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Ordinance: 22-2032-ORD

407 E. Laurel Avenue
Foley, AL 36535

File Number: 22-0335

Enactment Number: 22-2032-ORD

An Ordinance Amending Ordinance No. 1018-07 (Business License Ordinance) to Add Section 5-25(J) - Short-Term Rental(s)

WHEREAS, pursuant to Code of Alabama, 1975, Section 11-51-90 to 11-51-185, the City of Foley adopted Ordinance No. 1018-07 levying and assessing business license fees for doing any kind of business, trade or profession or other activity in the municipality or its police jurisdiction, and

WHEREAS, it has become a necessity for the City of Foley to amend Ordinance No. 1018-07 to create fair and equitable license fees for the operation of short-term rental and allow the Revenue Department to have a record, for taxation purposes, of short term rentals and,

WHEREAS, for the safety and health of our citizens and visitors, the City of Foley would like to create a checklist of safety regulations and create a permit for each rental location.

BE IT ORDAINED that the Foley City Council as follows:

Section 1. Amends Ordinance No 1018-07, to add Section 25(J) as follows:

(J) SHORT TERM RENTALS

1. Definitions.

"Commercial vehicle" means a vehicle customarily used as part of a business for the transportation of goods or people.

"Hosting platform" means a person who, for a fee or other charge, provides on an internet website an online platform that facilitates the rental of a short-term residential rental residential unit on behalf of an operator, including, without limitation, through advertising, matchmaking or other means.

"Operator" means any person who owns, leases, controls, manages or operates a short-term residential rental unit or property.

"Short-term residential rental" means the commercial use, or the making available for commercial use, of a residential dwelling unit for dwelling, lodging or sleeping purposes, wherein any individual guest rents or occupies the unit or a portion of the residence for a period of less than 180 (one hundred and eighty) consecutive calendar days. The definition of "short-term residential rental" shall exclude commercial businesses who operate facilities

primarily for the purpose of short-term rental (i.e. Mobile Home Parks, RV Parks, hotels, motels, etc) that are already required to be licensed by other provisions of the business license ordinances of the City.

2. License required.

(A) No person shall engage in the business of offering or operating a short-term residential rental without first obtaining and thereafter maintaining a valid unexpired license pursuant to this Chapter for short-term residential rental.

(B) If a short-term residential unit is managed by a person other than the licensee or a principal of the licensee for that unit, that person must also possess a valid license from the City of Foley to manage property.

(C) The holder of a license under this Chapter is the person primarily responsible for compliance with the obligations that are imposed on an operator by this Chapter, whether or not that person owns the real property on which the short-term residential rental is located. In the case of a short-term residential rental whose affiliated licensee is not the property owner, the property owner is secondarily responsible for compliance.

(D) The NAICS code to be used for licensing of Short-Term Residential Rental is NAICS # 721199 - All Other Traveler Accommodation and the fee schedule for licensing is Schedule H.

3. Permit fees.

The operator of a short-term residential rental unit shall pay, in advance, an annual fee of \$ 20 (twenty dollars) for each short-term residential rental unit. Where there are multiple dwelling units on the same property, each unit must be permitted individually. This is in addition to the yearly business license fee.

4. Application for a Permit.

Each application for a short-term residential rental permit shall contain or include the following information and documentation:

(A) The name, signature, address and telephone number of the owner of the residential dwelling to be associated with the license.

(B) The name, address and telephone number of any property manager or property management firm that will be operating the short-term residential rental.

(C) The name, address and telephone number (including a telephone number that provides for communication twenty-four hours a day) of the local contact person who will respond to complaints regarding the condition, operation, or conduct of the occupants of the short-term residential rental unit.

(D) The address of the residential dwelling proposed to be used as a short-term residential rental.

(E) A list of all hosting platforms that the applicant proposes to use to market, advertise, offer, solicit customers for, or make available for commercial use the short-term residential rental applied for.

(F) An affidavit attesting that there are no delinquent lodging tax liabilities or liens regarding the property to be used as a short-term residential rental.

(G) Approval from the Fire Inspector for the first year of operation and signed an affidavit of

continuing safety regulations each year thereafter.

5. Additional conditions.

In connection with the issuance of a license, the Revenue Officer/Director may impose on the licensee (or upon the renewal thereof) reasonable conditions that are in addition to the requirements of this Chapter and that are designed to protect the public health, safety and welfare. In addition, at any time during a license period, the Revenue Officer/Director may impose such a requirement on a licensee whose short-term residential rental has been the subject of repeated complaints of violations of this Chapter.

6. Compliance.

The operator of a short-term residential rental shall comply with all provisions of City of Foley Ordinances that pertain to the collection of lodging taxes by the operator of an establishment subject to those Ordinances, as well as the associated record keeping requirements.

The operator is responsible for ensuring that the short-term residential rental complies with all State, County and City ordinances related to disasters and for ensuring the safety of the guests of the short-term residential rental.

Nothing contained in this article shall be construed to relieve any person from any tax liability, penalty, interest or forfeiture incurred under any laws or ordinances of the city prior to the effective date of this article.

7. Safety precautions.

(A) An evacuation map and list of procedures shall be placed within each guest room used for sleeping. Maps and lists of procedures shall be mounted on a wall or door in a horizontal position, either made of a durable material or encased within a durable frame or enclosure. Each map and list shall have a minimum size of ten inches by eight inches, with the color of text contrasting to the background. Maps shall have a "you are here" star with a directional arrow to the nearest exit, and shall also indicate the location of all available fire extinguishers.

