



CITY OF FOLLY BEACH

1st Reading: June 28th, 2022
2nd Reading: September 13th, 2022

Introduced by: Mayor Goodwin
Date: June 28th, 2022

ORDINANCE 027-22

AN ORDINANCE AMENDING THE FOLLY BEACH CODE OF ORDINANCES CHAPTER 117 (SHORT TERM RENTALS) BY CHANGING THE REQUIREMENTS FOR BUSINESS LICENSES AND RENTAL REGISTRATION PERMITS FOR SHORT TERM RENTALS, AMENDING THE VIOLATIONS SUBJECT TO RENTAL STRIKES, AND LOWERING THE NUMBER OF STRIKES REQUIRED PRIOR TO THE INITIATION OF LICENSE REVOCATION.

The City Council of Folly Beach, South Carolina, duly assembled, hereby ordains that Folly Beach Code of Ordinance be amended as follows:

117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.

(A) The purpose of this chapter is to regulate the use of residential units as short-term rentals to:

- (1) Protect the integrity of the City's neighborhoods and the quality of life of its citizens;
- (2) Establish a system to track the short-term rental inventory in the City;
- (3) To protect the health and safety of occupants of short-term rental units;
- (4) To ensure a level playing field for individuals in the short-term rental market; and
- (5) To protect the residential character of the residential districts of the City.

(B) The following definitions apply:

DESTINATION CLUBS. Destination or private vacation clubs ("destination clubs") are classified as private and/or exclusive membership organizations or commercial businesses primarily engaged in providing short-term overnight accommodations and related services for its club members with non-ownership interest who seek alternative options to standard vacation home rentals. Destination clubs typically own or lease properties from the owners on a long-term basis, provide those properties in a variety of locations to its members on a short-term basis, and model a membership access structure where its members purchase membership levels granting access to properties and personalized services. Properties offered by destination clubs to a member for less than 30 days are considered **SHORT TERM**

RENTALS whether the destination club is an owner of record or a lessee. All references to "owners" in this chapter apply to destination clubs.

TIME SHARES. "Vacation time sharing plans" as defined in South Carolina Code § 27-32-10(9) are not **SHORT-TERM RENTALS**. However, any "vacation time sharing lease plan" as defined in South Carolina Code § 27-32-10(8) that is less than three years is considered a **SHORT-TERM RENTAL**. "Vacation multiple ownership interests" as defined in South Carolina Code § 27-32-250(1) are not **SHORT-TERM RENTALS**.

HOUSE EXCHANGE PROGRAMS are the occasional occupancy of a residential occupancy assessed by Charleston County at a 4% property tax rate by someone other than the owner of the residence while the owner is temporarily absent from the residence, and no monetary compensation is paid to the owners for such occupancy. **HOUSE EXCHANGE PROGRAMS** are not **SHORT-TERM RENTALS**.

RENTAL OCCUPANT. Any person who, in exchange for compensation paid, occupies a dwelling unit for less than 30 days.

SHORT TERM RENTALS. Residential dwellings, or any portion thereof, rented for less than 30 days and used in a manner consistent with the residential character of the dwelling. Tourist accommodations, including hotels, motels, inns, and bed and breakfasts, are not considered **SHORT TERM RENTALS**.

117.02 LICENSE, REGISTRATION, AND TAX REQUIREMENTS.

Any owner wishing to operate a short term rental must maintain a current business license, comply with rental registration permit requirements, and make proper payment of local, county, and state taxes.

(A) *Business license.* A business licenses must be obtained and renewed annually by the submittal of a form and fee as established by the City for each residential dwelling unit or portion thereof offered as a short-term rental.

(1) No business license shall be issued for the rental of a residential unit which is planned or under construction until a Certificate of Occupancy is issued for the unit.

(2) A business license shall only be issued to owners of a residential unit. Lessees of residential dwelling units may not apply for a business license to rent the unit.

(3) A designated agent may apply for a short-term rental business license on behalf of an owner. An application for a business license submitted by a designated agent must provide the correct taxpayer identification and contact information for the owner including name, address, phone number, email, and any other information as required on the application form.

(B) *Rental registration permit.* A rental registration permit must be obtained and renewed annually by the submittal of a form and fee as established by the City for each residential dwelling unit or portion thereof offered as a short-term rental.

