

ORDINANCE NO. 2596

AN ORDINANCE TO (1) ADD ARTICLE V ENTITLED "RESTRICTIONS ON SHORT-TERM RENTAL OF SINGLE-FAMILY RESIDENCES" TO CHAPTER 14 ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS" AND (2) TO PROVIDE FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE, TO THE CODE OF ORDINANCES OF THE CITY OF HOMEWOOD, ALABAMA (THE "CITY").

BE IT ORDAINED by the City Council of the City of Homewood at a regular meeting, duly assembled, a quorum being present, as follows:

Section 1. That Chapter 14 entitled "Offenses and Miscellaneous Provisions" of the Code of Ordinances of the City of Homewood, Alabama is hereby amended to include Article V entitled "Restrictions on Short-Term Rental of Single-Family Residences," to read follows:

ARTICLE V. – RESTRICTIONS ON SHORT-TERM RENTAL OF SINGLE-FAMILY RESIDENCES

Sec. 14-70. – Findings and Purpose.

- (a) The City of Homewood is committed to maintaining and preserving the quality of its residential character, the housing stock and existing single-family communities, scenic beauty, and the natural resources that are the foundation of its economic strength and quality of life.
- (b) The rental of single-family residences for temporary occupancy has been identified as a community concern due to the potential for increased traffic, noise, high occupant turnover, and density in single-family residential districts.
- (c) The number of occupants occupying short-term rentals has the potential to create a danger to the health and safety of the residential neighborhood and nearby residential properties.
- (d) The purpose of this ordinance is to safeguard the peace, safety and general welfare of the residents of Homewood, and their visitors and guests, by eliminating noise, vandalism, overcrowding, neighborhood uncertainty, high occupancy turnover, diminution of neighborhood character, and other effects that have become associated with the short-term rental of single-family residential dwellings.
- (e) The restrictions established by this ordinance are necessary to protect the integrity and residential character of the city's single-family residential neighborhoods and the health and safety of the residents of the citizens of Homewood.

- (f) This ordinance is required to prohibit, in certain circumstances, the rental of single-family residences and the promotion and advertisement of short-term rentals of single-family residences for periods of less than ninety (90) consecutive days, in order to protect the public health, safety, and welfare, and the existing community standards in the City of Homewood relating to single-family residentially zoned property.

Sec. 14-71. - Definitions.

For the purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) “Advertise” or “advertisement.” Any written, electronic, or oral publication, dissemination, solicitation, or circulation which is intended to directly or indirectly induce any person to enter into an agreement for the rental of a single-family residence in violation of this article or other applicable provisions of the Zoning Ordinance of the City of Homewood. This definition includes but is not limited to mailings, print advertisements, Internet listings, e-mail publications, Facebook publications, or other oral, printed, or electronic means.
- (b) “Dwelling.” Any building, structure, or portion thereof which is permitted, designed, or used primarily for a single-family residence, except that the word "dwelling" shall not include boarding or rooming houses, tents, dormitories, motels, hotels, or other structures which are not designed or used primarily for a single-family residence as defined by this article.
- (c) “Dwelling Unit.” Any portion of a building used, intended, or designed as a separate abode for one (1) family.
- (d) “Enterprise.” Any corporation, association, firm, partnership, LLC, or other legal entity.
- (e) “Facilitate.” A person, operator, or enterprise “facilitates” if, acting with knowledge that an operator, managing agency or rental agent is committing or intends to commit the offense of renting a single-family residence in violation of this article, the person or enterprise knowingly provides the operator, managing agency or rental agent with means or opportunity for the commission of said offense.
- (f) “Managing agency” or “rental agent.” A person, operator, enterprise, or agency representing the owner of the single-family residence, or a person, enterprise or agency owning more than one single-family residence.

