

Ordinance 2023-004

An Ordinance amending the Zoning Ordinance of the City of Gardendale, Ordinance No. 2013-02, to Establish Short-Term Rental Regulations

WHEREAS, it has been recommended by the Gardendale Planning and Zoning Commission that certain amendments be made to the City of Gardendale Codification section 111 also known as Zoning Ordinance of the City of Gardendale (Ordinance No. 2013-02); and,

BE IT ORDAINED by the City Council of the City of Gardendale, Alabama while in regular session on the 5th day of June, 2023 at 6:00 p.m. as follows:

SECTION 1. SHORT-TERM RENTAL REGULATIONS

a. Scope, findings, and purpose.

1. This Section applies to all Rentals of Short-term Rental Units within the city. Nothing in this Section affects the right of the city to impose or collect other applicable fees, charges, or penalties or take other appropriate action to remedy a violation of other ordinances or laws. The mayor and/or his designee has the authority to promulgate and adopt policies to carry out the provisions of this Section.
2. The city is committed to maintaining and preserving the quality of its residential character, the housing stock and existing communities, scenic beauty, and the natural resources that are the foundation of its economic strength and quality of life.
3. The Rental of single-family homes in residential zoning districts for temporary occupancy has been identified as a community concern due to the potential for increased traffic, noise, high occupant turnover, and density in residential districts and has the potential to create a danger to the health and safety of the residential neighborhood, nearby residential properties, and neighborhood areas.
4. The purpose of this Section is to safeguard the peace, safety and general welfare of the residents of the city, 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 Short-term Rental Units within the city.
5. The restrictions established in this Section are necessary to protect the public health, safety and welfare of the residents of the city and the integrity and residential character of the city's residential zoning districts.

SECTION 2. Section 111-165 C-1 Neighborhood Shopping District (*Zoning Ordinance No. 2013-02, § 6.15*). The following shall be amended as follows:

(b) Uses Permitted.

C-1 Permitted Uses	
Use	Use Regulations
Use permitted by right. The following uses shall be permitted by right. Similar uses to those listed below may also be permitted subject to section 111-89.	
Accessory structures	Section 111-200
Bank or financial service	
Business or professional office	
Business support service	
Car wash	
Clinic	
Day care center	
General retail (enclosed) less than 3,000 square feet of floor area	
Gyms and health clubs	
Massage therapy establishment	
Park	
Personal services	
Product repair and services	
Public building	
Studio	
Swimming pool, indoor	Section 111-203
Transmission tower (commercial)	Section 111-243
Conditional uses. The following uses may be permitted subject to approval of the commission and appropriate permits being issued by the city. See section 111-91.	
Animal hospital	
Gas station, not including vehicle repair	Section 111-245
Funeral home	
Public utility facility	
Restaurant, fast food	Section 111-242
Restaurant, standard (see section 111-242(b) for outdoor seating)	
Shopping center, 15,000 square feet of retail floor area or less	Section 111-244
Short-term Rental/Short-term Rental Unit	Section 111-259
Swimming pool, outdoor	Section 111-203
Vehicle repair, minor	

SECTION 3. Section 111-166 C-2 Community Business District (*Zoning Ordinance No. 2013-02, § 6.16*). The following shall be amended as follows:

(b) Uses Permitted.

C-2 Permitted Uses	
Use	Use Regulations
Uses permitted by right. The following uses shall be permitted by right. Similar uses to those listed may also be permitted subject to section 111-89.	

Accessory structures	Section 111-200
Alternative financial service	Section 111-258
Animal hospital	
Bakery, minor	
Bank or financial service	
Broadcast studio	
Business or professional office	
Business support service	
Car wash	
Children's indoor play facility	
Clinic	
Commercial parking	
Day care center	
Equipment rental, light	
Funeral home	
Garden center or nursery	
Gas station, not including vehicle repair	Section 111-245
General retail, enclosed and unenclosed	
Grocery store	
Gyms and health clubs	
Home improvement center	
Market	
Massage therapy establishment	
Medical support service	
Museum	
Park	
Personal services	
Public building	
Printing, minor	
Product repair and services	
Restaurant, fast food	Section 111-242
Restaurant, standard (see section 111-242(b) for outdoor seating)	
School, commercial	
Studio	
Swimming pool, indoor and outdoor	Section 111-203
Transmission tower (commercial)	Section 111-243
Used car sales lot	Section 111-241
Vehicle sales and rental	
Conditional uses. The following uses may be permitted subject to approval of the commission and appropriate permits being issued by the city. See section 111-91.	
Arcade, amusement	