(1) *Annual registration.* The rental registration permit application shall be completed prior to June 1 of each year.

(a) No new business license to operate a short-term rental shall be issued prior to the approval of a rental registration permit.

(b) Renewals of valid prior year business licenses shall be allowed prior to the approval of a rental registration permit. Failure to complete a rental registration permit application within 30 days of the business license renewal date shall be grounds for revocation of the license.

(2) *Annual fee.* The fee for a rental registration permit shall be set by City Council and shall be reviewed periodically.

(3) A rental registration permit shall only be issued to owners of a residential unit. Lessees of a residential dwelling unit may not apply for a rental registration permit.

(4) A designated agent may apply for a rental registration permit on behalf of an owner. An application for a rental registration permit submitted by a designated agent must provide the correct taxpayer identification and contact information for the owner including name, address, phone number, email, and any other information as required on the application form.

(5) *Change in registered information.* The owner, or designated agent, of a rental dwelling already registered with the City shall re-register within 60 days after any change occurs in the registration information. There shall be no additional fee upon change of registration information except that a new owner of a registered dwelling, upon application for a new business license, shall re-register the dwelling and pay the appropriate fee within 60 days of assuming ownership.

(6) *Information required.* Application for a rental registration permit shall contain the following information:

(a) The street address of the rental dwelling unit;

(b) The unit number if applicable;

(c) The number of bedrooms in each rental dwelling unit;

(d) The number of parking spaces provided on site as well as a site plan showing the location of all onsite parking spaces. One onsite parking space must be

provided for each bedroom being rented. This requirement shall not apply to:

(i) New and renewed permits issued to residential units located in a multifamily housing development.

(ii) New and renewed permits issued to residential units approved by the City for resident only parking signs in the right of way.

(iii) Renewed permits issued to residential units with a valid business license and rental registration permit September 13, 2022. Rental registration permits for such properties may be renewed without the required parking until such time as the ownership of the property changes.

(e) The maximum overnight occupancy of each rental dwelling unit, which shall not exceed two persons per bedroom, plus two additional people per rental dwelling unit, except as allowed under an exception under § [164.03-01\(C\)](#);

(f) The type of wastewater system (septic or sewer). If the property is serviced by a septic system, the owner must certify that the system is protected from parking.

(g) The names, mailing addresses, business phone numbers, personal phone numbers, and business addresses of the owner and local agent;

(h) The physical address and email address where the owner and local agent will accept notices and orders from the City and acknowledgement that service by U.S. Mail and/or transmission to the provided email addresses will constitute acceptable service of any notice, notice of violation, ordinance summons, or ticket;

(i) Certification that the owner has read applicable City ordinances, including, but not limited to, regulations regarding noise, trash, parking, alcohol on the beach, animals, litter, surfing, dune protection, sea turtles, smoking on the beach, requirements for special events, maximum occupancy, and golf carts;

(j) Certification that a copy of the parking diagram provided to the City for the property as well as a summary of applicable City ordinances, including, but not limited to, regulations regarding noise, trash, parking, alcohol on the beach, animals, litter, surfing, dune protection, sea turtles, smoking on the beach, requirements for special events, maximum occupancy, and golf carts is prominently posted within the residential dwelling unit to be rented;

(k) Certification that tenants listed on any rental agreement shall receive a copy of the parking diagram provided to the City for the property as well as a summary of applicable City ordinances, including, but not limited to, regulations regarding noise, trash, parking, alcohol on the beach, animals, litter, surfing, dune protection, sea turtles, smoking on the beach, requirements for special events, maximum occupancy, and golf carts is prominently posted within the residential dwelling unit to be rented. The summary of applicable ordinances shall be in a form determined by the cCity, and made available to all owners of rental property;

(l) Proof of payment from the owner or designated agent for payment of local, County, and State taxes due on short term rental accommodations.

(m) Certification that the owner is aware that short term rental licensees shall be subject to strikes issued against the license when the owner, agent, occupant, or guest has been convicted of any violation of the requirements of this Chapter or other City ordinances related to use of the property as a short-term rental, and that three strikes during any rolling twelve-month period can result in suspension, revocation, or non-renewal of the license.