- (g) “Operator.” A person or enterprise who is owner or proprietor of a single-family residence, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, managing agency, rental agent, or any other capacity. Where the operator performs his or her functions through a managing agency of any type or character, or where the operator performs his or her functions through a managing agency or the rental agent, the operator has the same duties as its principal.
- (h) “Person.” Any individual or a group of individuals, enterprise, managing agency, rental agent, operator, or any entity.
- (i) “Remuneration.” Compensation, money, or other consideration given in return for occupancy, possession, or use of real property.
- (j) “Rent.” The consideration or remuneration charged whether or not received, for the occupancy or possession of space in a single-family residence, valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property or services of any kind.
- (k) “Rental.” An arrangement between a transient and an operator whereby rent is received in exchange for the right to possess a residential structure.
- (l) “Single-Family Residence.” Any dwelling, dwelling unit, or any structure located in the following residential zoning districts: NPD, R-1, R-2, R-3, PR-1, and PR-2, as defined in the Zoning Ordinance and Zoning Map of the City of Homewood.
- (m) “Solicit.” A person “solicits” if, with the intent to promote or facilitate the short-term rental of a single-family residence in violation of this article, or if such person commands, encourages, requests or solicits another person to engage in conduct which would constitute a violation of this article.
- (n) “Transient.” Those who reside, possess, or inhabit a single-family residence as defined by this article for a period of less than ninety (90) consecutive calendar days, counting portions of calendar days as full days.

Sec. 14-72. - Prohibited Rental Duration.

It shall be unlawful for any Person to rent or possess to rent for any type of remuneration, any single-family residence, as defined by this article, for a period

of time of less than ninety (90) consecutive days in duration to any transient.

Sec. 14-73. - Advertisement of Short-Term Rentals of Single-Family Residences Prohibited.

It shall be unlawful for any person to advertise, solicit, or facilitate the rental for a duration less than ninety (90) consecutive days of any single-family residence as defined by this article. Such activity is prohibited, whether by mailings, print advertisements, Internet listings, or any other means for communicating such advertisement.

Sec. 14-74. - Violations and Penalties.

Violations of this article shall constitute a misdemeanor, and, upon conviction, shall be punished as provided by Sec. 1-8 of the Code of Ordinances of the City of Homewood. Each day that any violation continues shall be a separate offense punishable as described herein, as an additional violation for each day such violation continues to exist.

Sec. 14-75. - Civil Penalties.

A violation of any portion of this article constitutes a public nuisance per se. The City of Homewood, as an additional or alternate remedy, may institute equitable or injunctive proceedings in a Court of competent jurisdiction to abate uses prohibited by this article. Said petition shall be verified by the Mayor, City Clerk, police officer, or any other governing official or employee of the City authorized to enforce the provisions of this article.

Sec. 14-76. - Additional Remedies for Violation of This Article.

Additionally, any violation of any provision of this article shall authorize, in addition to any other fines, penalties, remedies, or violations provided for in this article, the issuance of a UNTCC pursuant to the provisions of Article II of Chapter 8 of this Code.

Any recipient of a UNTCC issued for the violation of any provisions of this article may, within seventy-two (72) hours from the receipt of such UNTCC, present such UNTCC to the police officer or any officer of the City responsible for the enforcement of the provisions who issued such UNTCC, or the chief of police or his designee and shall provide evidence that the alleged violations as reflected in the UNTCC have been abated within seventy-two (72) hours of receipt of the same by the recipient, and upon investigation, such officer who issued the UNTCC or the chief of police or his designee may, after inspection, void the citation prior to the presentation to the municipal court.

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Sec. 14-77. - Prosecution Unaffected.

The adoption of this article shall not in any manner affect the prosecution of any act illegally done contrary to the provisions of any ordinance now or heretofore in existence, and every such prosecution, whether begun before or after the enactment of this article shall be governed by the laws under which the offense was committed; nor shall the prosecution or the right to prosecute for the recovery of any penalty or for the enforcement of any obligation or restriction of the City be in any manner affected by the adoption of this article; nor shall any civil action or cause of action existing prior to or at the time of the adoption of this article be affected in any manner by its adoption.

Secs. 14-78 – 14-98. - Reserved.

Section 2. That all other provisions of Chapter 14 entitled “Offenses and Miscellaneous Provisions” of the Code of Ordinances shall remain in full force and effect and shall not be affected by this amendment.

Section 3. That if any part, provision, or section of this ordinance is declared to be unconstitutional or invalid by any court of competent jurisdiction, all other parts, provisions or sections of this ordinance not thereby affected shall remain in full force and effect.

Section 4. That any rules, regulations, or ordinances in conflict with the provisions of this ordinance are declared null and void and are specifically repealed.

Section 5. This ordinance shall become immediately effective upon its adoption by the City Council and approval by the Mayor or as otherwise becoming law.

ADOPTED this the 25 day of April, 2016.



President of City Council

APPROVED:



Mayor

This notice posted: May 2, 2016

At the following locations: Mayor's Office (City Hall), Homewood Public Library, Homewood Senior Center (Oak Grove Road) and Lee Community Center (Rosedale)

And at www.homewoodal.net.