

ORDINANCE NO. 2019-52

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA CREATING SECTION 28-156 CONFIRMING REGULATIONS THAT AFFECT SHORT-TERM RENTALS AS PREVIOUSLY ENACTED IN ORDINANCE 1995-35, REQUIRING SUBMERGED LAND LEASES FOR COMMERCIAL DOCKS, AND ORDINANCE 1989-51 LIMITING RENTAL PERIODS TO MONTHLY OR LONGER RENTALS IN HP-1 ZONING; 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, Ordinance 1995-35, enacted on January 8th, 1996, regulates the use of the City's submerged lands and requires a submerged lands lease for use of the City's bottomlands in any revenue generating activity; and

WHEREAS, Ordinance 1989-51, enacted on August 14th, 1989, specifically limits rental units in the Historic Preservation 1 (HP-1) zoning district to monthly or greater periods of time; and

WHEREAS, the City's Planning and Building department provides information to short-term rental and vacation rental property owners regarding restrictions in HP-1 zoning and the City's website also provides information regarding HP-1 monthly rental restrictions as part of its informational outreach, in addition to partnering with local neighborhood groups to distribute paper pamphlets regarding HP-1 monthly rental restrictions; 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 does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011; and

WHEREAS, consistent with City of Miami v. AirBnb, Inc., 260 So. 3d 478 (Fla. 3^d DCA 2018), this ordinance seeks to confirm language "identical in its material provisions" to that found in the 1989 and 1996 enacted ordinances; 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 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., Section 28-156. Chapter 28, Article III, Division 2., Section 28-156 of the Code of the City of St. Augustine, is hereby created as follows:

Sec. 28-156. Existing regulations confirmed.

(a) *Short-term rentals on submerged lands require submerged land lease.*

Ordinance 1995-35 enacted on January 8th, 1996, relating to the city's submerged lands requires a submerged land lease from the city for docks or other structures used in revenue-generating or income-related activities. This existing ordinance applies to the use of boats as short term rentals.

(b) *Short-term rentals in HP-1 zoning require monthly or greater rental period of time.*

Ordinance 1989-51 enacted on August 14th, 1989, relating to the zoning of permitted uses and structures in Historic Preservation One zoning district requires rentals on a monthly or greater period of time. This existing ordinance applies to the use of HP-1 zoned properties as short term rentals.

(c) *Other regulations continue in effect.*

In addition, other local, state, and federal regulations may apply to the use of specific properties, structures, vessels, or vehicles as short term rentals. Specific identification of the above ordinances does not waive any other applicable regulations.

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, Section 28-156 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 upon passage, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this 27th day
of January, 2020.

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

ATTEST:
Darlene Galambos
Darlene Galambos, City Clerk
(SEAL)

