

ORDINANCE NO. 1073

AN ORDINANCE OF THE CITY OF EAST RIDGE, TENNESSEE TO AMEND THE EAST RIDGE ZONING ORDINANCE (ORDINANCE 481) CODIFIED AT TITLE 14, CHAPTER 2 OF THE EAST RIDGE MUNICIPAL CODE BY INSERTING A SECTION LABELED "ARTICLE XI SHORT-TERM VACATION RENTAL RULES AND REGULATIONS" TO THE EAST RIDGE ZONING ORDINANCE AND ADOPTING REGULATIONS ALLOWING SHORT-TERM VACATION RENTAL USE AND PROVIDING TERMS AND CONDITIONS FOR THE ISSUANCE OF SHORT-TERM VACATION RENTAL CERTIFICATES

WHEREAS, the City of East Ridge seeks to protect the public health, safety and general welfare of individuals and the community at large and to monitor and provide reasonable means for citizens to mitigate impacts created by occupancy of short-term vacation units and to implement rationally based, reasonably tailored regulations to protect the integrity of the city's neighborhoods; and

WHEREAS, City Council deems it necessary to amend the Zoning Ordinance in order to balance the right of property owners to use their property in all lawful ways against the right of property owners to the quiet use and enjoyment of their property; and

WHEREAS, by virtue of adopting this Ordinance, the City seeks to require the owner or owners of a residential dwelling unit that is used as a short-term vacation rental, as defined herein, to apply for and secure a permit authorizing such use in the manner provided for herein; and

WHEREAS, the East Ridge Planning Commission held a public hearing on April 2, 2018 to carefully review the text of the proposed amendments to the East Ridge Zoning Ordinance for the adoption of and regulation of Short-Term Vacation Rentals and has recommended approval of the amendments as provided herein below; and

WHEREAS, a public hearing was held before the City Council of the City of East Ridge in accordance with T.C.A. § 13-7-203 at which time the City Council reviewed the text of the proposed amendments to the East Ridge Zoning Ordinance and heard and considered all statements concerning said amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EAST RIDGE, TENNESSEE, that the East Ridge Zoning Ordinance (Ordinance No. 481) codified at TITLE 14, Chapter 2 of the East Ridge Municipal Code is hereby amended by adding an Article XI into the East Ridge Zoning Ordinance and inserting therein the provisions for the regulation of Short-Term Vacation Rentals as reflected in the attachment **Exhibit A**, which is incorporated herein by reference.

BE IT FURTHER ORDAINED, that the newly adopted Article XI shall apply to all properties within the City of East Ridge as of the date of approval of this Ordinance;

BE IT FURTHER ORDAINED, that it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of the City Council, and that all deliberations of this Council that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

BE IT FURTHER ORDAINED, that this Ordinance shall not in any manner affect any 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 the adoption of after the enactment of this ordinance shall be governed by the law under which the offense was committed; nor shall a prosecution, or the right to prosecute, for the recovery of any penalty or the enforcement of any forfeiture or lien be in any manner affected by the adoption of this ordinance; nor shall any civil action or cause of action existing prior to or at the time of the adoption of this ordinance be affected in any manner by its adoption.

BE IT FURTHER ORDAINED, that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other paragraph and sections, since the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

BE IT FURTHER ORDAINED, that this Ordinance take effect immediately after its passage the public welfare of the city requiring it.

Passed on first reading April 12, 2018

Passed on second reading April 26, 2018



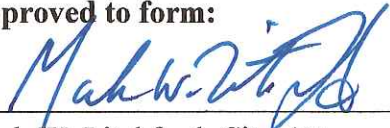
Brent Lambert, Mayor

Attest:



J. Scott Miller, City Manager

Approved to form:



Mark W. Litchford, City Attorney

ARTICLE XI¹
SHORT-TERM VACATION RENTAL RULES AND REGULATIONS

100. Intent; Definitions; use of words and terms.

A. Regulations and restrictions imposed herein are in recognition of the premise that a vacation rental provides lodging for a transient population that may or may not honor neighborhood mores or exhibit neighborly consideration to the same extent as permanent residents. These regulations and restrictions are based on a desire to maintain the overall residential character of neighborhoods and the purpose of single family residential zones to promote safe locations for residential uses.

B. For purposes of this Article, the following definitions apply, which shall be supplemental to the definitions contained in Article II of the East Ridge Zoning Ordinance.