(n) Certification by the owner verifying the presence of smoke alarms, carbon monoxide monitors, fire extinguishers, the number of bedrooms, the number of parking spaces, the provision of trash receptacles, the posting of address and house numbers, and posting of rules and regulations, and, if present, that sprinklers are operational.

(o) Documentation in the form of Charleston County property records or a certificate of occupancy confirming the number of bedrooms offered for rent.

(7) *Designation of local agent.* The owner of a rental dwelling shall designate a responsible agent who shall be responsible for operating the rental dwelling in compliance with the law. Official notices may be served on the responsible local agent and/or the owner, and any notice served on the agent shall be deemed to have been served upon the owner of record.

(a) Nothing shall prevent the owner of rental property from designating himself or herself as the agent.

(b) Non owner agents must be licensed by the State of South Carolina as an attorney, real estate agent, broker in charge, or property manager. Employees under the direct supervision of attorneys, real estate agents, brokers in charge, or property managers licensed by the State of South Carolina may be designated as local agents.

(c) The agent shall be required to be able to physically respond to the site upon notification from the City within 60 minutes in case of emergency or need by the City for entry into the property.

(8) *More than one owner or ownership by entity.* Where more than one person has an ownership interest in a short-term rental, the required information shall be provided for each owner. In those cases, in which the owner is not a person, the information required ~~for~~ shall be provided for the organization owning the rental dwelling, and for the president, general manager, or other chief executive officer of the organization.

(C) *Taxes.* Owners of short-term rentals are subject to local, county, and state taxes, including, but not limited to, sales, use, and accommodations taxes, and are liable for the payment thereof as established by state law and the eCity code of ordinances.

(D) *Violations and penalties.*

(1) *Violations.* Violations of this Chapter include but are not limited to:

(a) Operating a short-term rental without complying with the requirements of this Chapter and the City code of ordinances;

(b) Advertising a property as being available as a short term rental without first complying with the requirements of this chapter;

(c) Operating a short-term rental without a business license, registration permit, accommodations tax account;

(d) Advertising a short-term rental without listing the business license number and rental registration permit number;

(e) Operating a short-term rental in such a manner that individual rooms are rented at the same time under separate rental contracts;

(f) Advertising a short term rental as being available for more overnight occupants than

have been permitted pursuant to this chapter;

(g) Expanding the allowable occupancy of a short term rental without obtaining a new permit;

(h) Advertising more short term rental units on a property than have been permitted pursuant to this Chapter. For example, advertising a single-family dwelling as accommodating multiple short term rentals is not permitted;

(i) Advertising a property as a short-term rental or “event house” for events or parties with more than 25 people in attendance; ~~or~~

(j) Offering a short-term rental in any zoning district for fewer than two consecutive nights;

(k) Failure to post the business license number, rental registration permit number, allowable overnight occupancy, and City approved rules prominently within a rental unit;

(l) Failure to obtain a rental registration permit within 30 days of renewing a business license, failure to provide accurate information for the registration of rental dwellings, failure to provide information required by the application form;

(m) Failure to complete a new rental registration permit application within 60 days of a change in ownership;

(n) Failure of the designated agent listed on the rental registration permit to respond physically to the site within 60 minutes of notification from the City of an emergency.

(o) Failure to maintain, and provide to the City, any and all information required in 117.04.A;

(p) Failure to provide tenants listed on any rental agreement information as required under 117.04.B;

(q) Failure to inspect and repair a failed septic system as required under Section 55.07;

(r) Operating a business out of a short-term rental or otherwise using a short-term rental for non-residential use except for allowable home occupations, e-commerce, and remote work.

(s) Operating a short term rental that has received three strikes within any twelve month rolling period.

i. The number strikes shall be reset upon a change of ownership that results in no overlap with prior common ownership.

ii. For the purpose of determining the total number strikes, all-convictions stemming from violations occurring within a single rental contract period shall be considered one instance. In no case shall strikes exceed one per rental contract period.

iii. All strikes issued prior to the date of this ordinance, shall not be counted for the purposes of license revocation.

(2) *Penalties.* No permit may be issued or approved unless the requirements of this Chapter, or any ordinance adopted pursuant to it, are complied with. A violation of this chapter may result in the following penalties:

(a) Any person violating any provision of this Chapter shall be deemed guilty of a civil offense and shall be subject to a fine of up to \$500 upon conviction. Each day of violation shall be considered a separate offense. Punishment for violations shall not relieve the offender of liability for delinquent taxes, penalties, and costs provided for in this Chapter.

