

ORDINANCE NO. 23-001

**AN ORDINANCE
TO AMEND THE CITY OF AUBURN CODE OF ORDINANCES
TO ADOPT A NEW ARTICLE REGARDING SHORT-TERM RESIDENTIAL RENTALS**

WHEREAS, the City's current Code of Ordinances does not address short-term residential rentals; and

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens of the City of Auburn to update the City Code and regulations pertaining to short-term rentals; and

WHEREAS, the proliferation of short-term rentals in other jurisdictions have presented a number of concerns and challenges regarding public health, safety and welfare; and

WHEREAS, enacting reasonable regulations serves to address those concerns and challenges by balancing the rights of property owners and their invitees and guests with the rights and interests of neighboring property owners and citizens of the City; and

WHEREAS, the City expressly finds that the regulations outlined herein are reasonable and necessary for protecting and promoting the health, safety and welfare of the citizens of the City;

NOW THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF AUBURN HEREBY ORDAINS that the City code be amended to create new Chapter 5, Article 61, Section 5.61.010 et seq. as follows:

SECTION 1

The following Article XIX, Chapter 5.61 Short-Term Rentals is adopted as follow:

Sec. 5.61.010. Purpose and Applicability.

- (a) The purpose of this Article is to ensure the continued availability of quality transient lodging within the City, proper maintenance of short-term rentals and to protect the health, safety and welfare of short-term rental inhabitants by ensuring the structures meet minimum life safety code standards.
- (b) Unless otherwise stated in this article, the requirements of this article apply to those who occupy, visit, patronize, frequent, operate, keep, conduct, or own a short-term rental within the City, regardless of the date of the short-term rental structure's construction.
- (c) This article is essential to the public's interest, safety, health and welfare and this article shall be liberally construed to effectuate its purposes.
- (d) A permit issued pursuant to this division is a privilege, not a right.

- (e) It shall be unlawful for any owner of any property within the City of Auburn Georgia, to rent or operate a short-term rental of residential property contrary to the procedures and regulations established in this section, other provisions of the Code of Ordinances of the City of Auburn, Georgia, or any applicable state law.

Sec. 5.61.020. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Bedroom: A room that meets the building code requirements to be used as a sleeping room and for no other primary purpose.

Managing agency or agent: A person, firm or agency representing an owner or owners of a short-term rental.

Noise Regulations: Those regulations contained in Section 9.12.090 of the City of Auburn Code of Ordinances.

Owner: A person that holds legal and/or equitable title to private property.

Person: A natural human being, estate, association, firm, partnership, corporation, or other legal entity.

Private: Intended for or restricted to the occupants and/or guests of his or her short-term rental; not for public use.

Rental Term: The period of time a responsible person rents or leases a short-term rental.

Responsible Person: An occupant of a short-term rental who is at least twenty-one (21) years of age and who is legally responsible for ensuring that all occupants and/or guests of the short-term rental comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental.

Short-term Rental: An accommodation for transient guests, rented for the purpose of overnight lodging for a period of less than thirty (30) days. For the purposes of this definition, a short-term rental shall include all housing types but shall exclude bed and breakfast inns, hotels, motels, boarding houses and rooming houses.

Section 5.61.030. Property owners, local contact person, and responsible person.

Property Owners:

1. The owner and/or local contact person shall use reasonably prudent business practices to ensure the short-term rental is used in a manner that complies with all applicable laws, rules, and regulations pertaining to the use and occupancy of the subject short-term rental, and shall further use reasonably prudent business practices to ensure the occupants and/or guests of the short-term rental do not create noise in violation of the noise regulations of this Code or disturbances, engage in disorderly conduct, or violate

any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term rental.

a. Local Contact Person:

1. Each owner of a short-term rental shall designate a local contact person who has access and authority to assume management of the short-term rental and take remedial measures while the short-term rental is being rented to an occupant and/or guest. An owner of a short-term rental may designate himself or herself as the local contact person;
2. The local contact person shall be at least twenty-one (21) years of age;
3. There shall be only one (1) designated local contact person for a short-term rental at any given time;
4. The local contact person shall be required to respond to the location of the short-term rental 24 hours a day, 7 days a week, and within three (3) hours after being notified by a duly authorized representative of City of Auburn of the existence of a violation of this article or any other provision of this Code, or any disturbance or complaint requiring immediate remedy or abatement regarding the condition, operation, or conduct of occupants of the short-term rental. Whether the local contact person shall be required to respond to the location of the short-term rental to address a violation, disturbance, or complaint shall be determined in the discretion of the City Police Department or employee responding to said violation, disturbance, or complaint. Nothing in this section shall be construed as limiting City of Auburn or any officer or employee thereof in responding to any violation, disturbance, or complaint or taking any enforcement action under this article;
5. An owner may retain a managing agent, managing agency, operator, or representative to serve as the local contact person to comply with the requirements of this Section, including, without limitation, the permitting of the short-term rental, the management of the short-term rental, and the compliance with the conditions of the short-term rental permit. The owner of the short-term rental is responsible for compliance with the provisions of this Section and the failure of an agent, representative, or local contact person to comply with this Section shall be deemed noncompliance by the owner; and
6. The owner must immediately notify the City Administrator or his/her designee in writing upon a change of local contact person or the local contact person's telephone number. This notification will be on forms prescribed by the City Administrator. The new, revised business short-term rental permit will not extend the expiration date of the original short-term rental permit, will be issued for a fee of \$50.00, and must be posted in the short-term rental within ten (10) days of any change of local contact person information and before occupants can rent or occupy the short-term rental. Failure to do so within 14 days after such change shall, unless such time limit is extended for

good cause, be reason for revocation of a permit granted pursuant to this article.

b. Responsible Person:

1. Every short-term rental shall be rented to a designated responsible person. The owner of the short-term rental is responsible for compliance with the provisions of this article, and the failure to ensure the short-term rental is rented to a designated responsible person shall be deemed noncompliance by the owner.

Section 5.61.040. Permits.

A. Required Permits:

1. The owner shall pay the required permit fee and shall comply with all applicable provisions of the City Code for business permits and regulations;
2. The owner shall timely pay all property taxes owed for the real property on which the short-term rental is located;
3. No owner or local contact person of a short-term rental shall rent, lease, or otherwise exchange for compensation all or any portion of such short-term rental without first obtaining a short-term rental permit from the City;
4. A separate short-term rental permit shall be required for each structure used for short-term rental;
5. No short-term rental permit shall be issued for apartments;
6. An owner of a short-term rental, or their designated representative, shall submit an application for a short-term rental permit to the City Administrator or his/her designee on an annual basis. The application shall be furnished on a form specified by the City, accompanied by a non-refundable permit fee as established in this Section. Such application shall include:
 - a. The complete street address of the short-term rental;
 - b. Ownership information, including the name, address, e-mail address, and telephone number of each person or entity with an ownership interest in the property;
 - c. The name, address, telephone number, and email address of the local contact person for the short-term rental;
 - d. The number of bedrooms and approximate square footage in the short-term rental, and the maximum number of overnight and daytime occupants, as allowed by this article;
 - e. A sworn statement from the applicant certifying that all designated bedrooms,

including egress from all designated bedrooms, meet applicable safety code requirements;

- f. Signed acknowledgment that the owner has read all regulations pertaining to the operation of a short-term rental;
 - g. Signed acknowledgment that the local contact person has read all regulations pertaining to the operation of a short-term rental;
 - h. Acknowledgement that the owner or local contact person has or will post, at the short-term rental, the notice required in this Chapter;
 - i. In cases where the short-term rental has an on-site septic system, a performance evaluation from the Health Department verifying condition of the on-site sewage management system, except that such a performance evaluation shall not be required for renewal applications. In cases where the short-term rental is serviced by sewer, documentation from the applicable department providing sewer to the rental property verifying sewer capacity, except that such documentation shall not be required for renewal applications.
7. Any false statements or information provided in the application are grounds for denial or revocation of a permit, including the denial of future applications.
 8. Upon the filing of a completed permit application, the City Administrator or his/her designee shall review the application for compliance with the requirements of this article. Within 30 days of the filing of the completed application, the City Administrator or his or her designee shall either issue a short-term rental permit to the applicant or issue a written notice of denial. A short-term rental permit shall be issued to an applicant unless:
 - a. The applicant has had a short-term rental permit revoked within the previous 12-month period;
 - b. The property taxes have not been paid and are delinquent;
 - c. The Health Department notifies the City of an inadequate septic system or other health concerns;
 - d. The application does not meet the minimum requirements of this article.
 9. A decision to deny an application shall be issued in writing and may be appealed to the Mayor and City Council in accordance with the procedures set forth in this article.

B. Permit fee/renewal.

1. The short-term rental permit application and any renewal application shall be accompanied by an application fee of \$250.