Entertainment, indoor	
Equipment rental, heavy	
Gas station, including minor vehicle repair	Section 111-245
Hotel or motel	
Medical and dental laboratory	
Mini-warehouse	Section 111-249
Public utility facility	
Recording studio	
Recreation, indoor and outdoor	
Shopping center	Section 111-244
Short-term Rental/Short-term Rental Unit	Section 111-259
Theater	
Vehicle repair, minor	
Vehicle sales and rental with minor vehicle repair	
Business office for contractors, including minor fabrication	Section 111-256
Research laboratory	
Wholesale establishment, enclosed	

SECTION 4. Section 111-167 C-3 General Business District (*Zoning Ordinance No. 2013-02, § 6.17*). The following shall be amended as follows:

(b) Uses Permitted.

C-3 Permitted Uses	
Use	Use Regulations
Uses permitted by right. The following uses shall be permitted by right. Similar uses to those listed below may also be permitted subject to section 111-89.	
Accessory structures	Section 111-200
Alternative financial service	Section 111-258
Animal hospital	
Bakery, minor	
Bank and financial services	
Business or professional offices	
Business support service	
Car wash	
Children's indoor play facility	
Clinic	
Commercial parking	
Day care center	
Entertainment, indoor	
Equipment rental, light	
Funeral home	
Gas station, including minor or major vehicle repair	Section 111-245

Garden center or nursery	
General retail, enclosed and unenclosed	
Grocery store	
Gyms/health clubs	
Home improvement center	
Hotel or motel	
Kennels	
Market	
Massage therapy establishment	
Medical support service	
Museum	
Park	
Personal services	
Printing, minor	
Product repair and services.	
Public building	
Recreation, outdoor	
Restaurant, fast food	Section 111-242
Restaurant, standard (see section 111-242(b) for outdoor seating)	
School, commercial	
Shopping center	Section 111-244
Short-term Rental/Short-term Rental Unit	Section 111-259
Studio	
Swimming pool, indoor and outdoor	Section 111-203
Tattoo parlor	Subsection (d) of this section
Theater	
Transmission tower (commercial)	Section 111-243
Used car sales lot	Section 111-241
Vehicle repair, minor and major	
Vehicle sales and rental including minor and major vehicle repair	
Wholesale establishment, enclosed	
Conditional uses. The following uses may be permitted subject to the approval of the commission and appropriate permits being issued by the city. See section 111-91.	
Arcade, amusement	
Campground	
Club or fraternal organization	
Entertainment, outdoor	
Equipment rental, heavy	
Liquor lounge	
Liquor sales (for off-premises consumption only)	
Medical and dental laboratory	

Mini-warehouse	Section 111-249
Night club	
Public utility facility	
Recording studio	
Recreation, indoor	
Vehicle sales and rental, major	
Business office for contractors, including minor fabrication	Section 111-256
Research laboratory	
Warehousing	
Wholesale establishment, unenclosed	

SECTION 5. Section 111-259 Short-Term Rental Regulations (*Zoning Ordinance No. 2013-02, § 8.22*). The following shall be added:

a. **Definitions.** For the purposes of this Section, the following definitions shall apply unless the context clearly indicates a different meaning:

1. *"Enterprise"* shall mean any corporation, association, firm, partnership, LLC, or other legal entity.

2. *"Managing Agency"* or *"Rental Agent"* shall mean a Person, Operator, Enterprise, or agency representing the owner of a Short-term Rental Unit, or a Person, Enterprise or agency owning more than one Short-term Rental Unit.

3. *"Operator"* shall mean a Person or Enterprise who is owner or proprietor of a Short-term Rental Unit, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, Managing Agency, Rental Agent, or any other capacity, and who desires to Rent a Short-term Rental Unit on such property to a Transient. Where the Operator performs his or her functions through a Managing Agency of any type or character or through a Rental Agent, the Managing Agency or Rental Agent has the same duties as the Operator. In order to be eligible to be an Operator hereunder, a Person or Enterprise desiring to operate a short-term rental must be the owner or proprietor of the property on which the short-term rental will occur or be designed in writing by the owner as the agent for the owner of the property.

4. *"Person"* shall mean any individual or a group of individuals, Enterprise, Managing Agency, Rental Agent, Operator, or any entity.

5. *"Remuneration"* shall mean compensation, money, or other consideration given in return for occupancy, possession, or use of real property.

6. *"Rent"* shall mean the consideration or remuneration charged (regardless of actual receipt) in money, goods, labor, or otherwise, including all receipts, cash,

credits, property or services of any kind for the occupancy or possession of space in a Short-term Rental Unit.

