

ORDINANCE NO. 2022-_____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES RELATING TO SPECIAL REVIEW TO CHANGE THE PROVISIONS THEREOF AND TO SPECIFICALLY ADDRESS SPECIAL REVIEW REQUIREMENTS AT INITIAL APPLICATION FOR THE OPERATION OF A SHORT-TERM RENTAL IN ANY OWNER OCCUPIED LOCATION AND FOR CONTINUING SPECIAL REVIEW OF OWNER OCCUPIED SHORT-TERM RENTAL LOCATIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND TO REPEAL CONFLICTING ORDINANCES AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, is authorized under Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, and welfare of the citizens of Tybee Island, Georgia, and

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

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

WHEREAS, the City of Tybee Island continues to address issues regarding the existence of Short-Term Rentals and issues relating thereto; and

WHEREAS, the City seeks to impose a special review requirement for alleged owner occupied Short-Term Rentals in residential zones (R-1; R-1-B; and R-2) so as to permit owner occupied STRs upon special review under certain circumstances; and

WHEREAS, in order to accomplish implementation of proposed changes, amendments to the Land Development Code are necessary and appropriate;

NOW THEREFORE, it is hereby ordained that the code of ordinances will be amended so as to provide as follows:

SECTION I

To amend Section 4-050(A)R-1 residential district is amended so as to add to Subsection 2 thereof on uses permitted after special review so as to provide a new subsection to be:

j. Owner Occupied Short-Term Rental Locations.

By inclusion in R-1 by special review such use would be permissible by special review in R-2.

SECTION II

To amended Section 4-050(B)R-1-B so as to add a paragraph that provides:

Upon special review, owner occupied Short-Term Rentals may be permissible.

SECTION III

For purposes of special review in connection with owner occupied locations for Short-Term Rental Locations Section 5-020(A) is amended so as to add the following sentence thereto:

Compliance with all criteria specified for owner occupied Short-Term Rental locations and the standards contained in Sections 5-040(A) and (B) and 5-070 must be met.

SECTION IV

For purposes of special review for owner occupied Short-Term locations, Section 5-040(B) is amended so as to add new subsections to provide:

5. In the case of an owner occupied Short-Term Rental, the application shall identify all evidence to demonstrate that the owner resides on the premises in a fulltime manner and will reside on the premises for the location at all times when a short-term rental is conducted. Evidence may include homestead exemption for the location, utility bills, affidavits of the applicant and/or neighbors of abutting or adjoining property or other locations indicating fulltime occupancy by the owner.

6. The application shall identify those areas within which the premises will be occupied by the owner, the owner's family and the short-term rentals on a plan submitted by the owner as well as details concerning the number of occupants planned, the nature of the occupants planned, such as, families only, or other owner required restrictions, or the absence of such restrictions, whether the owner is personally or through an agent conducting the STR operation, including marketing thereof, or whether any marketplace innkeeper or local agency is involved and identify such entity or individual.

7. Approvals of owner occupied STR locations shall be for a three (3) year term and, before any renewal of a permit at the end of such term shall be granted or authorized, an additional public hearing must be conducted. There is no presumption of entitlement to renewal, and no right to continue rentals on a short-term basis. The public hearings required will be on a staggered basis under a policy to be set by the Mayor and Council. Noncompliance with any condition imposed by the Mayor and Council pursuant to Section 5-070 will be a consideration of the Mayor and Council as will changes in the nature of neighboring properties that make the character of the operation inconsistent with the criteria established above, Section 5-070(A). The failure of the owner to occupy the premises as stated in the applications; a change in ownership of the location; death of the owner; any absence of the owner except for emergencies during a short term rental; violations of the disorderly house ordinance; or violations of any other ordinances at the location, may be grounds for denial of a renewal application or a revocation of an existing permit regardless of any remaining time in the term previously authorized.

SECTION V

Owner, in the context of a short-term rental, means the record owner of the property or any person or entity that leases from the record owner of the property, who engages in the business of furnishing for lease or for rent, either directly or through a third-party entity, a short-term rental unit and who must be licensed both as a business and under the Code of Ordinances.

Owner Occupied, as used herein shall mean a location where the following criteria are met: the title owner to the property permanently lives and resides solely at the location, maintains no other location for residency purposes and occupies the location at all times where and when short term rental activity is conducted, and the resident owner maintains a homestead exemption for the location.

OR

Owner Occupied, for the purpose of this ordinance, means real property which contains one or more dwelling unit (s) where the dwelling must be occupied by the property owner and constitutes his/her primary or usual place or residence. A dwelling unit must share the Property Identification Number assigned by the Chatham County Board of Assessors. Proof of owner-occupancy requires proof of a valid homestead exemption submitted with the application for a short-term vacation rental permit. In lieu of homestead exemption, a sworn affidavit and supporting documentation establishing proof of residency must be submitted by the applicant stating that the primary dwelling unit is the legal residence and domicile of the resident. Proof of residency is required in the form of two of the following: 1) A valid Georgia driver's license or Georgia identification card; 2) Registration for vehicles owned by and registered in the name of the applicant; 3) Voter Registration Card; 4) Previous years w-2 form or internal revenue service tax return, redacted as appropriate.