

AN ORDINANCE TO AMEND TITLE 10 OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA BY ADDING CHAPTER 2 ENTITLED “SHORT-TERM RENTALS”; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on December 7, 2021, Town Council adopted the Town of Hilton Head Strategic Action Plan FY2021-2022 which includes an initiative to “Adopt & Implement Short-Term Rental Regulations”; and

WHEREAS, Town Council desires to add Chapter Two (2) Title 10 of the Municipal Code of the Town of Hilton Head Island to add short-term rental regulations; and

WHEREAS, under S. C. Code Ann. § 5-7-30 (Supp. 2021), the Town Council is authorized to adopted ordinances on any subject which appears to it necessary and proper for the security, general welfare, and convenience of the municipality or for preserving health, peace, order, and good government in it; and,

WHEREAS, the Town Council finds that the regulations set out in this Ordinance are in the best interest of and promote the health, safety and general welfare of the citizens, residents and visitors of and to the Town.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID COUNCIL:

Section 1 – Addition. Section 10-2-10 of the *Municipal Code of the Town of Hilton Head Island, South Carolina* (1983), be and the same hereby added as follows:

Sec. 10-2-10. Purpose and Intent.

It is the purpose and intent of this Ordinance to establish regulations for privately owned residential property used as vacation homes and rented to transient occupants

for periods of less than thirty days in the municipal limits of The Town of Hilton Head Island, South Carolina, so as to minimize the adverse effects of Short-Term Rental uses on surrounding residential properties and neighborhoods, and to preserve the character, integrity, and stability of residential neighborhoods in which Short-Term Rental Properties are located. This Chapter is not intended to regulate hotels, motels, hospitals or Interval Occupancy uses [as defined in § 16-10-103(D)(2), *Municipal Code of The Town of Hilton Head Island, South Carolina* (1983)].

Section 2 – Addition. Section 10-2-20 of the *Municipal Code of the Town of Hilton Head Island, South Carolina* (1983), be and the same hereby added as follows:

Sec. 10-2-20. Definitions.

(1) In this Chapter, the following terms are defined terms and when capitalized in the text of this Chapter, mean:

(a) *Owner*: Any individual, firm, partnership, limited liability partnership, limited liability company, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, who or which owns one or more Short Term Rental Properties.

(b) *Short-Term Lessee*: Any person occupying all or any part of a Short-Term Rental Property or any other property under any lease or other form of agreement for a period of less than thirty (30) days.

(c) *Short-Term Rental*: The leasing of any Short-Term Rental Property or permitting the occupancy of any Short-Term Rental Property or any other property by a lease or any other form of agreement.

(d) *Short-Term Rental Agent*: A person authorized by an Owner to act on the Owner's behalf in connection with any Short-Term Rental Property or Short-Term Rental.

(e) *Short-Term Rental Permit*: An annual permit that an Owner must obtain from The Town of Hilton Head Island, South Carolina for each of an Owner's Short-Term Rental Properties, described in Section 10-2-20 below. It is a violation of this Chapter to offer any Short-Term Rental Property or any other residential property in the municipal limits of The Town of Hilton Head Island, South Carolina, for Short-Term Rental without first obtaining a Short-Term Rental Permit from the Town of Hilton Head Island, South Carolina for any such property.

(f) *Short-Term Rental Property*: Any residential property in the municipal limits of the Town of Hilton Head Island, South Carolina, that, in

whole or in part, is offered for lease or occupancy under a lease or any other form of agreement, for periods of less than thirty (30) days.

(2) The defined terms include the plural of any term set out in this Sec. 10-2-20.

Section 3 - Addition. Section 10-2-30 of the *Municipal Code of the Town of Hilton Head Island, South Carolina* (1983), be and the same hereby added as follows:

Sec. 10-2-30. Short-Term Rental Permit.

(1) Any Owner who offers any Short-Term Rental Property for Short-Term Rental must first obtain a Short-Term Rental Permit from The Town of Hilton Head Island, South Carolina.

