented her house for seven nights, the County issued her a citation for violating the amended zoning ordinance, thereby initiating a misdemeanor criminal proceeding against her. May's criminal case was stayed for several years, however, while she and the County extensively litigated a civil lawsuit she filed challenging the [\*306] short-term rental ban in the County's amended ordinance as applied to her property.<sup>2</sup>

After her criminal case was revived in 2015, May filed a motion to dismiss her citation, arguing among other things that the County's old zoning ordinance was unconstitutionally vague because it did not specifically prohibit seven-night rentals, that her use of her house for such rentals was therefore lawful under the old ordinance, and that she consequently had a grandfathered right to continue renting the house in that way that precluded her from being prosecuted under the short-term rental prohibition in the amended ordinance.<sup>3</sup>

<sup>2</sup> May's September 2012 civil bench trial concluded with a declaratory judgment in her favor. But the Court of Appeals in an unpublished opinion vacated that judgment in September 2013 (*May v. Morgan County*, 323 Ga. App. XXVI (Case Nos. A13A1564, A13A1960) (Sept. 12, 2013) (unpublished)), and on remand the civil trial court ruled for the County on procedural grounds in April 2014. The Court of Appeals denied May's application for discretionary appeal of that decision, and in December 2014 this Court denied her petition for certiorari.

<sup>3</sup> Under the amended ordinance, May's use of her property for rentals of fewer than 30 days would be a "nonconforming" use, which — if that use was in fact lawful under the old ordinance — would give her a protected or "grandfathered" property right in that use which could not be immediately eliminated by the amended ordinance. See *Rockdale County v. Burdette*, 278 Ga. 755, 756 (604 SE2d 820) (2004) ("(A) protected ... use is ordinarily defined as a use which lawfully existed prior to the enactment of a zoning ordinance, or of an amendment to a theretofore existing zoning ordinance, and which therefore may be maintained after the effective date of the ordinance or amendment although it does not comply with the zoning restrictions applicable to the area." (citation and emphasis omitted)). See also *HN2* [↑] *Ga. Const. of 1983, Art. I, Sec. I, Par. X* (prohibiting "retroactive law[s]"); *BBC Land & Dev. v. Butts County*, 281 Ga. 472, 473 (640 SE2d 33) (2007) (distinguishing between "nonconforming uses" and "vested rights"). The amended provision of the ordinance did not say

The trial court held a [\*\*367] bench trial [\*\*\*3] in June 2015. In November 2015, the court denied May's motion to dismiss on non-constitutional grounds, and in March 2016, the court found her guilty of violating the amended zoning ordinance and imposed a sentence of 30 days in jail, six months on probation, and a \$500 fine. May appealed, and her case worked its way through the appellate courts and was ultimately remanded to the trial court in October 2017 for a ruling on her constitutional vagueness challenge. See *May v. Morgan County*, 343 Ga. App. 255, 260-262 (807 SE2d 28) (2017).

On May 31, 2018, the trial court granted May's motion to dismiss her criminal citation, ruling that the County's old zoning ordinance was unconstitutionally vague as applied to short-term rentals of the sort at issue; that consequently, there was no zoning ordinance prohibiting such rentals when May began renting her house; and that her use of her house for such rentals was therefore grandfathered so [\*307] that the explicit prohibition of that use under the amended ordinance does not apply to her property. Morgan County appealed the dismissal order to this Court, and May then filed a cross-appeal. The case was docketed to our August 2018 term and was orally argued on November 5, 2018.

## 2. *GA(1)* [↑] (1) *HN3* [↑] To satisfy due process,

a challenged statute [\*\*\*4] or ordinance [must] give a person of ordinary intelligence fair warning that specific conduct is forbidden or mandated and provide sufficient specificity so as not to encourage arbitrary and discriminatory enforcement. Vagueness challenges to statutes [and ordinances] that do not implicate *First Amendment* freedoms must be examined in the light of the facts of the case to be decided.

*Parker v. City of Glennville*, 288 Ga. 34, 35 (701 SE2d 182) (2010).