7. *"Rental"* shall mean an arrangement between a Transient and an Operator whereby Rent is received in exchange for the right to possess a Short-term Rental Unit.

8. *"Short-term rental"* shall mean the Rental of any Short-term Rental Unit or any part thereof to a Transient for overnight occupancy for a period less than thirty (30) consecutive calendar days, counting portions of calendar days as full days.

9. *"Short-term Rental Unit"* shall mean any building, structure, or portion thereof which is used for Short-Term Rentals. The term "Short-term Rental Unit" shall not include (1) a structure which is located in a zoning district within which Short-term rentals are not permitted under the Zoning Ordinance of Gardendale, Alabama unless otherwise permitted by the provisions of this section or (2) hotels, motels, boarding houses, or rooming houses.

10. *"Short-term Rental Hosting Platform"* is defined as any marketplace that facilitates short-term rentals, through advertising, match-making or other means, from which the platform derives revenues, including booking fees or advertising revenues, from or maintaining the marketplace.

11. *"Transient"* shall mean those Persons (whether one or more) who reside, possess, or inhabit Short-term Rental Unit as defined by this Section for a period of less than thirty (30) consecutive calendar days, counting portions of calendar days as full days.

(b) **Short-term Rentals of Short-term Rental Units – Generally.** It shall be unlawful for a Person to Rent a Short-term Rental Unit to a Transient without complying with the provisions of this Section. The provisions of this section shall not supersede the prohibition of short-term rentals by a homeowner's association, by a controlling entity, or by other covenants agreed upon by the owner of a property.

(c) **Allowed Rentals.** Short-term rentals as defined by this section are allowed within the city limits of Gardendale, Alabama subject to the provisions of this Section.

(d) **Prohibited Rentals.** It shall be unlawful for any Person to Rent or possess to Rent for any type of remuneration a Short-term Rental Unit that is not located within a zoning district within which Short-term rentals are permitted under the Zoning Ordinance of Gardendale, Alabama, as the same may be amended from time to time or that is not in compliance with Section (g) hereof.

(e) **Annual Permit and Business License and Lodging Taxes required for all Short-term Rentals.** An annual short-term rental permit and business license shall be issued by the appropriate city department to any such Operator complying with the provisions of this section.

An Operator shall be required to obtain a short-term rental permit for each property on which short-term rentals will occur. An Operator shall be required to obtain a business license for each short-term rental location within the city. An Operator is responsible for collection and remitting all taxes, including, but not limited to, Lodging Taxes, as provided in Section (k) Taxes.

1. *Short-term Rental Permit.*

a. *Generally; Duration and Expiration of Permit.* The Inspection Services Department shall be responsible for the issuance of short-term rental permits. Each short-term rental permit will begin on the date of issuance and expire on December 31st of each year. No permit holder shall transfer the right to operate under any permit issued under this section to any other person or entity by lease, agreement, contract or any other agreement. No permit issued under this section may be operated or shall have any legal effect at any location other than those for which it is issued.

b. *Permit Fee.* Except as provided herein, each short-term rental permit application shall be accompanied by a nonrefundable fee of one hundred fifty dollars (\$150.00) to help defray the city's cost of processing and reviewing the application.

c. *Permit Requirements.* Applications for a short-term rental permit shall be on a form prepared by the Inspection Services Department and shall include a minimum of the following:

1. Name of the Operator of the property to be utilized for short-term rental purposes and contact information therefor, including the owner's cell phone number and email address if the Operator is a lessee in possession of the property;

2. Physical address of the property to be utilized by the Operator for short-term rental purposes;

3. Name of the emergency contact for the Operator of the short-term residential rental property who is able to respond on premises to complaints at any time during the day or night when the property is occupied by a Transient, including the emergency contact's primary physical mailing address, cell phone number, and email address;

4. Sworn statement acknowledging receipt of this section and that each of the following is true and accurate:

i. Short-term Rental Unit has code compliant smoke detectors and carbon monoxide alarms installed, as required by the most currently adopted and applicable International Fire Code and International Building Code and as otherwise determined as

necessary by the fire marshal and/or Department of Planning and Community Development representative.