(a) Short-Term Rental Permits shall be valid from January 1 to December 31 of any calendar year and shall only be valid for the calendar year during which the Short-Term Rental Permit is issued, irrespective of the date on which the Short-Term Rental Permit is issued.

(b) A Short-Term Rental Permit must be obtained for each Short-Term Rental Property that is offered for Short-Term Rental.

(c) Short-Term Rental Permits are non-transferrable and are only valid for the Short-Term Rental Property described in the Short-Term Rental Permit.

(d) It is the duty of the Owner to notify The Town of Hilton Head Island, South Carolina, of any changes to the contact information of the Owner and any Short-Term Rental Agent employed or engaged by the Owner for each Short-Term Rental Permit issued to the Owner.

(e) The application fee for a Short-Term Rental Permit shall be set each year by the Town Council in the annual Budget Ordinance.

(f) The application for a Short-Term Rental Permit shall be made on a form published by The Town of Hilton Head Island, South Carolina, and must be delivered with the application fee.

(i) Any application for a Short-Term Rental Permit for a single-family detached residence must include a site plan showing compliance with the requirements of Section 10-2-50(3) and 10-2-50(4).

(g) Review of an application for a Short-Term Rental Permit shall be conducted by the Town of Hilton Head Island, South Carolina, and the Short-Term Rental Permit shall be granted unless the Owner fails to meet the conditions and requirements of this Chapter, or otherwise fails to demonstrate:

- (i) compliance with this Chapter; or
- (ii) there are no outstanding citations for any activities occurring at or connected with the Short-Term Rental Property; or
- (iii) any other Town Ordinance or any relevant state or federal law regarding activities at the Short-Term Rental Property.

Any false statements or inaccurate or untrue information in the application are grounds for revocation or suspension of the Short-Term Rental Permit and/or imposition of penalties, including denial of future applications.

- (2) Every person or business entity which:
 - (a) acts as a Short-Term Rental Agent, and
 - (b) submits an application for Short Term Rental Permit on behalf of any Owner, must submit a complete application that includes all the information required in the form of the application and which has been signed by the Owner.

Section 4 - Addition. Section 10-2-40 of the *Municipal Code of the Town of Hilton Head Island, South Carolina (1983)*, be and the same hereby added as follows:

Sec. 10-2-40. Licenses, Permits, Payment of Fees and Taxes Fees Required.

- (1) No Owner may offer any Short-Term Rental Property for Short-Term Rental without initially and on a continuing basis:
 - (a) Obtaining a valid and current Short-Term Rental Permit from The Town of Hilton Head Island, South Carolina; and
 - (b) Obtaining a valid and current business license for Short-Term Rental of property from The Town of Hilton Head Island, South Carolina; and
 - (c) Paying all applicable fees and taxes associated with any application for a Short-Term Rental Permit or business license, and all sales or other similar taxes in connection with any Short-Term Rental, paying all *ad valorem* taxes for any Short-Term Rental Property.

Section 5 - Addition. Section 10-2-50 of the *Municipal Code of the Town of Hilton Head Island, South Carolina (1983)*, be and the same hereby added as follows:

Sec.10-2-50. Regulations for Short-Term Rentals and Short-Term Rental Properties.

(1) General Regulations: During any lease of any Short-Term Rental Property, the Owner, or the Short-Term Rental Agent:

(a) Shall be available during any Short-Term Rental Period to respond to a complaint or other matter related to the operation or behavior of any Short-Term Lessee of the Short-Term Rental Property; and

(b) Shall be available by telephone at all times during the Short-Term Rental Period and capable of being physically present at the Short-Term Rental Property, or taking other responsive action, within one (1) hour of notification of a complaint or other matter related to the Short-Term Rental Property; and

(c) Shall prominently display in the Short-Term Rental unit contact information for the Owner or Short-Term Rental Agent responsible for responding to complaints; and

(d) Shall maintain fully operable and building and fire code compliant smoke and carbon monoxide detectors in the Short-Term Rental Property as required by law; and

(e) Shall maintain at least one (1), or such other number as is required by any applicable building, fire or other applicable code, fully operable and charged fire extinguisher; and

(f) Shall maintain unobstructed escape routes from the Short-Term Rental Property in the event of fire; and

(g) Shall notify all prospective Short-Term Lessees in writing of the existence of any swimming pool or hot tub at the Short-Term Rental Property and any safety equipment related to the swimming pool or hot tub prior to making any agreement for any Short-Term Rental.