2. All permits granted under this article shall expire on December 31 of each year. Applicants shall file a renewal application accompanied by the requisite renewal fee with the City on or before the second Monday in December of each year without penalty. If an application is submitted after the second Monday in December, a new application shall be required, as renewal eligibility will not be considered past this date.
3. The short-term rental permit is not transferrable and should ownership of a unit change, a new permit application shall be required prior to any use of the property as a short-term rental.

C. All short-term rentals are subject to the following:

1. The owner or local contact person shall, by written agreement with the responsible person, limit overnight occupancy of the short-term rental to the specific number of overnight occupants designated in the short-term rental permit application;
2. Any advertising of the short-term rental shall conform to information included in the short-term rental permit and requirements of this article, and shall include the short-term rental permit number issued by the City, notification of the maximum occupancy, maximum number of vehicles allowed, and provisions regulating noise;
3. Occupancy for short-term rentals served by sewer: the number of overnight occupants shall not exceed two persons per bedroom plus two additional persons per residence meeting all life-safety code requirements, but in no case shall rental occupancy exceed 12 overnight persons total. For the purpose of maximum occupancy, those persons under two (2) years of age shall not be counted;
4. Occupancy for short-term rentals with onsite septic system: the number of overnight occupants shall not exceed two persons per bedroom, and shall meet all life-safety codes, but in no case shall rental occupancy exceed 12 overnight persons total. The maximum capacity shall be based on the number of bedrooms. All occupants, regardless of age, are counted as persons;
5. A bedroom shall be a room that is designed to be, or meets the building code requirements to be, used as a sleeping room and for no other primary purpose. Every bedroom shall have an emergency escape or rescue exit and a minimum ceiling height as follows:
 - a. Each bedroom shall have at least one operable window or door for emergency escape or rescue that opens directly to the exterior of the residence. The emergency door or window shall be operable from the inside to provide a full, clear opening without the use of separate tools, and shall comply with all requirements of the International Residential Code (“IRC”) as were in effect on the date the short-term rental was issued a Certificate of Occupancy;
 - b. Bedroom ceilings shall comply with all requirements of the IRC as were in effect on the date the short-term rental was issued a Certificate of Occupancy;

6. The owner or local contact person shall, by written agreement with the responsible person, limit daytime occupancy of the short-term rental to the specific number of daytime occupants designated in the short-term rental permit application, with the number of daytime occupants not to exceed four (4) guests in addition to the total number of allowed overnight occupants, but in no case shall the daytime occupancy of a short-term rental exceed 12 persons total. Overnight occupancy limitations shall apply between the hours of 11:00 PM and 7:00 AM;
7. Prior to permitting occupancy of a short-term rental by a transient occupant, the owner or the local contact person shall:
 - a. verify the rental is to a responsible person and obtain their name and address;
 - b. provide information about the short-term rental regulations to the responsible person; and
 - c. require written confirmation from the responsible person that he or she:
 - a. Has read the pertinent regulations; and
 - b. Understands all applicable laws, rules, and regulations pertaining to the use and occupancy of the short-term rental, including, but not limited to, the City's noise regulations; and
 - c. Understands that they are bound to all applicable laws, rules, and regulations; and
 - d. Agrees to comply with all applicable laws, rules, and regulations, and agrees to be legally responsible for compliance by all occupants and/or guests of the short-term rental with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term rental, including, but not limited to, to the City's noise regulations. This information shall be maintained by the owner or the local contact person for a period of one (1) year from the last day of each rental period.
8. Parked Vehicles:
 - a. Shall be limited to the number designated in the short-term rental permit application with the maximum allowable vehicles not to exceed one vehicle per bedroom, or the capacity of the paved or impervious surface parking lot, whichever is greater, at any one time for both daytime and overnight guests. A watercraft, travel trailer, or any other recreational trailer which is pulled by a motorized vehicle shall be counted as a separate vehicle when referenced in this article of the Code;
 - b. Shall not be parked on the City right-of-way or along any roadways at any time; and
 - c. Shall be parked only on designated hard surfaced areas with contained gravel, concrete or asphalt surfacing; and shall not be permitted outside such hard-surfaced areas (i.e. no parking in yards).
9. The owner and/or local contact person shall use best efforts to ensure that the occupants and/or guests of the short-term rental do not violate the noise regulations

set forth in Section 13-50 of the City Code by notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws regarding their occupancy. Any violation of the noise regulations by a guest at a short-term rental shall be considered a violation under this article. It is not intended that the owner and/or local contact person act as a peace officer or place himself or herself in harm's way; and

10. City Police Department personnel, the Code Enforcement Officer, and City staff shall have the right to enter and inspect the premises in response to complaints, calls for assistance, excessive noise or probable cause to believe any other violation of this Ordinance exist.