- ii. The Short-term Rental Unit has posted emergency contact information and diagram/floor plan indicating fire exits and escape routes displayed in a prominent location within the Short-term Rental Unit.
- iii. The Short-term Rental Unit contains a sprinkler system for fire suppression throughout and above the cooktop or stove area.
- iv. The Short-term Rental Unit is in compliance with applicable provisions of the city's minimum property maintenance, building, electrical, mechanical and plumbing codes.
- v. The property on which the Short-term Rental Unit sits is in compliance with all the standards and requirements under the zoning ordinance.
- vi. The Operator has made best efforts to notify the properties immediately adjacent to the desired short-term rental of the application.
- vii. The Operator's signed acknowledgement that he/she has reviewed this Chapter and understands its requirements.
- viii. The property has no outstanding taxes or municipal code violations present thereon; and

5. a list of short-term rental hosting platform(s) that will be used by the Operator to advertise or solicit the property for use as a short-term rental; and

6. such other information as deemed necessary by the Building Official of Inspection Services Department, or their designees.

d. Documents Required for Permit Process. The following documentation shall be provided by an applicant along with the short-term rental permit application:

- 1. A copy of the applicant's driver's license or government issued identification.
- 2. A copy of the deed evidencing ownership of the property on which the Short-term Rental Unit sits or a copy of the legal instrument through

which the applicant claims the right to possess the property as an Operator.

3. A list of the short-term rental platform(s) that will be utilized to advertise or solicit the property for use as a short-term rental.

4. A survey of the property illustrating the number and location of parking spaces allotted to the premises.

5. A floorplan of the building illustrating the bedrooms that will be utilized for short-term rental occupants.

6. A certificate of insurance evidencing current, valid liability insurance either showing:

i. A rider on a homeowner's policy that expressly covers short-term rentals and provides a minimum of one-million dollar (\$1,000,000.00) liability and personal injury coverage; and/or

ii. A commercial insurance policy covering short-term rentals at the permitted address that provides a minimum of one million dollars (\$1,000,000.00) of liability and personal injury coverage. Said insurance shall indicate the policy shall not terminate or be cancelled prior to completion of the then current permit period without a thirty (30) day written notice to the city sent in writing to the City of Gardendale, Alabama, Attn: Building Official, Inspection Services Dept. 925 Main Street – P. O. Box 889, Gardendale, Alabama 35071.

e. Permit Issuance. Upon submission of the information required herein and the requested documents and the review and approval thereof, the Building Official of Inspection Services Department or his/her designee shall issue an annual Short-term Rental Permit. Review of an application shall be conducted in accordance with due process principles and shall be granted unless the applicant fails to meet the conditions and requirements of this section or federal or state law related to the operation of a short-term rental, or otherwise fails to demonstrate the ability to comply with local, state or federal law through the operation of the proposed short-term rental.

1. Short-term Rental Permit Requirements. A short-term rental permit issued by the city shall contain at least the following information:

2. the address of the short-term rental property;

3. the permit holder's name;

4. the Operator's contact information, including name, cell phone, and email, for complaints by guests and/or neighbors who shall be available at any time to respond to on-premises complaints concerning the short-term rental;
5. dates of permit duration and expiration; and
6. any other information deemed necessary by the Building Official of the Inspection Services Department.

f. Continual compliance with requirements of Section required; Fraud, misrepresentation, and/or false statement in short-term rental application. All requirements set forth in this Section herein shall be continuously maintained by an Operator of a short-term rental property for the duration of any permit period. Furthermore, any fraud, misrepresentation, or false statements contained in the attestations, required documentation, or correlating application materials shall be grounds for immediate suspension and/or revocation of a short-term rental permit by the City Council.

2. Business License. Any Operator or other Person engaged in the business of operating a short-term rental within the city shall pay for and take out a business license with the city in such manner and in such sums as provided in. An Operator is responsible for collection and remitting all taxes, including, but not limited to, Lodging Taxes, as provided in Section (j.) Taxes.

(f.) Limited Occupancy; Parking Restrictions. No Short-term Rental Unit shall exceed the maximum guest occupancy of two persons per bedroom or such other occupancy number as determined by the fire marshal. Subject to the limitations of parking availability within the subject property, one (1) parking space per bedroom is required at each Short-term Rental Unit for use by Transients. Transients must park all vehicles within designated parking areas of a short-term rental property. Overnight street parking by Transients is strictly prohibited.

(g.) Suspension and Revocation of Short-term Rental Permit.

1. If three (3) valid and substantiated complaints are received by city police within a twelve-month period concerning a short-term rental property, then the Operator's short-term rental permit for that property shall be suspended by the Inspection Services Department for a period of no less than six (6) months.
2. If an Operator has his/her short-term rental permit suspended for a second time within two (2) consecutive years, then suspension of such short-term rental permit for the second consecutive year shall be for a period of no less than twelve (12) months.

3. If an Operator has his/her short-term rental permit suspended for a third time within three (3) consecutive years, the short-term rental permit shall be revoked permanently.

