

ORDINANCE NO. 622

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY TO INCLUDE A NEW SECTION 131 DEALING WITH SHORT TERM RENTALS – RESIDENTIAL IN THE CITY OF LONG BEACH, AND FOR RELATED PURPOSES.

WHEREAS, the Mayor and Board of Aldermen of the City of Long Beach, Mississippi, having made due investigation therefore, do now find, determine adjudicate and declare as follows:

(A) The Unified Development Ordinance Number 598 of the City of Long Beach, has been heretofore adopted by the Mayor and Board of Aldermen of the City of Long Beach to reflect the zoning classification of all property within the City of Long Beach and to otherwise provide for and foster orderly development and growth of the City in accordance with a comprehensive plan, all for the benefit and good of the citizens of Long Beach.

(B) The Mayor and Board of Aldermen of the City of Long Beach, the Planning Commission of the City of Long Beach, and others are from time to time called upon to update, revise, and provide additions to said Unified Development Ordinance.

(C) That, after due investigation and consideration, the Governing Authorities of the City of Long Beach do find and determine that, in further aid to the Mayor and Board of Aldermen of the City of Long Beach, the Planning Commission of the City of Long Beach, and others in providing for and fostering orderly development and growth of the City in accordance with a comprehensive plan, an additional section should be added to such Unified Development Ordinance as Section 131 providing for a further definition and clarification of Short Term Rentals within the City of Long Beach

(D) That the recommended proposed change to the Unified Development Ordinance by the addition of such new Section 131 was duly considered by the Planning Commission of the City of Long Beach at a public hearing and regular meeting of said Planning Commission held on June 23, 2016, and after public hearing,

input, and thorough consideration as to all relevant factors required and available under law, the Planning Commission adopted same and recommended approval thereof by the Mayor and Board of Aldermen as reflected in the official minutes of said meeting.

(F) That pursuant to legal notice published and given for the time and in the manner provided by law, the Mayor and Board of Aldermen of the City of Long Beach, Mississippi, did meet at 5:00 o'clock p.m. on Tuesday, the 6th day of September, 2016 at the City Hall in said City at the time, place and date fixed in said legal notice, and did on such date conduct a public hearing at which hearing all parties interested in or opposed to adoption of the change proposed to the Unified Development Ordinance by addition of such new Section 131 were given an opportunity to be heard and allowed to make oral and/or written comment to such proposed changes, which proposed changes were then and there on file and had been on file during the period of said notice in the office of the City Clerk at the City Hall in said City, available for public inspection and examination by any and all parties interested in or opposed to the proposed changes, all as more particularly hereinafter set forth in this ordinance.

(E) That, as a result of the aforesaid public hearing and after consideration by the Mayor and Board of Aldermen of the testimony and evidence presented, and after due deliberation, the Mayor and Board of Aldermen did then find, and do now find, determine, adjudicate and declare that, in further aid to the Mayor and Board of Aldermen of the City of Long Beach, the Planning Commission of the City of Long Beach, and others in providing for and fostering orderly development and growth of the City in accordance with a comprehensive plan the proposed new Section 131 dealing with Short Term Rentals –Residential should be adopted.

NOW THEREFORE, BE IT RESOLVED AND ORDERED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AS FOLLOWS:

Section 1. That the Mayor and Board of Aldermen having considered the

comments and testimony at the said hearing, all of the documentary evidence submitted into evidence and their own knowledge and familiarity of the City of Long Beach hereby find and adjudicate as follows:

(a) That the clear and convincing evidence establishes that the City is in need of changing the to add to a new Section 131 dealing with SHORT TERM RENTALS – RESIDENTIAL as a part of the Unified Development ordinance;

(b) That the clear and convincing evidence establishes the public need for the said amendment;

(c) The addition of the said new Section 131 not intended to revise or change the existing zoning classification of any district or parcel, but is intended to only further describe and aid in fostering orderly development and growth of the City in accordance with a comprehensive plan.

(d) The proposed change is in conformance with the general intent of the Comprehensive Master Plan of the City.

Section 2. That the Unified Development Ordinance of the City of Long Beach should be and hereby are amended to include the following new section, to be known as Section 131:

Section 131: Short Term Rentals-Residential

(a) Definition

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section:

(1) Short Term Rental: Short Term Rental means any dwelling or condominium or portion thereof that is available for use or is used for accommodations or lodging of guests, paying a fee or the compensation for a period of less than thirty (30) consecutive days. For the purpose of House Bill No. 1836 (1998) regarding a tax levy on lodging rentals, short-term rental "means any establishment engaged in the business of furnishing or providing rooms intended or designed for dwelling, lodging or sleeping purposes to transient guests and which are known in the trade as such". The term "Short-Term Rental" does not include any hospital, convalescent or nursing home, shell houses, group homes, or sanitarium or any facility associated with a hospital providing rooms for medical patients and their families. The term "Short Term rental" shall also not include mobile homes, manufactured homes, group homes, travel trailers, tents, recreational vehicles, campers or other similar vehicles or structures nor does the term include a bed and breakfast permitted by City ordinances .