D. Transferability:

1. No short-term rental permit issued under this article shall be transferred or assigned or used by any person other than the owner or local contact person to whom it is issued, or at any location other than the one for which it is issued.

Section 5.61.050. Minimum operational requirements and conditions.

A. Posted Information Notice:

1. Each short-term rental shall have a clearly visible and legible notice conspicuously posted within the short-term rental on or adjacent to the front door, containing the following information:
 - a. The name of the owner and local contact person of the short-term rental, and a telephone number at which that party may be reached on a 24-hour, 7 days a week, basis;
 - b. The name and address of the nearest hospital;
 - c. The maximum number of overnight occupants and/or daytime guests permitted to be at the short-term rental;
 - d. The maximum number of vehicles allowed to be parked on the property, including a sketch of the location(s) of the on-site parking spaces;
 - e. The trash pickup day and notification that trash and refuse shall not be left or stored on the exterior of the property unless it is placed in a curbside container, and that the curbside container shall not be placed sooner than 24 hours prior to the pickup day, and must be removed no later than 24 hours after pickup (If owner or operator provides daily trash removal then this notice is not necessary);
 - f. Notification that failure to conform to the parking and occupancy requirements of the short-term rental is a violation of this article; and

g. The times that quiet hours are to be observed per the noise regulations set forth in Section 13-51 of the City Code and a statement advising the occupant that any failure to comply with the noise regulations is a violation of this article.

h. A copy of the short-term rental permit with the permit number displayed.

B. Occupancy:

1. The number of overnight occupants and/or daytime guests at the short-term rental shall comply with all applicable provisions of this Chapter.

C. Parked Vehicles

1. All parked vehicles at the short-term rental shall comply with all applicable provisions of this Chapter.

D. Life Safety and Sanitation

1. All designated bedrooms, including egress from all bedrooms, shall comply with all applicable safety codes as were in effect on the date the short-term rental was issued a Certificate of Occupancy.

2. Every bedroom, adjoining hallway, and common area shall be equipped with an operational smoke detector that meets current IRC standards and shall be 11 maintained in good working order at all times. The placement and mounting of each smoke detector shall comply with all applicable requirements of the current IRC.

3. Each habitable floor shall be equipped with an operational carbon monoxide detector that meets applicable state law standards and shall be maintained in good working order at all times. Each floor of the short-term rental shall be equipped with a fire extinguisher that is fully charged, not past expiration date, and that meets all National Fire Protection Association (NFPA) standards, including those as set forth in NFPA 10: Standard for Portable Fire Extinguishers.

4. Private swimming pools shall comply with the current International Swimming Pool and Spa Code.

5. The owner and/or local contact person shall maintain a house number that is visible from the street at all times.

Section 5.61.060. Suspension and Revocation of Permit.

Any suspension, revocation, or forfeiture of an issued permit by the City Administrator shall occur only after notice and opportunity for a hearing before the City Administrator consistent with the procedures set forth in this article and upon the following occurrences:

1. A short-term rental, its owner, local contact person, responsible person, or occupants are found to be in violation of this article or in violation of the noise regulations set forth the City Code, subject to criminal citation and prosecution as outlined in Section 5.61.070 below.
2. An applicant furnished fraudulent or untruthful information in the application for a permit, or omitted information required in the application for a permit, or failed to pay all fees, taxes, or other charges imposed under the provisions of this article, in which case the City Administrator may immediately suspend or revoke the short-term rental permit.
3. A short-term rental does not meet the licensing qualifications set forth in this article at any time such knowledge becomes known to the Mayor and City Council, in which case the City Administrator shall immediately suspend or revoke the short-term rental permit.
4. A short-term rental has been used as a short-term rental during a period of suspension of a permit, in which case the City Administrator shall immediately revoke the short-term rental permit.

Section 5.61.070. Violations and Penalties.

- A. Any violation of this article, including any violation of the noise regulations set forth in the City Code, shall subject the permitted individual and persons in violation to the following sanctions, except for those violations and occurrences set forth in Section 15.61.030(4) that provide for immediate suspension or revocation upon notice and hearing:
 1. The first violation within a consecutive 12-month period shall result in a fine not to exceed \$1,000.00 and a written warning notice of violation upon a finding of guilt or plea of guilty or nolo contendere in Municipal Court.
 2. The second violation within a consecutive 12-month period shall result in a fine in Municipal court not to exceed \$1,000.00 and a permit suspension for a period of not less than thirty (30) days nor more than ninety (90) day upon a finding of guilt or plea of guilty or nolo contendere in Municipal Court.
 3. The third violation within a consecutive 12-month period shall result in a fine in Municipal Court not to exceed \$1,000.00 and the revocation of the short-term rental permit upon a finding of guilt or plea of guilty or nolo contendere in Municipal Court, and neither the owner nor local contact person shall be eligible to reapply for a permit for a period of twelve (12) months from the date of revocation.
- B. Nothing contained in this subsection shall be construed to preclude the Mayor and City Council from suspending or revoking a permit for a period exceeding those periods identified in Section 5.61.070 or from revoking the permit if the Council determines in its discretion that such action is necessary and in the best interest of the public health, safety,

and welfare of the City.