The County's old zoning ordinance listed permitted uses for properties in May's zoning district and banned any uses that were not listed. There was no mention of rentals of any duration. The County contends that because the ordinance did not list rentals, a person of

that nonconforming uses would be terminated at a later time, and an unamended provision of the ordinance said, with several exceptions, "[t]he lawful use of any building, structure, or land existing at the time of the enactment of this ordinance may be continued, even though such use does not conform with the provisions of this ordinance."

305 Ga. 305, \*307; 824 S.E.2d 365, \*\*367; 2019 Ga. LEXIS 105, \*\*\*4

ordinary intelligence would understand that short-term rentals of "single-family detached dwellings" were not allowed. But the old ordinance failed to provide any guidelines whatsoever to enable May to determine that fewer-than-30-day rentals would be prohibited but rentals for 30 days or longer would be allowed, as the County contends and as the County applied the old ordinance in practice.

Unlike the amended zoning ordinance, the old ordinance contained no language regarding the permissible duration for rentals of houses like May's, much less any sort of [\*\*\*5] ban on rentals for fewer than 30 days. As the trial court noted in its order dismissing May's citation, the County's director of planning and development testified that the old ordinance did not address any permissible or prohibited time limit for rentals.<sup>4</sup> The director also admitted that, despite that silence in the old zoning ordinance, the County's practice was to prohibit fewer-than-30-day rentals but to allow longer rentals. That May would have been allowed to rent her house for a month but criminally [\*308] prosecuted for renting it for a week was nowhere to be found in the text of the old ordinance.

The County argues that even though no language in the old ordinance specifically addressed rentals of houses in May's district, the ordinance's definition of "single-family detached dwellings" was sufficient to put May on notice that week-long rentals of her house were unlawful. The ordinance listed as permitted "single-family detached dwellings" and defined "dwelling" as "a structure ... which is designed or used exclusively for residential purposes ...," but did not define "residential." The Definitions section of the [\*\*368] old ordinance said that all words not defined in the ordinance [\*\*\*6] "shall have their customary dictionary meaning." Relying on a definition of "residence" in the 1979 edition of Webster's New Collegiate Dictionary — "the place where one actually lives as distinguished from a place of

temporary sojourn" — the County asserts that single-family detached dwellings like May's house could be used only as a place where a family "actually lives," rather than as a place where people stay temporarily.

GA(2)[†] (2) As the trial court recognized but the County's brief to this Court ignores, the old ordinance's use of the word "or" in its definition of "single-family detached dwelling" required only that May's house be "designed" for residential purposes — not that it also be "used" only for residential purposes. See Haugen v. Henry County, 277 Ga. 743, 744-745 (594 SE2d 324) (2004) (explaining that "[t]he natural meaning of 'or,' where used as a connective, is to mark an alternative and present choice, implying an election to do one of two things" (citation and punctuation omitted)). But even putting this hole in the County's argument aside, the County makes no attempt to explain how its selected dictionary definition of residence would put a person of common intelligence on notice that the dividing line for illegal "temporary" residences [\*\*\*7] would be drawn at thirty days rather than three, seven, twenty-one, or sixty.

The County's definition of residence in no way suggests that individuals establish a home where they "actually live" only by living there for 30 days or longer. HNA[†] To the contrary, a person may legally establish a residence in only one day. See Dozier v. Baker, 283 Ga. 543, 545 (661 SE2d 543) (2008) (analyzing residency in the context of election laws and recognizing that "[n]o definite amount of time spent in a place is essential to make that place a home" (citation and punctuation omitted)). A family that moves into a new house "actually lives" there on the day they move in — not only after 30 days have passed. That the family has not yet lived in their new home for 30 days does not mean that they are merely "temporarily sojourn[ing]" there.

[\*309] Likewise, people can stay in a place even longer than 30 days without "actually" residing there. See, e.g., Conrad v. Conrad, 278 Ga. 107, 108 (597 SE2d 369) (2004) ("it requires both act and intent to establish a residence, and either without the other is insufficient." (citation and punctuation omitted)). A construction worker may stay in a rented house for several months while she completes a project, but that house does not automatically become her new residence on day 30 of her stay. Nor do [\*\*\*8] vacationers who plan to return home after spending their whole summer in a rented lake house necessarily establish a residence at the lake after 30 days of rental.