(2) Local Property Manager: The person specifically named on the application and permits who is responsible for the day-to-day operation of the short term rental unit, and who may be contacted and available twenty-four (24) hours a

day if there is a problem with the unit. The local property manager may be the owner or agent of the owner. The local property manager and owner shall be responsible for the management and upkeep of the rental unit in compliance with the provisions set forth herein. The name, address and telephone number of the owner and the local property manager shall be submitted at the time that the application is filed and said information shall be made available to the public. The owner shall be responsible for providing written notice of any change with respect to the name, address and telephone number of the local property manager to the City within five (5) days of any such change.

(b) Permit Required

It Is Unlawful To Conduct Or Operate A Short-Term Rental Without Having Obtained A Permit Therefore.

(1) A short-term lodging, special use permit and occupancy tax registration are required for each short term lodging rental unit.

(2) Applications may be made for a short term lodging special use permit in all residential zones.

(3) The permit process requires an application completed in accordance with the following which may be obtained at the City Building Department.

(A) Application shall contain such information as the Building Official shall from time to time require, including, but not limited to , the location/address of the short term rental, number of rooms therein contained, the number of persons the short term rental proposes to accommodate , the name of the property owner, the name of the local property manager, sales tax collection, and the name, address and telephone number of the local contact person who is available for contact, copy of the rental agreement, proposed parking plan (reviewed and determined upon signing and inspection by Building Official) rules, and a plan for trash management, and a copy of the proposed rental agreement.

(B) It shall be the duty of the applicant to notify the City Building Department of any Homeowners Association which may have jurisdiction over the applicant's property. It shall be the further duty of the applicant to notify the affected Homeowner's

Association of the application process and to provide the City Building Department with a written statement of support from the Homeowner's Association which approves the request of the applicant for use of the owner's property as a short term rental. Failure to notify the City Building Department of the existence of a Homeowner's Association shall result in the suspension or revocation of the permit.

(C) It shall be the duty of the applicant to produce proof to the City Building Department of homeowner's liability insurance coverage which does not exclude short term rentals from coverage. Further, the applicant shall provide proof that the insurer has been notified of the insured's intent to use the property as a short term rental.

(D) The application shall include a statement from the Building Official and Fire Department affirming that the applicant is in compliance with all applicable zoning requirements, building codes and fire codes, as well as a statement affirming that all applicable taxes, fees and other charges have been paid.

(E) The applicant shall execute a written statement acknowledging that a violation of the ordinances of the City of Long Beach shall result in the suspension or revocation of the permit.

(F) A non-refundable application fee of two hundred dollars (\$200.00) plus

mailing costs or the most recent fee established by the Board of Alderman shall be paid by the applicant at the time of filing the application with said application fee concerning the costs of inspection, mailing, and labor affiliated with the processing of the application.

(G) Upon the filing of an application in accordance with Subsections (A) through (G), the City shall notify all landowners within two hundred (200) feet of the applicant's land boundaries of the applicant's intent to obtain a permit to conduct or operate a Short Term Rental on the property owned by the applicant. Notification by the City shall be made by mail and shall be addressed to the landowner identified for each parcel in the ad valorem tax rolls for the City. The notification shall provide the following information to the landowners within two hundred (200) feet of the applicant's land boundaries:

- (1) Name and address of the applicant;
- (2) Name and address of the local contact person who will be available for contact at all times;
- (3) Name and address of every agent;
- (4) Copy of the application shall be available at City Hall;

(H) The City shall notify the landowners within two hundred (200) feet of the applicant's boundary lines of the date, time and place of a hearing before the Planning Commission. Notice shall be published in a local newspaper of general circulation within the City at least fifteen (15) days prior to the hearing.

(I) At the conclusion of the public hearing, the Planning Commission shall approve or disapprove the application and send its decision, along with the reason for its decision, to the Board of Aldermen. The matter shall be set on the agenda of the next City meeting after the time for appeal has lapsed.