1. *“Short-Term Vacation Rental”*: Any house or other structure containing no more than five (5) bedrooms within permissible zones which is used, advertised or held out to the public in part or its entirety to be a place where sleeping accommodations are supplied for pay and such accommodations are provided on a daily or weekly basis for not more than thirty (30) days for overnight stay. For the purposes of this definition, hotels, bed & breakfast, and boarding house, as lawfully licensed by any applicable governmental agency, including but not limited the City of East Ridge, are excluded.
2. *“Code Compliance Verification Form”*: A document executed by a short-term vacation owner certifying that the Short-Term Vacation Rental unit complies with applicable zoning, building, health and life safety code provisions. No person shall allow occupancy or possession of any short-term vacation rental unit if the premises are in violation of any applicable laws including, but not limited to, zoning, building, health or life safety code provisions. No person shall be able to possess more than two Short-Term Vacation Rental Certificates for non-owner occupied premises in a multifamily dwelling.
3. *“Short-Term Vacation Rental Agent”*: A natural person designated to be responsible for daily operations by the owner of a Short-term Vacation Rental on the short-term vacation rental certificate application. Such person shall be available for and responsive to contact at all times and someone who is customarily present at a location within the Hamilton County for purposes of transacting the

¹ Article XI of the East Ridge Zoning Ordinance was approved and adopted by the East Ridge City Council on second and final reading pursuant to Ordinance No. ____ on _____, 2018.

short-term vacation rental business. The Short-term Vacation Rental Agent must meet all other requirements set forth by state law.

4. *“Short-Term Vacation Rental Occupants”*: Guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupy a short-term vacation rental dwelling unit for lodging for a period of time not to exceed thirty consecutive days.

101. Zoning for Short-term Vacation Rentals.

Short-Term Vacation Rentals are not permitted or otherwise eligible in properties zoned R-1, RT-1, and RZ-1 under the East Ridge Zoning Regulations. Short-Term Vacation Rentals are permitted in any other zones that permit residential use unless such use is expressly prohibited. With regard to such properties that are eligible for Short-Term Vacation Rental use, any duly existing neighborhood association with an active status on file with the Tennessee Secretary of State shall have the authority to set its own regulations governing Short-Term Vacation Rental use with regard to such properties that are subject to the respective neighborhood association’s jurisdiction or control.

102. Certificate Required.

A. In addition to any other requirements, no person or entity shall operate a Short-Term Vacation Rental unless a Short-Term Vacation Rental Certificate has been first obtained from the City of East Ridge Building Department. To obtain a Short-Term Vacation Rental Certificate, an eligible applicant must submit an application in compliance with Section 104 of this City Code. If approved, a legible copy of the Short-Term Vacation Rental Certificate shall be posted within the unit and include all of the following information:

1. The name, address, telephone number and email address of the owner of the Short-Term Vacation Rental unit and the Short-Term Vacation Rental Agent;
2. The Business License Number;
3. The maximum occupancy of the unit;
4. The maximum number of vehicles that may be parked at the unit; and
5. The Short-Term Vacation Rental Certificate number.

B. Short-Term Vacation Rentals must be properly maintained and regularly inspected by the owner to ensure continued compliance with applicable zoning, building, health and life safety code provisions.

103. Minimum Standards for Short-Term Vacation Rentals.

A. A Short-Term Vacation Rental may include a primary dwelling unit and/or a secondary dwelling unit, but cannot include uninhabitable structures such as garages, barns or sheds.

B. Dwelling unit must have functioning smoke alarms as determined by the Fire Marshal and other life safety equipment as required by local, state, and federal law.

C. Dwelling unit must meet all applicable laws related to zoning, building, health, or life safety.

D. No on-site signage shall be permitted except for those Short-term Vacation Rentals that are at least five (5) acres and have a dwelling unit that is not visible from the public right of way, can have directional signs placed on the parcel that shall be at least 50 feet from the public right of way. No off-site signage except for designated parking spaces to be used by occupants of the Short-Term Vacation Rental. Such spaces shall not be larger than 432 square inches.

E. There shall be no more than five (5) sleeping rooms made available for rental.

F. Maximum Occupancy: The maximum occupancy shall be determined by the total of

1. Two (2) persons per bedroom up to 140 square feet;
2. For bedrooms over 140 square feet the occupant load will be determined by the area of the room divided by 70 square feet; and
3. The occupancy maximum shall be conspicuously posted within the Short-Term Vacation Rental Unit.

G. The Short-Term Vacation Rental Owner shall not receive any compensation or remuneration to permit occupancy of a Short-Term Vacation Rental property for a period of less than twenty-four (24) hours.

H. The Short-Term Vacation Rental Certificate holder shall be responsible for collecting and remitting all applicable room, occupancy, and sales taxes required by state law and the City Code of the City of East Ridge.

I. Adequate on-site parking shall be provided, as determined by the City after considering proposed number of guests, frequency of operations, and availability of on-street parking. As a general rule, parking shall not be allowed on any vegetated area of the premises on which the Short-Term Vacation Rental is located.

J. All occupants shall abide by all applicable noise restrictions and all applicable waste management provisions of the City Code of the City of East Ridge.