Thus, the County's "actually live" versus "temporary

<sup>4</sup>We also note on this point that at a meeting on the proposed zoning amendments, another official from the planning and development department explained that County "staff and the County Attorney had concerns regarding the legality of enforcing" the existing ordinance against vacation rentals and "felt as if the County needed something more concrete in the [ordinance] so that the use could be regulated." The County official also showed a visual presentation that said, "Morgan County currently has no language in the Morgan County Zoning Ordinance that regulates Vacation/Short Term Rentals" and that "the legality of enforcement is questionable."

305 Ga. 305, \*309; 824 S.E.2d 365, \*\*368; 2019 Ga. LEXIS 105, \*\*\*8

sojourn" view of what makes a dwelling "residential" does not make clear that seven-night rentals are prohibited. As the trial court aptly said in its order dismissing May's citation, "The County's definitions within definitions fail to provide any sort of practical guidelines to enable a homeowner to determine at what point a structure ceases to be 'residential.'" (emphasis supplied). We are persuaded by the trial court's reasoning, which the County has failed to address, much less rebut, in its brief on appeal. Accordingly, we agree with the trial court's determination that the County's old zoning ordinance was unconstitutionally vague as applied to seven-night rentals of May's property. As a result, the old ordinance cannot be applied to that use of May's property, meaning that her use of her house for such a rental was grandfathered and not subject to the short-term rental ban in the amended ordinance. May's criminal citation for violating the amended ordinance was [\*\*\*9] properly dismissed.<sup>5</sup>

*Judgment affirmed in Case No. S18A1622. Appeal dismissed in Case No. S18X1623. All the Justices concur.*

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<sup>5</sup> May's motion to dismiss the County's appeal is denied, and her cross-appeal is dismissed as moot.

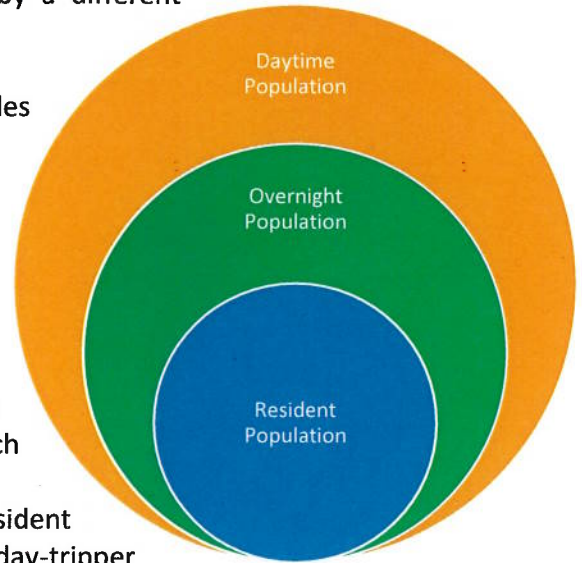
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### 3. POPULATION DYNAMICS ON TYBEE ISLAND

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Due to Tybee Island's prominence as a tourism and vacation destination, there are three distinct types of population that must be considered, as each type of population is necessary for the economic viability of the island but may be affected by a different grouping of limiting factors:

- 1.) Resident Population. This number includes homeowners and long-term rentals.
- 2.) Overnight Population. This number includes the resident population, but it also includes the short-term rental population which is proportionately significant, when compared to the resident population, and highly variable throughout the year. Also included in this population is the "second home" owners who own a second home on Tybee Island, which they do not rent, but at which they periodically vacation.
- 3.) Daytime Population. This number includes the resident and overnight populations as well as the day-tripper population, which is even more variable than the overnight population and the largest population during certain holidays such as the 4<sup>th</sup> of July.