(B) At a minimum, there must be at least one fire extinguisher:

(1) In the kitchen area, located under the sink;

(2) In any garage, mounted on the wall no higher than forty-eight inches above the finished floor; and

(3) Located on each floor level of the short-term residential rental unit, to the extent not otherwise covered by Paragraphs (1) and (2) of this Subsection (B).

Each fire extinguisher shall have a current service tag from a State of Alabama Fire Marshal-certified contractor.

(C) All sleeping rooms shall be equipped with smoke alarms and shall be installed in accordance with applicable codes. A record of monthly testing and battery replacement shall be available for verification by the Fire Department.

(D) Carbon monoxide alarms shall be installed in accordance with applicable codes.

(E) Each short-term residential rental shall be maintained in accordance with all applicable provisions of City building-related and technical codes adopted pursuant to City of Foley.

8. Miscellaneous provisions.

(A) The operator shall post a copy of the permit in a conspicuous place within the short-term residential rental unit.

(B) All occupant vehicles shall be parked on site, and shall not be parked in the adjacent public right-of-way. No commercial vehicles shall be permitted on the short-term residential rental unit property or parked in the adjacent public right-of-way, except where otherwise permitted in commercial zoning districts.

(C) Notwithstanding the provisions of City of Foley, the use of any radio receiver, stereo, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound shall take place only within an enclosed short-term residential rental unit. The property owner or operator of a short-term residential rental unit shall use reasonably prudent business practices to ensure that the occupants or guests of the rental unit do not create unreasonable noise or disturbances.

(D) The operator shall make available a local twenty-four-hour phone number that provides the capability of producing a response within 15 (fifteen) minutes to complaints regarding the condition, operation, or conduct of the occupants of the short-term residential rental unit. Failure of the operator or an employee or agent to respond to the complainant within 15 (fifteen) minutes shall constitute a violation of this Chapter.

(E) A placard shall be displayed on the interior of each short-term residential rental unit listing the information set forth below in this Subsection (D). The placard shall be in plain view of the renters at all times the short-term residential rental unit is occupied and shall be a minimum of eight and one-half inches by eleven inches in size. Displayed on the placard shall be the twenty-four-hour contact information required by Subsection (D) of this Section. The information required by the preceding sentence must be in a minimum legible font of seventy-two-point or a minimum of one and one-half inches in height. The required contact information shall include a full name and telephone number of the contact.

(G) Trash and refuse shall not be left or stored in public view, except in proper containers for the purpose of collection in accordance with the requirements of City of Foley Ordinances. The owner of the property or manager of the short-term residential rental unit shall be responsible for notifying occupants of trash disposal procedures and for maintaining compliance with the requirements of Ordinance.

(H) Consistent with and as a reflection of the definition of the term "short-term residential rental" set forth in this Chapter, no short-term residential rental unit may be rented for the purpose of holding weddings, parties, receptions or similar events that typically are held at a banquet facility or other facility that is made available for the holding of events on a commercial basis. Any use of the short-term residential rental unit is limited to activities that are incidental to its use for dwelling, lodging or sleeping purposes.

9. Notification of change in ownership.

The operator must notify the Revenue Department of any change in property ownership or management or any other material change in the information described in the license application, permit(s) and set forth in City of Foley Business License Ordinance. The

notification must be made within fifteen days after the change has occurred. The Revenue Director may require a new application for a business license and new permit(s) if the changes warrant a new application.

10. Suspension-Revocation.

In addition to any other remedy available for a violation of this Chapter, the Revenue Director may refer the license to Council for revocation of a license issued under this Chapter in connection with a particular short-term residential unit for the second or subsequent violation of this Chapter regarding that unit within any 12 (twelve) month period. In addition, the renewal of a license issued under this Chapter or an application for a new license under this Chapter may be denied if the licensee or applicant has been found guilty of any provision of this Chapter or has been determined to be in violation of any provision of this Chapter in connection with a civil proceeding. If a business license is revoked all permit(s) under that license will be revoked simultaneously.

11. Enforcement.

Officers of the Police Department are authorized to enforce or assist in the enforcement of this Chapter.

12. Quarterly reports.

(A) Each operator must submit to the Revenue Department a quarterly report that includes the information set forth in Subsection (B) of this Section.

(B) Each report required by Subsections (A) and (B) of this Section must state, for the quarter being reported and with respect to short-term residential rentals within the City and Police Jurisdiction:

- (1) The number of bookings, listings, and operators;
- (2) The average number of bookings per listing;
- (3) Current year-to-date booking value;
- (4) Current year-to-date revenue collected from all short-term residential rentals through the hosting platform, separated by operator; and
- (5) The average length of a short-term residential rental.

Section 2. The terms and provisions of this ordinance are severable. If any part or portion of this ordinance is declared invalid, void, or unconstitutional, that portion shall be deemed severed, and the remaining portions of the ordinance shall remain in full force and effect.

Section 3. All ordinances or parts of ordinances, in any manner conflicting herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its publication as required by law.

PASSED, APPROVED AND ADOPTED this 5th day of July 2022.

President's Signature _____

Date _____

Attest by Clerk _____

Date _____

Mayor's Signature _____

Date _____