

ORDINANCE NO. 2019-50

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA CREATING SECTION 28-145 THOUGH SECTION 28-154 REGULATING VACATION RENTALS; PROVIDING FOR REGISTRATION; PROVIDING FOR ANNUAL INSPECTIONS; PROVIDING FOR MAXIMUM INTENSITY OF USE; PROVIDING FOR LIMITATIONS ON ANCILLARY USE; PROVIDING FOR LIFE-SAFETY REQUIREMENTS; PROVIDING FOR PARKING REQUIREMENTS; PROVIDING FOR SOLID WASTE REMOVAL; PROVIDING FOR VALIDITY OF CONTRACTS PREDATING THIS ORDINANCE; PROVIDING FOR PRELIMINARY COMPLIANCE COMPLAINT SYSTEM; PROVIDING FOR VIOLATIONS AND PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and,

WHEREAS, the City Commission appointed a Short-Term Rental Committee to take public comment, hear expert testimony, accept into the public record evidence, and provide an opportunity to industry members and community stakeholders to give input into possible regulations affecting short term or vacation rentals; and

WHEREAS, the City Commission at its September 9, 2019 public meeting, received the Short-Term Rental Committee's findings and recommendations; and

WHEREAS, Florida Statutes at Section 509.032(7)(b), preempts local government from prohibiting vacation rentals, and from regulating the duration or frequency of the rentals, however; this preemption has been interpreted in the Seventh Circuit case of 30 Cinnamon Beach v. Flagler County (2015 CA 167) to allow other types of local regulations of vacation or short-term rentals; and

WHEREAS, after review, the Planning and Zoning Board recommended approval of this ordinance at its January 7, 2020 regular meeting; and

WHEREAS, the City Commission heard testimony at numerous public hearings from residents, homeowners, professional property managers, bed and breakfast operators, and individuals who self-manage vacation rental units in their homes or as investment properties; and

WHEREAS, the City Commission weighed the negative effects of vacation rentals on quality of life, safety, commercialization, intensification of traditional residential neighborhoods, degradation of community life and cohesion to those neighborhoods and availability and affordability of long-term rental stock, against the positive effects on property values, property maintenance, economic vitality, and diversification of household incomes created by vacation rentals in residential neighborhoods; and

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety and general welfare that the following amendment be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Creating Chapter 28, Article III, Division 2., Sections 28-145 through 28-154.
Chapter 28, Article III, Division 2., Sections 28-145 through 28-154 of the Code of the City of St. Augustine, are hereby created as follows:

Sec. 28-145 – Regulation of Vacation Rentals

(a) *Definitions:*

- (1) *Bedroom.* A bedroom shall have the same meaning as the term sleeping unit found in the Florida Building Code.
- (2) *Rental Unit.* A rental unit is the smallest portion of a vacation rental offered to the public as an individual unit available to rent.
- (3) *Short term Rental.* A short-term rental is synonymous to a vacation rental.
- (4) *Vacation Rental.* A vacation rental shall have that same meaning as defined in Section 509.242, Florida Statutes.

(b) *Supplemental intent of these regulations:*

The regulation of vacation rentals is intended to be supplemental to any other regulations, including but not limited to, zoning district regulations.

Sec. 28-146 – Registration

Every vacation rental shall register with the City on forms provided for this purpose and shall pay the required administrative fee, as set by resolution, at the time of registration and thereafter annually. The information provided on each listing of a vacation rental must accurately reflect the information submitted on the registration form. Listings that inaccurately reflect the registration form information will be considered a separate violation of this code. The registration will include the following:

- (i) Address of the vacation rental.
- (ii) Name, address, and contact information of the property owner.

- (iii) Name, address, and contact information of the property manager if different than the property owner.
- (iv) Number of rental units offered to the public for rent at this location.
- (v) Number of bedrooms.
- (vi) Floor plan identifying the location of bedrooms, emergency exits or egress, and number and location of fire extinguishers, carbon monoxide and smoke detectors.
- (vii) Site plan or other document depicting approved parking spaces provided.
- (viii) Property owner authorization providing for inspection pursuant to Section 28-147 of this code.

Sec. 28-147 – Annual Inspection

At the time of registering a vacation rental, and thereafter annually, the applicant shall be required to allow reasonable access to the property by City officials for an inspection of the life-safety code, zoning code, and property maintenance code.