This report includes a summary of the following information regarding the City's population:

- Census data from 2000 and 2010
- Analysis of the 2010 Census Data conducted by Tybee Island in support of the 2012 Local Option Sales Tax (LOST) negotiation
- Data from the City's Business License database regarding short-term rental units and hotel/motel rooms.
- Occupancy data from the Tybee Island Campground and short-term rental agencies
- Assessment of water use and sewage discharge data and its correlation to proposed resident population
- City of Tybee Island Tourism Study

This report also includes a projection of overnight and daytime populations based on the following information:

- Data on rental units provided by the City's Business License Tax Database and private rental agencies.
- Water withdrawal data
- Transportation studies maintained and/or performed by Tybee Island

### 3.1. RESIDENT POPULATION

Table 1 shows the Census data and trends related to population for 2000 and 2010. Table 2 presents the Census data and percentage change for every census since 1900. Please note that the 2010 Census showed the first population decrease on the island since 1920.

**Table 1: Population for Tybee Island, GA**

Source: Census Bureau

Census Data Type	2000	2010	Percent Change
Population	3,392	2,990	-11.9%

**Table 2: Historical Population Trends**

Source: Census Bureau

Census	Pop.	% Change
1900	381	—
1910	786	106.3%
1920	117	-85.1%
1930	202	72.6%
1940	644	218.8%
1950	1,036	60.9%
1960	1,385	33.7%
1970	1,786	29.0%
1980	2,240	25.4%
1990	2,842	26.9%
2000	3,392	19.4%
2010	2,990	-11.9%
Est. 2014	3,082	3.1%

Table 3 presents the Housing Occupancy characteristics and associated trends over the same time period. Between the time period of 2000 and 2010, while resident population was decreasing, the number of total housing units increased. The increase in the total number of living units combined with the reduction in the number of permanently occupied units, resulted in a significant increase in the number of units that are not occupied by a permanent resident. Per the 2010 Census, approximately 60% of the units on the island are not permanently occupied.

**Table 3: Housing Occupancy Characteristics for Tybee Island, GA**

Source: US Census Bureau

Housing Unit Type	2000	Percent 2000	2010	Percent 2010	Percent Change
<b>Total Housing Units</b>	<b>2,696</b>	--	<b>3,366</b>	--	<b>24.9%</b>
<b>Occupied Housing Units</b>	1,568	58.2%	1,360	40.4%	-13.3%
<i>Owner-Occupied</i>	1,078	40.0%	918	27.3%	-14.8%
<i>Renter-Occupied</i>	490	18.2%	442	13.1%	-9.8%
<b>Vacant Housing Units</b>	1,128	41.8%	2,006	59.6%	77.8%
<i>Seasonal, Recreational, Occasional Use</i>	676	25.1%	1,473	43.8%	117.9%
<i>For Rent/For Sale/Other</i>	452	16.8%	533	15.8%	17.9%

### 3.2. OVERNIGHT POPULATION

As a national tourist destination, it is reasonable to assume that Tybee Island has a significant increase in overnight (non-resident) population that stresses the City’s infrastructure and resources. Since tourism on Tybee Island is an economic driver for the region, it is necessary to assess and plan for the impact of increased summertime population.

Tybee Island is a national tourism destination and this overnight, short-term population places a significant burden, in the form of “peak usage” upon Tybee Island’s services and infrastructure, including water, sewer, and roadways. Peak usage can be defined as the result of a period of simultaneous, strong consumer demand.

In order to quantify this additional population and the associated demand placed on City infrastructure and services, EPG has prepared an estimate of overnight population based on data provided by the 2010 Census, the City’s Occupational Tax records for short-term rentals and hotel/motel units. In addition to the short-term rental units, the City of Tybee Island operates a campground that contains RV and tent campsites that would not have been included in the Census. Adding the total number of short-term rental units and hotel/motel units to the total number of campsites results in a total number of 1,738 short-term rental opportunities, as shown in Table 4 on the following page.

The different types of short-term rental units (i.e. house/condo, hotel/motel, and RV/campsite), have different rental characteristics, and therefore are likely to have a different average number of people per rental event. For example, rental houses and condominiums on Tybee Island are typically rented by families, and therefore the number of people per occupied short-term rental units is estimated to be five or greater. Hotel and motel units typically fit less people, so an average number of people per rental event was estimated to be less at 2.5. The campsite actually maintains data on the average number of people per rental event, which was reported as 2.58 in the LOST Study referenced above.