(J) Any party aggrieved by the decision of Planning Commission may appeal the decision to the Board of Aldermen within ten (10) days from the time of the decision. Any aggrieved party shall file a written notice of appeal with the City Clerk. The City shall hold a hearing to hear the appeal as set forth in the code.

(K) In the event no appeal is filed, the decision of the Planning Commission shall be final and the permit shall be issued or denied based upon such after approval by the Mayor and Board of Aldermen. If an appeal is filed, the Board of Aldermen shall consider the appeal and render its decision with respect to the issuance or denial of the permit, setting forth its reasons for such.

(4) The short term rental unit is in accordance with all applicable fire and health codes as would apply if the unit was located within a commercial zone and designated as a commercial venture therein.

(5) Each short term rental permit shall expire one (1) year from the date of issuance of the permit.

(6) Permit renewal may be obtained for an amount equal to one-night rental fee or \$100, whichever is greater, through the City Building Department.

Permit renewal process will include staff review of City records and other documentation pertaining to complaints, if any, that have been received about the specific short term rental unit under consideration. Filed complaints that are in violation of the zoning codes, building codes, property maintenance, codes and/or applicable laws or regulations will be considered as part of the renewal process. Applicable local, State and Federal laws or regulations may be a basis for denying a permit renewal. If permit renewal is denied, the City Building Department shall provide notice as to the reason for denial and the landowner shall be allowed ten (10) days to correct any deficiencies itemized. At the expiration of ten (10) days, a landowner may appeal the denial of permit renewal to the Board of Aldermen. The appeal must be in writing and must be filed within ten (10) days following the expiration of the ten (10) day period within which to file correct deficiencies.

(7) Approval of short term lodging permit does not legalize any non-permitted use or structure. Short term rental units are not to be used to distribute retail products or personal services to invitees for marketing or similar purposes. The outdoor display of goods and merchandise for sale is prohibited.

(8) Short term lodging rental permits are not transferable. Upon sale or any type of transfer of the property, any permit issued pursuant to the terms set forth herein, shall automatically expire. Any new owner(s) or transferee(s) shall be required to apply for a new permit in accordance with this article, except no hearing is required, only planning commission approval. The new permit shall be for a period of one year from date approved.

(9) Any structure or unit that is deed restricted for affordable housing shall not be used as a short-term lodging rental.

(c) Occupancy

The maximum occupancy of each short term rental shall be as determined by the Building Official and/or Fire Marshall based on the inspection of the premises and applicable laws, regulations and codes. Each permit shall specify the maximum number of occupants, which may be limited due to building or parking constraints.

(d) Number of Vehicles

The maximum number of vehicles will be determined upon site inspection by the Building Department and should be compatible with the zoning. This number will be based on off street parking availability and on-street conditions. It will be preferred that the applicant/owner provide off-street parking. In certain circumstances where no off-street parking exists and on-street constraints exist, the Building Official may require that an off- street parking space to be constructed or secured.

(e) Registry of Guests

Each person granted a short term rental permit shall keep or cause to be kept a registry of guests. Such registration or list shall be available for inspection upon ten (10) days written notice by the Building Official or his designee.

(f) Noise

Property owners and local property managers shall insure that the occupants of the short term rental are aware of City noise ordinances and State laws regarding disturbing the peace.

(g) Premises and Garbage Management

It shall be the duty of every local property manager and/or owner to keep all of the rooms in connection with the short term rental provided for the use of guests, in clean and sanitary condition; and to provide each guest with affective protection against flies mosquitoes and other vermin. Garbage shall be disposed of in covered containers and placed in the scheduled pick-up location.

(h) Posting of Rules

Short term rental unit rules shall be posted inside the rental unit in a location readily visible to all tenants. The rules shall include: occupancy; parking limits; noise, rules and garbage management. A written copy of this Ordinance shall be posted within the unit and displayed at all times.

(i) Local Contact Person

All short term rentals shall designate a local property manager who will respond to the questions or concerns twenty-four (24) hours a day. The name, address and telephone number of the local contact person shall be submitted to the Planning Department, Building Department and City Police Department during the permitting process. The name, address and telephone number of the local contact person shall be posted

permanently inside the short term rental unit. The local contact person, property manager and/or property owner shall be considered the responsible person for violations of the Short Term Rental Ordinance.

(j) Complaints and Dispute Resolutions

Complaints regarding violation of this Ordinance must first be directed to the local contact person. If the local contact person is unable to resolve the issue and/or the issue relates to public safety, then the concerned party should contact the Building Department. The Long Beach Police Department shall have an updated list provided by the Building Department of all local contact persons for short term rentals in case complaints are received after hours. Verified complaints concerning non-compliance with the terms of this Ordinance may be considered in determining whether or not a permit should be revoked.