(b) Denial, revocation, suspension, or non-renewal of a business license pursuant to §§ 110.14 or 110.15 and in accord with the appeal procedures set forth in § 110.16.

(c) Revocation, suspension, or non-renewal of the short term rental business license, in accord with the appeal procedures set forth in § 110.16, for three strikes during a rolling twelve month period.

i. The license will be assessed a strike when the owner, agent, occupant, or guest of the property has been convicted of any violation of the requirements of this Chapter or any other City ordinances related to the use of the property as a short-term rental including but not limited to noise, trash, parking, litter, dune protection, animals at large, and sea turtle violations and when the registered agent of the property is given notice of the strike as set forth herein.

ii. For the purpose of determining the total number of strikes, each strike issued upon conviction shall be considered in effect on the date of the original offense and all convictions related to offenses occurring within a single rental contract period shall be considered one strike. In no case shall strikes exceed one per rental contract period.

iii. Strikes will re-set upon the sale of the property.

iv. The City will provide notice of each strike to the registered agent of the property as follows:

1. First strike: a description of the violation and resultant conviction, and a warning that progressive action shall be taken by the City in the case of further violations.

2. Second strike: a description of the violation and resultant conviction, and a warning that the City shall initiate revocation of the rental license in the case of further violations.

3. Third strike: a description of the violation and resultant conviction, and and notice of the initiation of license revocation procedures.

(d) Any violation of a noise ordinance that occurs on the property will result in a notice that the owner is strongly encouraged to install noise monitoring.

(Ord. 19-10, passed 9-28-10; Am Ord. 26-17, passed 1-9-18; Am. Ord. 32-19, passed 11-12-19; Am. Ord. 033-21, passed 11-9-21)

§ 117.03 ADDITIONAL REQUIREMENTS FOR SHORT TERM RENTALS.

(A) All owners and/or agents responsible for the leasing of short term rentals shall be required to keep the following for City inspection and copying for a period of one year:

(1) The name, address, and other contact information of each signatory on the rental agreement;

(2) A copy of the City approved rental regulations summary, signed by each signatory of the rental agreement.

(2) A document signed by the owner and/or agent responsible for renting the dwelling, certifying the number of persons intended to occupy the dwelling.

(4) The information required by this section shall be updated by the owner and/or agent for each rental to different tenants or occupants.

(B) The owner and/or agent shall provide the following for each person signing a rental agreement as a responsible party for a short term rental:

(1) The address of the short term rental and emergency contact numbers;

(2) The name and contact information for the owner or designated agent; and

(3) A copy of the parking diagram provided to the City for the property as well as a copy of the city's rules and regulations regarding noise, trash, parking, alcohol on the beach, animals, litter, surfing, dune protection, sea turtles, smoking on the beach, requirements for special events, maximum occupancy, and golf carts.

(C) Each residential dwelling unit may contain only one short term rental. Individual rooms in short term rentals may not be rented under separate contracts at the same time. For example, a single family home or individual multifamily unit may only be rented as a single short term rental under one contract.

(D) Any events held on the premises of a short term rental shall meet the following requirements:

(1) Must follow any applicable special event notification rules established by the city in § 153.05 for events on private property;

(2) Shall be subject to all applicable provisions of the noise regulations in §§ 131.30 through 131.35; and

(3) May not feature mobile food trucks, carts, or other outdoor retailers offering products for sale or in exchange for donations. Caterers are allowed at events on the premises of short term rentals.

(E) All special events held after September 13, 2022 on the premises of a short term rental shall meet the following requirements:

(1) May not exceed 25 people; and

(2) May not include outdoor amplified music, including bands, deejays, music broadcast through speakers and electronic musical instruments.

(3) These requirements do not apply to events hosted by the owner of the property for which the owner is on site for the duration the event, the owner has completed the required special event notification, and for which no compensation has been paid for the event or the use of the house.

(Ord. 26-17, passed 1-9-18)

RATIFIED this _____ day of _____ 2022, at Folly Beach, South Carolina, in City Council duly assigned.

ATTEST:

Municipal Clerk

Tim Goodwin, Mayor