- C. In all cases, the mandatory suspension period may be mitigated by the Mayor and City Council upon presentation of evidence that the permit established practices and procedures to prevent the violation from occurring.
- D. Enforcement action may be brought against any individual, including, but not limited to, the owner, local contact person, responsible person, or occupants and/or guests of a short-term rental for violations of this article and any other provision of this Code. Any violation of the provisions of this article shall be enforced in Municipal Court to the full extent authorized by O.C.G.A. § 36-1-20, with a finding of guilt or plea of guilty or nolo contendere subjecting the permitted individual to the same administrative sanctions as set forth in Section 5.61.060 regardless of whether the finding of guilt as against or the plea of guilty or nolo contendere was by the owner, local contact person, responsible person, or occupants and/or guests.
- E. Each day the short-term rental is marketed or rented for overnight accommodation without the necessary short-term rental permit required under this article shall constitute a separate violation.
- F. Failure of the owner or local contact person to respond as provided in Section 5.61.030 regarding the condition, operation, or conduct of occupants and/or guests of the short-term rental in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this article. It is not intended that an owner or local contact person act as a peace officer or place himself or herself in an at-risk situation.

Section 5.61.080. Enforcement.

- A. The Code Enforcement Officer or City Police Officers and their designees shall have authority to enforce this article.
- B. Any complaints received by the City regarding a short-term rental may result in a notice of the complaint being directed to the local contact person designated in the short-term rental permit, which may result in direction that the local contact person respond to the short-term rental as provided in Section 5.61.030.
- C. Notice of any citations issued for violations of this article shall be provided to the local contact person designated in the short-term rental permit within one week of the issuance of such citations.

Sec. 5.61.090. Hearing Process

A. Upon receipt of a timely appeal (accompanied by a fee of \$200.00 made payable to the City of Auburn, Georgia) of an administrative denial, upon presentation of evidence to the City Administrator of a violation of this article, or upon a showing of any of the other occurrences set forth in Section 15.61.050 the City Administrator shall schedule a hearing before the Mayor and City Council and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The City Administrator shall also state in the written notice the basis for the administrative denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the county attorney and the adverse party and/or counsel for the adverse party.

B. The Mayor and City Council shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a license. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing.

C. At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his case, to rebut the allegations made against him, and present whatever defenses he has. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses.

D. At the conclusion of the hearing, the findings and conclusions of the Mayor and City Council shall be forwarded to the City Administrator, and it shall be the duty of the City Administrator to provide written notification via certified mail to the adverse party of the decision of the Mayor and City Council.

E. The decision of the Mayor and City Council shall be final unless appealed to the Superior Court of Barrow County within 30 days of receipt of the City Administrator's written notification to the adverse party of the board's decision.

F. For purposes of this section, notice shall be deemed delivered when personally served or when delivered by overnight mail.

In the event any Court of competent jurisdiction determines that any portion of the foregoing amendment is invalid, unconstitutional or otherwise illegal, such rulings shall not impair the validity of the rest and remainder of this amendment.

All laws and parts of laws in conflict with this Ordinance are hereby repealed.


The City Administrator and City Clerk are further authorized to correct typographical errors in the text of the existing Code of Ordinances and to produce and publish a final codified version of the City Code with the amendments and revisions outlined herein.

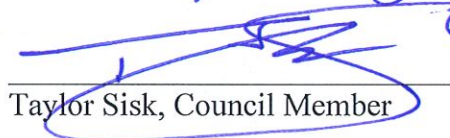
This Ordinance shall be effective immediately upon its adoption by the Mayor and City Council.

SO ORDAINED and effective this 6th day of April, 2023.


Honorable Linda M. Blechinger, Mayor


Peggy J. Langley, Council Member


Robert L. Vogel III, Council Member


Taylor Sisk, Council Member


Jamie L. Bradley, Council Member

Attest:


Joyce Brown, City Clerk