(2) Noise Regulations: During any lease of any Short-Term Rental Property, the Owner, or the Short-Term Rental Agent:

(a) Shall display the following information in a prominent location in the Short-Term Rental Property:

(i) In The Town of Hilton Head Island, South Carolina, it is unlawful to unreasonably disturb the peace and quiet of those in their homes and public places (Title 17, Chapter 4, Town Code); and

(ii) Quiet hours are between 10:00 PM and 7:00 AM, though Town noise regulations are in force twenty-four (24) hours each day

(Title 17, Chapter 4, Town Code).

(b) Shall notify all prospective Short-Term Lessees in writing of the provisions of (2)(a)(i)(ii) above to the Short-Term Lessee prior to making any agreement for any Short-Term Rental.

(3) Trash Regulations: During any lease of any Short-Term Rental Property, the Owner, or the Short-Term Rental Agent:

(a) Shall maintain a designated trash storage area for use of Short-Term Lessees at the Short-Term Rental Property.

(i) The designated trash storage area shall be fenced or screened so that trash containers are not seen from public streets and neighboring property, except during designated pick-up times; and

(ii) The Owner shall prominently display instructions for managing trash disposal, including designated pick-up times and, if applicable, relevant property owner association requirements in the Short-Term Rental Property.

(iii) The Owner shall ensure any outdoor trash containers remain secured to avoid spills and pests.

(iv) The Owner shall ensure that trash containers are not placed curbside more than twenty-four (24) hours prior to scheduled pick-up times and will be removed no more than twenty-four (24) hours after pick-up.

(4) Parking Regulations. During any lease of any Short-Term Rental Property:

(a) The Owner must designate the number of vehicles allowed to be parked on the premises during any Short-Term Rental and designate the on-site areas available for parking of vehicles. The areas for parking of vehicles must be improved with either a pervious or impervious surface. Parking areas must include a space at least nine (9) feet by eighteen (18) feet for each vehicle allowed to be parked on the premises and improved with an impermeable or semi-impermeable surface. Areas for parking must comply with all applicable requirements of Sec. 16-1-101, et seq., *Municipal Code of The Town of Hilton Head Island, South Carolina* (1983).

(b) The Owner must notify all prospective Short-Term Lessees in writing of the maximum number of vehicles permitted at the Short-Term Rental Property prior to making any agreement for any Short-Term Rental.

- (c) The Owner must ensure that no vehicles associated with the Short-Term Lessee will park off-site, including in adjacent rights-of-way, during the Short-Term Rental Lease.

(5) Miscellaneous Regulations: During any Short-Term Rental Lease of any Short-Term Rental Property:

- (a) The Owner shall prominently display in any Short-Term Rental Property any Town-provided outreach and awareness materials related to applicable Town requirements.

- (b) Short-Term Rental Properties must be properly maintained and regularly inspected by the Owner or Short-Term Rental Agent to ensure continued compliance with this Chapter and all other applicable zoning, building, health and life-safety code requirements.

(6) In addition to the requirements of this Chapter, any Short-Term Rental Property must also comply with all other statutes, ordinances, regulations or private covenants applicable to the Short-Term Rental Property. Nothing in this Chapter is intended to authorize waiver of or limitations on compliance with any such requirements.

Section 6 - Addition. Section 10-2-60 of the *Municipal Code of the Town of Hilton Head Island, South Carolina* (1983), be and the same hereby added as follows:

Sec. 10-2-60. Violations.