Utilizing the average number of people per rental event, Table 4 also projects the maximum short term rental population that would result from 100% occupancy of all short term rental opportunities.



**Table 4: Short Term Rental Unit Occupancy for Tybee Island, GA**

Source: City of Tybee Occupational Tax Database and Tybee Island Campground

Rental Unit Type	Number of Units	Average Persons Per Unit	Maximum Rental Population
Hotel	420	2.5	1,050
Housing Unit	1,200	5	6,000
Campground	118	2.6	306
<b>Total</b>	<b>1,738</b>		<b>7,356</b>

\* The Tybee Tourism Study does not differentiate between short-term rental unit types and estimates 4.3 people per unit, which equals a maximum short-term rental population of 7,473.

In order to estimate the average overnight population associated with the short-term rental units and campsites on Tybee Island, the LOST Population Study conducted by Tybee Island in 2012 was referenced. As part of this study, information was solicited from the various rental agencies and campsite operator, including the estimated average percent occupancy per month, and the average number of people per rental event. This information was further updated as part of this Carrying Capacity Study, and confirmed through comparison to the City of Tybee Island Tourism Study (2014). This report also included percentage occupancy averages for short-term rental units on Tybee Island for each month of the year (Table 5).

Utilizing the average number of people per rental event for the various short-term rental unit types, the monthly average short-term overnight population is projected in Table 6.

**Table 5: Short-Term Rental Occupancy Rates**

Source: Short-Term Rental Agencies on Tybee Island

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
22%	31%	62%	70%	64%	91%	96%	74%	57%	52%	33%	24%

**Table 6: Short-Term Rental Population by Month**

Rental Unit Type	Hotel Unit	House/Condo	Campground	Total Short-Term Rental Population	
Number of Units	420	1,200	118		
Average Persons Per Unit	2.5	5	2.6		
Occupancy	Hotel Unit Rental Population	House/Condo Unit Rental Population	Campground Rental Population		
Jan	22%	231	1,319	67	1,617
Feb	31%	329	1,883	96	2,308

Rental Unit Type		Hotel Unit	House/Condo	Campground	Total Short-Term Rental Population
Number of Units		420	1,200	118	
Average Persons Per Unit		2.5	5	2.6	
Occupancy		Hotel Unit Rental Population	House/Condo Unit Rental Population	Campground Rental Population	
Mar	62%	649	3,711	190	4,550
Apr	70%	735	4,200	215	5,150
May	64%	674	3,851	197	4,721
Jun	91%	952	5,438	278	6,667
Jul	96%	1,011	5,780	296	7,086
Aug	74%	773	4,419	226	5,418
Sep	57%	595	3,401	174	4,169
Oct	52%	545	3,114	159	3,818
Nov	33%	346	1,976	101	2,422
Dec	24%	253	1,443	74	1,769
<b>Annual Average</b>	<b>56%</b>	<b>591</b>	<b>3,378</b>	<b>173</b>	<b>4,141</b>

Based on this information, the annual average for additional overnight population from short-term rentals is 4,141, the minimum (in January) is 1,617 and the maximum (in July) is 7,086. Adding the annual average for short term rental population to the 2014 estimated year-round average resident population of 3,082, results in an average overnight population of 7,223. Based on the occupancy rates during the months of July and January, the peak monthly average overnight population is 10,168 and the minimum monthly average population is 4,699.

It is important to note that the overnight population numbers above do not address one segment of the overnight population, and that is “second home” owners, i.e. those people who own a second home on Tybee Island, which they do not rent, but at which they occasionally vacation. The second home owners also have the potential to affect the peak overnight population numbers as they are likely to be occupying their second homes during peak tourism months. This number, however, is more difficult to quantify and can only be estimated using the data sources described herein, and this estimated population is described in Table 7.