Sec. 28-148 – Intensity of Use

The maximum occupancy of a vacation rental is two (2) persons per bedroom per vacation rental, plus an additional two children under the age of 18 per vacation rental. The total maximum occupancy of a vacation rental is twelve (12) persons, inclusive of minor children.

Sec. 28-149 – Ancillary Use

Each vacation rental may host guests who are not counted towards the maximum occupancy of the rental unit. These guests must vacate the vacation rental premises between the hours of 10:00 pm and 8:00 am. Ancillary use of the vacation rental does not imply or grant the property the right to operate as a special event venue pursuant to this Code. Total life-safety occupancy maximums apply to the ancillary use of the vacation rental.

Sec. 28-150 Life-Safety

- (i) All vacation rentals shall meet life-safety standards as established by local, state, and federal regulations.
- (ii) Each vacation rental will provide a smoke detector, a carbon monoxide detector, and a fire extinguisher for each rental unit. Additional life-safety equipment may be required pursuant to the life-safety or building code.
- (iii) Each bedroom shall have one primary and one secondary means of egress from the bedroom, consistent with the building code. Each means of egress must be maintained, unobstructed, and operable, with emergency lighting consistent with NFPA Life Safety Code 101 Chapter 7.
- (iv) Maximum occupancy, guest visiting hours, trash collection schedule, emergency contact information, and emergency evacuation information must be visibly posted in each rental unit. Fire exits must be clearly marked, and emergency lighting consistent with NFPA Life Safety Code 101 Chapter 7, must be provided in each vacation rental.

Sec. 28-151 Parking

- (i) Each vacation rental, except as provided in subparagraph (iii) below, will provide at least one (1) stabilized parking space per bedroom offered for rent.
- (ii) Stabilized parking for vacation rentals may not consist of unimproved dirt, sand, or grass. For the purposes of this Division, stabilized parking shall be defined as a space that is covered and graded by semi-permeable or impervious materials such as asphalt, concrete, pavers, gravel, or a similar material.
- (iii) Vacation rentals in all zoning districts that otherwise have on-site parking requirements will provide stabilized parking on the site of their rental property. If on-site parking is not feasible, the owner may make an application to the Planning and Zoning Board for a use by exception for offsite parking. The application to the Planning and Zoning Board for a use by exception for offsite parking may include in the alternative, parking permits to the municipal parking garage, or, if on-street parking permits for vacation rentals are provided pursuant to City regulations, residential street parking permits. Issuance of the necessary permits will meet the required parking for the vacation rentals.

Sec. 28-152 Solid Waste

Vacation rental property owners are responsible to ensure that garbage and trash receptacles are placed curbside consistent with City regulations at Sections 30-7 and 30-8 of this code. Appropriate fees and rates commensurate with collection volumes may be established pursuant to Section 30-10 of this code.

Sec. 28-153 Existing contracts unaffected.

Valid and enforceable contracts for vacation rentals in existence prior to the effective date of Ordinance 2019-50 remain unaffected by the terms of this ordinance.

Sec. 28-154 Violations and Penalties

If the City provides a system for telephonic or electronic processing of preliminary compliance complaints, these complaints will be directed to the property manager or property owner identified in the registration form. The property owner or property manager must respond by acknowledging that they have received the preliminary compliance complaint within thirty (30) minutes of notification by the City or its agent. Failure to respond to this notification will be considered a violation subject to the enforcement provisions found in this section.

Violation of Sections 28-145 through 28-156, as well as Section 28-159 may be prosecuted pursuant to Article VI: Code Enforcement, or pursuant to any other procedure and remedy available to the City, including but not limited to, revocation of the vacation rental registration.

Section 2. Inclusion in Code. The City Commission intends that the provisions of this ordinance shall become and shall be made part of Chapter 28, Sections 28-145 through 28-154 of the Code of the City of St. Augustine, that the sections of this ordinance may be renumbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 3. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 4. Effective Date. This ordinance shall become effective on July 1, 2020, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this 27th day of January, 2019.

ATTEST:

Darlene Galambos
Darlene Galambos, City Clerk
(SEAL)

T.W. Upchurch
Tracy W. Upchurch, Mayor-Commissioner