(k) Denial or Revocation of a License

Conditions for denial of permit or revocation of permit to operate a Short Term Rental unit shall include but in no way limited to the following:

- (1) Property within a subdivision with an active homeowner's association with adopted covenants that do not allow short term rentals will not be considered for a permit. A letter of acknowledgment and support will be required from the Homeowner's Association in order to continue in the pursuit of a permit. Failure of the applicant to notify the City that his/her property is a part of a Homeowner's Association shall result in denial of a permit or revocation of a permit.
- (2) The applicant failed to conform to the conditions set forth herein for the current or previous year.
- (3) Guests and/or users of the property were issued noise ordinance and/or disturbing the peace citations during the previous or current year.
- (4) Any other reasonable or rational factors or combination of factors, including, but not limited to inadequate lot size, inadequate street parking, lack of response from local property manager or contact person, filed complaints of violation of the zoning code, building code, property maintenance code and/or applicable laws or regulations (may be a basis for denying permit).
- (5) The Building Official is authorized to revoke permits. A permitted owner shall be provided with written notice of the reason(s) the permit is subject to revocation. The applicant shall be allowed ten (10) days from the date written notice is issued to correct defective conditions. If the condition is not corrected within ten (10) days to the satisfaction of the Building Official, permit shall be revoked by issuing such order. Upon receipt of such order by the owner or local property manager, the unit shall cease operation as a short term rental. The owner may appeal the order revoking the permit. The owner's appeal must be in writing and filed with the Building Department within ten (10) days of entry of the order. The revocation shall remain in full force and effect during the pendency of the appeal. The appeal should be presented to the Mayor and Board of Aldermen at the next scheduled meeting following the filing of the appeal. The owner should be afforded notice and the opportunity to be heard.

(l) Violations

Any persons or users who allow such use of a residential property in violation of this Ordinance shall be guilty of a misdemeanor. For purposes of prosecution of violations of this chapter, each day that any violation occurs (rental without a permit) is deemed to constitute a separate violation.

(m) Constitutionality

Should any portion, provision or section of this Ordinance be held void, unconstitutional or invalid, the remaining portion of the ordinance shall remain in full force and effect.

(n) Conflicts

It is hereby provided that the provisions of these regulations shall not be construed as being in conflict with the provisions of any of the regulations of Long Beach, Mississippi. In any case where the provisions in these regulations and the provisions of other regulations both apply, the provisions of this Ordinance shall govern for the purpose of short term rentals of residential dwellings or condominiums.

(o) Review

The City shall review the Ordinance annually to evaluate the benefits recognized by the use of Short Term Rentals, as well as, any adverse impact the use of Short Term Rentals may have.

Section 3. This Ordinance of the Mayor and Board of Aldermen of the City of Long Beach shall be deemed effective in the manner and time prescribed by law.

The City Clerk is hereby ordered to publish this Ordinance and Resolution in the manner and time required by law.

Alderman Parker made motion to approve the Ordinance creating a new official zoning map with legal descriptions. Alderman Griffin seconded the motion and the question being put to a roll call vote the result was as follows:

Alderman Bernie Parker	voted aye
Alderman Gary J. Ponthieux	voted aye
Alderman Kelly Griffin	voted aye
Alderman Alan Young	voted aye
Alderman Leonard G. Carrubba, Sr.	voted aye
Alderman Mark E. Lishen	voted aye
Alderman Ronnie Hammons, Jr.	voted aye

The question having received the affirmative vote of all the Aldermen present and voting, the Mayor declared the motion carried and the said Ordinance Number 622 adopted and approved this, the 20th day of September, 2016.

APPROVED:

WILLIAM SKELLIE, JR., MAYOR

ATTEST:

REBECCA E. SCHRUFF, CITY CLERK

C E R T I F I C A T E

STATE OF MISSISSIPPI
COUNTY OF HARRISON
CITY OF LONG BEACH

I, the undersigned, Rebecca E. Schruff, City Clerk within and for the City of Long Beach, Mississippi, do hereby certify that the above and foregoing is a true and correct copy of that certain Ordinance #622 of the City of Long Beach, Mississippi, adopted by the Mayor and Board of Aldermen at a regular meeting duly held and convened on the 20th day of September, 2016, as the same appears of record in Ordinance Book #8, pages 421-429 inclusive, in my office at the City Hall in said City.

Given under my hand and the official seal of my office this the 21st day of September, 2016.

Rebecca E. Schruff, City Clerk

(SEAL)