**Table 7: Second Home Maximum Overnight Population**

Source: US Census and Tybee Island Occupational Tax Database

Total number of “vacant units” per the 2010 Census	2,006
Total number of vacation rental units per Tybee Island	1,200
Number of remaining units, with the potential to be “Second Home” Units	806
Average number of guests per “Second Home” unit	5
<b>Maximum “Second Home” overnight population</b>	<b>4,030</b>

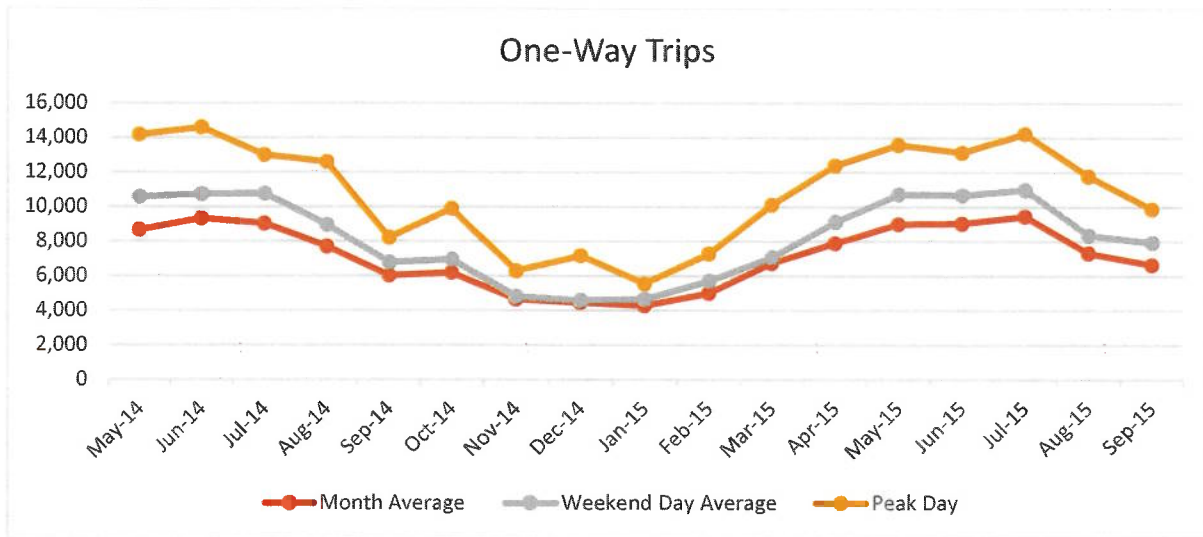
If you add the maximum short term rental population of 7,356 to the 2014 resident population number of 3,082, the resulting maximum overnight population (not including second homes) for the island is 10,438. Adding the maximum “second home” overnight population number of 4,030 to the maximum population of 10,438, results in a potential maximum overnight population of 14,468. While peak occupancy may only happen during the summer season, and the maximum estimated overnight population may be unlikely to occur, the City of Tybee Island must maintain the infrastructure to service this maximum overnight population year-round.

### 3.3. DAYTIME POPULATION

As a popular beach destination, Tybee Island not only has an increase in overnight population during the peak summer months, it also has an increase in daytime population. This metric is important because daytime visitors also place an additional strain on the City of Tybee Island’s infrastructure and services during their brief stay on the Island. In an attempt to quantify the additional daytime population during the summer months, EPG has reviewed the following transportation studies/information sources to gather data on traffic counts:

- City of Tybee Island Pedestrian and Traffic Study (2010)
- Tybee Island Wave Ecology and The Highway 80 Challenge (2011)
- City of Tybee Island Tourism Study (2014)
- City of Tybee Island Sea Level Rise Study (2016)

The City of Tybee Island Police Department also maintains a traffic counter on Highway 80 near Breezy Point that has been fully operational since May 2014. The graph in Figure 1 was generated utilizing the available data from this counter and illustrates the average, weekend day average, and peak daily one-way traffic counts by month for the time period of May 2014 – September 2015.