- (1) Violations: It shall be a violation of this Chapter to:

- (a) Lease any Short-Term Rental Property for a Short-Term Rental without complying with the requirements of this Chapter.

- (b) Advertise any residential property for a Short-Term Rental without first complying with the requirements of this Chapter.

- (c) Fail to comply with any requirement of this Chapter.

(2) Violations of this Chapter are subject to the penalties and remedies available under Sec. 1-5-10 – General penalty; continuing violation, Sec. 10-1-150 – Business and professional licenses; suspension or revocation of license, Sec. 9-1-111 – Public nuisance; prohibition, *et seq.* These remedies are in addition to any other remedies available at law or in equity for a violation.

Section 7 - Addition. Section 10-2-60 of the *Municipal Code of the Town of Hilton*

Head Island, South Carolina (1983), be and the same hereby added as follows:

Sec. 10-2-70. Suspension or Revocation of Short-Term Rental Permit.

- (1) When the Town determines:
 - (a) A Short-Term Rental Permit has been mistakenly or improperly issued or issued contrary to law; or,
 - (b) An Owner has breached any condition upon which the Short-Term Rental Permit was issued; or,
 - (c) An Owner has obtained a Short-Term Rental Permit through any fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the Short-Term Rental Permit application; or,
 - (d) An Owner is delinquent in the payment to the municipality of any tax or fee; or,
 - (e) The operation of a Short-Term Rental Property has been declared a nuisance; or,
 - (f) More than two convictions for violations of the Municipal Code of the Town of Hilton Head Island, South Carolina, arising from any activities at, or connected with, a Short-Term Rental Property occur within any twelve (12) month period.

Then the Town may give written notice to the Owner that the Short-Term Rental Permit is suspended and may be revoked, pending a single hearing before Town Council for the purpose of determining whether the suspension should be upheld and whether the Short-Term Rental Permit should be revoked.

- (2) The written notice of suspension and proposed revocation shall state the time and place at which the hearing before Town Council is to be held and shall contain a brief statement of the reasons for the suspension and proposed revocation and a copy of the applicable provisions of this Chapter. The written notice shall be delivered by personal service to the Owner or Short-Term Rental Agent, or by certified mail, return receipt requested, addressed to the Owner or Short-Term Rental Agent at the address for the Owner or Short-Term Rental Agent shown on the application for the Short-Term Rental Permit. The written notice will be deemed to have been delivered on the date of personal service of the written notice as documented on an affidavit of service, or on the date that the certified mail return receipt is signed for by, or on behalf of, the Owner or Short-Term Rental Agent.

(3) The hearing before Town Council on the suspension and proposed revocation of any Short-Term Rental Permit shall be held by Town Council within thirty (30) days after delivery of the written notice described in this Section 10-2-60. The hearing shall be held upon written notice at a regular or special meeting of Town Council. The hearing may be continued to another date by agreement of all parties. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Town Council shall govern the hearing. Following the hearing, Town Council by majority vote of its members present, shall render a written decision setting out its findings of fact and conclusions. The written decision shall constitute the final decision of Town Council. The written decision shall be delivered to the Owner unless a different person and method of delivery is requested by the Owner at the hearing.

(4) The written decision of Town Council may be appealed in the same manner as appeals are made from the decisions of other administrative bodies of The Town of Hilton Head Island, South Carolina. An appeal, in and of itself, does not stay the effect of Town Council's decision

Section 8 - Severability.

If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 9 - Effective Date.

This Ordinance shall be effective on its adoption by the Town Council for the Town of Hilton Head Island, South Carolina, but the enforcement of the regulations set out in this Ordinance shall begin on January 1, 2023.

PASSED AND APPROVED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS 17th DAY OF MAY, 2022.

John J. McCann, Mayor

ATTEST:

Krista M. Wiedmeyer, Town Clerk

First Reading: _____

Second Reading: _____

Approved as to form: _____
Curtis L. Coltrane, Town Attorney

Introduced by Council Member: _____