K. The name and telephone number of the owner of the Short-Term Vacation Rental or the Short-Term Vacation Rental Agent shall be conspicuously posted within the Short-Term Vacation Rental.

L. The premises on which the Short-Term Vacation Rental has not been found to be in violation of any City Code provision within the six (6) months prior to submitting an application for a Short-term Vacation Rental Certificate.

M. The Short-Term Vacation Rental shall only be located within the Short-Term Vacation Rental District.

104. Certificate Application; Action on Certificate Application; Certificate Approval or Appeals to City Council.

A. Certificate Applications. Applicants for a Short-Term Vacation Rental Certificate shall submit an application to the East Ridge Building Department. The application shall be furnished under oath on a form specified by the East Ridge Building Department. Such application should include:

1. The name, address, telephone number and email address of the owner of the Short-Term Vacation Rental unit and the Short-Term Vacation Rental Agent, if applicable;
2. Documentation that applicant is the owner or the Short-Term Vacation Rental Agent;
3. The Business License Number;
4. A site plan, drawn to scale, indicating the subject property, the building(s) on the site intended for Short-Term Vacation Rental, proposed parking and guest access;
5. A narrative with the following:
 - i. A description of the area available for Short-Term Vacation Rental, (i.e. the entire property and house, a guest cottage, a portion of the house, etc.);
 - ii. A description of the number of bedrooms proposed for rental;
 - iii. The maximum number of guests to be accommodated at one time;
 - iv. The days of operation (all year, just holidays, weekends/weeknights, etc.);

- v. How trash will be handled, and the method for informing occupants about method of disposal of trash; and
- 6. A copy of the Code Verification Form.
- 7. Proof of insurance on the dwelling unit.
- B. Application Fee.
 - 1. The application fee for owner-occupied Short-Term Vacation Rentals shall be \$75.00.
 - 2. The application fee for all other non-owner-occupied Short-Term Vacations Rentals shall be \$125.00.
- C. Application Review.
 - 1. Owner occupied dwelling applying for a Short-Term Vacation Rental Certificate:
 - i. Upon application for Short-term Vacation Rental, the East Ridge Building Department shall review the application and provide comment where necessary.
 - 2. Non-owner occupied dwellings applying for a Short-Term Vacation Rental Certificate:
 - i. Upon application for Short-term Vacation Rental, East Ridge Building Department shall review the application and provide comment where necessary. At the same time, letters are mailed to any property owner ("adjacent property owner") who owns land within 300 feet of the subject property. Adjacent property owners shall have thirty (30) days from the date of the letter to respond, in writing, with any concerns or objections about the application.
 - ii. The East Ridge Building Department shall by mail or e-mail submit a copy of the application for Short-term Vacation Rental to any applicable neighborhood association in which the Short-Term Vacation Rental is located.
 - iii. For those Short-Term Vacation Rental Units requiring inspection, the East Ridge Building Department shall notify the Fire Marshal and a City Building Inspector to ensure compliance with state and local laws.

- iv. A sign furnished by the East Ridge Building Department shall be prominently posted by the applicant on the site of the proposed Short-Term Vacation Rental that is the subject of the application of the Short-Term Vacation Rental. The sign shall be displayed for at least fifteen (15) consecutive days between the application and thirty (30) days thereafter. The sign shall meet the following requirements:
- a. Sign(s) shall be posted at the right-of-way of primary street or road on which the property fronts, in the main entrance area in case of condominium buildings, and additional areas if required by the LDO.
 - b. Sign may be mounted on flat hard surface to prevent curling or bending of sign.
 - c. Sign may be nailed or tied to a tree or mounted on stakes and shall be visually free from obstruction to said primary road.
 - d. Signs improperly displayed may be ruled as a violation to the Short-Term Vacation Rental Application procedure and may result in deferral of any action by East Ridge Building Department or the City Council.
 - e. The applicant is responsible for replacing any sign which is damaged or lost.
 - f. The applicant is responsible for removing the sign after the final governmental action.
 - g. Failure of the applicant to remove the sign within thirty (30) days of either being granted or denied the Short-Term Vacation Rental Certificate shall be subject to a daily fine not to exceed fifty dollars (\$50.00).
- v. If no objections are received, and the applications meet all of the requirements set forth in this Chapter, the East Ridge Building Department shall recommend to issue to the applicant a Short-Term Vacation Rental Certificate.
- vi. If objections or appeals are made to the issuance of the Short-Term Vacation Rental Certificate, the East Ridge Building Department shall request that the application be forwarded to the City Council for its consideration on appeal. The City Council will have a public hearing on the matter and shall determine whether to grant or deny the Short-Term Vacation Rental Certificate based upon, among other things, the minimum standards for review as set forth in Article XI, and any health, safety and nuisance concerns of any

owner or agent of the short-term vacation rental. Such hearing shall take place not later one-hundred twenty (120) days after the application has been submitted to the East Ridge Building Department.