4. An Operator may appeal the suspension or revocation of a short-term rental permit to the City Council by serving written notice of appeal to the City Clerk within seven (7) days of the suspension or revocation. The appeal will be heard no later than thirty (30) days following such appeal at the next regularly scheduled City Council meeting.

(h) Violation; Penalties; Process.

1. Any Person that has violated or continues to violate this section shall be guilty of a violation. Each act of violation and/or each day upon which any violation shall occur and/or continue to exist shall constitute a separate offense punishable as described herein.

2. Upon the determination of the building official of the city or his designee that a violation of this section exists, a written notice of violation shall be issued to all Persons in violation of this section or any one of them. Such notice shall be issued by first class mail or hand delivery. Service shall be deemed effectuated by first class mail on the third day following the date of mailing or upon hand delivery. The notice shall (a) identify the violation, (b) include a correction order specifying the action required to comply with the provisions of this section, and (c) include a specified time within which to comply. If a violation is not sufficiently corrected in the opinion of the Building Official of Inspection Services Department or his/her designee within the specified period of time contained in the notice, then a citation and/or notice to appear may be issued by a building official or other enforcement officer directing all Persons or any one or more of them to appear in the municipal court at a time and date stated therein to answer to such violation(s). The defendant(s) shall have all rights secured to persons charged in the city with violations generally. If a defendant is found guilty by the municipal court, the court may impose a fine or imprisonment or both in accordance with the provisions of section 1-8 of this Code.

(i) Other Remedies. A violation of any portion of this section constitutes a public nuisance per se. The city, as an additional or alternate remedy, may institute equitable or injunctive proceedings in a court of competent jurisdiction to abate uses prohibited by this section. Nothing in this section shall limit the city from enforcement of its Code, state or federal law by any other legal remedy available to the city. Nothing in this section shall be construed to limit or supplant the power of any city inspector, official or other duly empowered officer under the city's ordinances, rules and regulations and the authority granted under state law, as amended, to take necessary action, consistent with the law, to protect the public from property which constitutes a public nuisance or to abate a nuisance by any other lawful means of proceedings.

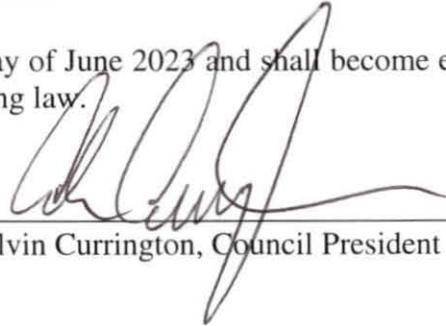
(j) **Taxes.** Short-term rentals are subject to applicable state and local taxes and Operators thereof are responsible for payment any and all applicable taxes as established by state law and the city code, including, but not limited to, lodging taxes.

SECTION 6. That all other provisions of the Code of Ordinances shall remain in full force and effect and shall not be affected by this amendment.

SECTION 7. All other Ordinances or parts of Ordinances heretofore adopted by the City Council of the City of Gardendale, Alabama that are inconsistent with the provisions of this Ordinance are hereby expressly repealed.

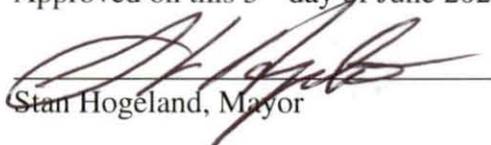
SECTION 8. That if any part, provision, or section of this ordinance is declared to be unconstitutional or invalid by any court of competent jurisdiction, all other parts, provisions or sections of this ordinance not thereby affected shall remain in full force and effect.

SECTION 9. This ordinance is adopted on this 5th day of June 2023 and shall become effective immediately upon its publication or otherwise becoming law.



Alvin Currington, Council President

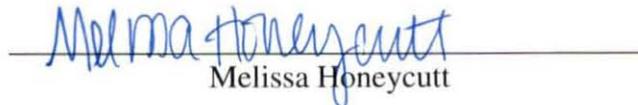
Approved on this 5th day of June 2023.



Stan Hogeland, Mayor

CERTIFICATION

I, Melissa Honeycutt, City Clerk of the City of Gardendale, Alabama, do hereby certify that the foregoing is a true and correct copy of an Ordinance that was duly and legally adopted on the 5th day of June, 2023 by the City Council of the City of Gardendale, Alabama while in a regular session and was posted in its entirety at the following locations, as required: City Hall – 925 Main Street, Civic Center – 857 Main Street, Gardendale Library – 995 Mount Olive Road, and US Post Office – 1753 Decatur Hwy., on 6/21/23 2023.



Melissa Honeycutt