**Figure 1: Automobile Trips onto Tybee Island**

The highest volume of traffic is during the peak summer months of May through July, further corroborating the projected increase in summertime overnight population. As expected, the average number of one-way trips onto Tybee Island is also greater on the weekends than during mid-week, and the difference increases during summer months. The Tybee Island Traffic and Parking Study reported that “during the summer, traffic on the weekend (Saturday) represents an increase of between 38 and 60 percent over a typical weekday (Thursday).”

The Tybee Island Wave Ecology Report provides a peak daily traffic count of 16,173 for the week of July 3, 2010, and estimates that each trip would represent an average of 2 people. The report goes on to estimate that during peak times/events, such as the July 3<sup>rd</sup> fireworks event, the daytime population could exceed 30,000 people. If the metric of 2 people per trip were applied to the daily traffic count data during the twelve-month period from October 2014 – September 2015, this would result in the daytime population estimates provided in Table 8.

**Table 8: Traffic Counts and Daytime Population Estimate**

Source: Tybee Island Police Department Traffic Counts

	On-Island Trips	Daytime Population
Daily Average	6,726	13,452
Peak Day (July 2015)	14,233	28,466

The data above is fairly consistent with the data presented in the Wave Ecology Study, and while peak daily on-island trips can vary by a few thousand trips each year depending on which part of the week major events like the July 3<sup>rd</sup> fireworks fall on, both studies indicate that there is currently potential for a peak daytime population of at least 30,000 people. As much of the overnight and resident populations are likely to say “on-island” during big events, it is reasonable

to assume that these populations may not be fully included in this estimate, and that the maximum daytime population likely exceeds 30,000 people.

### 3.4. POPULATION SUMMARY

A summary of the various populations for Tybee Island is presented in Table 9 and Figure 2.

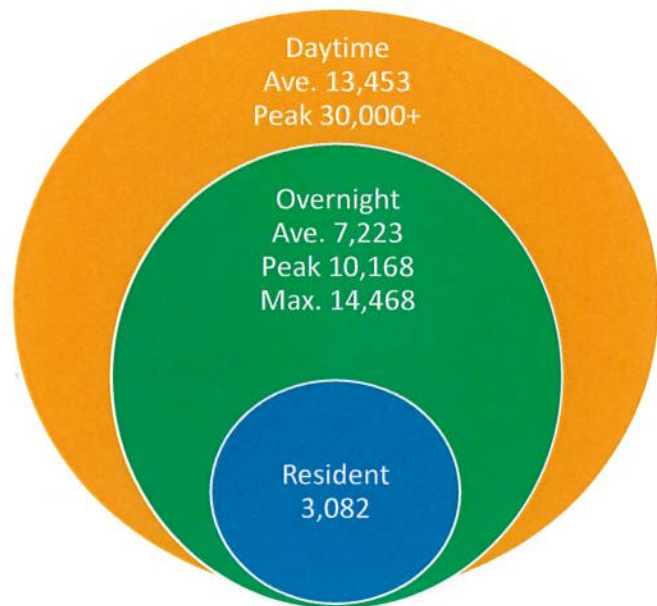
**Table 9: Population Count Summary**

Population Metric	Population
Resident Population (2014, est.)	3,082
Annual Average Overnight Population	7,223
Annual Average Daytime Population	13,453
Peak July Overnight Population <sup>1</sup>	10,168
Maximum Overnight Population <sup>2</sup>	14,468
Peak Daytime Population	30,000 +

<sup>1</sup>Does not account for second home population

<sup>2</sup>Assumes 100% occupancy of all units on Tybee

**Figure 2: Populations on Tybee Island**



## Synopsis of STVR working group guidance from members of city council

1. Review zoning districts (4-050) and Special review (5-070) to see if these should be applied to STVRs.
2. Should STVRs be required to submit a site plan.
3. Consider public safety issues such as fire alarms, parking, noise, etc.
4. Revisit the disorderly house ordinance to determine if it needs to be stricter
5. Review registration fees to determine if they are appropriate. Should they be tiered based on size of STVR.
6. Review level of code enforcement needed to enforce the rules
7. Explore stvr monitoring services/software to determine whether this may be necessary and/or advantageous for the city.