105. Certificate Approval, Transferability, Conditions, and Revocation:

A. Certificate Approval. The Certificate shall be issued for the specific site location and/or address of the proposed Short-Term Vacation Rental provided in the application as set forth in this Article. The East Ridge Building Department reserves the right to condition the approval to a certain number of rooms, operating days/hours, signage, or other restrictions as may be deemed necessary to address impacts to bordering properties or to ensure safe operation of the property. Said conditions will be based on the recommendation of the East Ridge Building Department. Upon receipt of a Short-Term Vacation Rental Certificate number, the applicant must display said number on any materials or platforms used to advertise the Short-Term Vacation Rental.

B. Grant or Denial of Application. 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 Chapter, or otherwise fails to demonstrate the ability to comply with local, state or federal law. Any false statements or information provided in the application are grounds for revocation, suspension and/or imposition of penalties, including denial of future applications.

C. Transferability. The Certificate is non-transferable to another site, property, location or owner.

D. Revocation.

1. The City reserves the right to revoke a granted Short-Term Vacation Rental Certificate at any time upon notice to the owner or the Short-Term Vacation Rental Certificate Agent and after a public hearing once the property has two (2) documented City Code or state violations within a 12-month period. Such violations shall be evidenced by a finding of guilt or fault by court or an administrative officer or body designated by the City Council.
2. A Short-Term Vacation Rental Certificate which is revoked shall prevent its certificate holder and specific property from applying for a new Certificate for Short-Term Vacation Rental for a period of one (1) year from date of revocation. Prior to any revocation, the owner or the Short-Term Vacation Rental Agent shall be cited for a hearing before the City of East Ridge Administrative Hearing Officer as established pursuant to Ordinance 891, as amended, for a hearing to establish proof of violations by the City Administrative Hearing Officer.

Sec. 106. Short-Term Vacation Rental Annual Fee.

There shall be a Short-Term Vacation Rental Certificate renewal fee to be paid annually in the amount of \$50.00

Sec. 107. Short-Term Vacation Rental Agent.

A. The owner of a Short-Term Vacation Rental shall designate a Short-Term Vacation Rental Agent on its application for a Certificate for a Short-Term Vacation Rental. A property owner may serve as the Short-term Vacation Rental Agent. Alternatively, the owner may designate a person as his or her agent who is over age 18 and meets all local and state regulatory requirements to fulfill the duties of a Short-term Vacation Rental Agent. Any designated Short-term Vacation Rental Agent shall reside not further than fifty (50) miles from the Short-Term Vacation Rental unit.

B. The duties of the Short-Term Vacation Rental Agent are to:

1. Be reasonably available to handle any problems arising from use of the short-term vacation rental unit;
2. Appear on the premises of any Short-Term Vacation Rental unit within two hours following notification from the City of issues related to the use or occupancy of the premises. This includes, but is not limited to, notification that occupants of the short-term vacation rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of the City Code or other applicable law pertaining to noise, disorderly conduct, overcrowding, consumption of alcohol, or use of illegal drugs. Failure of the agent to timely appear to two or more complaints regarding violations may be grounds for penalties as set forth in this Chapter. This is not intended to impose a duty to act as a peace officer or otherwise require the agent to place himself or herself in a perilous situation;
3. Receive and accept service of any notice of violation or notice of hearing related to the Short-Term Vacation Rental; and
4. Monitor the Short-Term Vacation Rental for compliance with laws.

C. An owner may change his or her designation of a Short-Term Vacation Rental Agent temporarily or permanently; however, there shall only be one such agent for a property at any given time. To change the designated agent, the owner shall notify the East Ridge Building Department in writing of the new agent's identity, together with all information regarding such person as required by the applicable provisions of this Chapter.

Sec. 108. Failure to obtain Certificate; Penalties.

Any violation of this Article, including failure to obtain a Certificate, shall be punishable by a fine of not less than twenty-five dollars (\$25.00) or more than fifty dollars (\$50.00) per violation. Each day that the violation continues shall be a separate offense. There shall be a rebuttable presumption a person or entity is in violation of this Chapter if they list or hold out a property as a Short-Term Vacation Rental without first obtaining a Short-Term Vacation Rental Certificate. This rebuttable presumption also applies to those dwellings featured on websites whose primary purpose is business related to Short-Term Vacation Rental reservations.

Sec. 109. Invalidity of Part; Private Agreements and Covenants.

Should any court of competent jurisdiction declare any section, clause, or provision of this Article to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this Article. Additionally, this Chapter shall in no way be used to supersede any privately created agreements or covenants by any homeowner associations or developers restricting certain uses.