

ORDINANCE NO. 2016-1220

**AN ORDINANCE AMENDING CHAPTER 54 OF THE CITY'S CODE OF
ORDINANCES TO ADD A NEW ARTICLE IV
"EJECTION OF UNDESIRABLE
GUESTS FROM VACATION RENTAL
UNITS"**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, as follows:

SECTION 1. That Chapter 54 of the Code of Ordinances for the City of Orange Beach is hereby amended to add a new Article IV, entitled "Ejection of Undesirable Guests from Vacation Rental Units", and to read as follows:

**ARTICLE IV. EJECTION OF UNDESIRABLE
GUESTS FROM VACATION RENTAL UNITS**

Sec. 54-_____ Findings.

(a) The City of Orange Beach is a unique island resort that depends upon vacation rentals as a large part of its economy;

(b) The availability of short term vacation rental accommodations is heavily dependent on the ability of the owners of such units to remove guests who may engage in illegal, destructive, or disruptive conduct while occupying such units;

(c) The short term rental of vacation unit accommodations in single family, duplex, and multi-family structures is a form of transient occupancy not regulated under the Alabama Uniform Residential Landlord and Tenant Act or under the regulation of Hotels, Inns, and Other Transient Lodging Places as provided in Chapter 15 of Title 34 of the Code of Alabama;

(d) The Council of the City of Orange Beach has identified the need to establish reasonable procedures for the peaceful summary ejection of guests engaging in types of behavior that are materially detrimental to the availability of short term vacation rental accommodations and materially harmful to the public safety and general welfare of the community;

(e) From time to time a vacation rental unit may have undesirable guests that disrupt the peace and safe enjoyment of the establishment for other guests;

(f) The City is authorized by Ala. Code 11-45-1 (1975) to adopt ordinances that protect the public health, safety and general welfare;

(g) It is in the best interest of the citizens, business owners, and visitors of the City of Orange Beach to provide protections concerning the ejection of undesirable guests from vacation rental units.

Sec. 54-_____ Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Vacation Rental Unit or VRU shall mean any dwelling unit or other accommodation located in a single family structure, duplex structure, or multi-family structure within the corporate limits or police jurisdiction of the City that is (1) duly licensed by the City for vacation rental occupancy and (2) occupied by a guest or guests pursuant to a written vacation rental agreement. Vacation Rental Unit shall not include any sleeping unit or other accommodation in any hotel, motel, condotel, or other establishment or accommodation included within the definition of "hotel" in Chapter 15 of Title 34 of the Code of Alabama.

Vacation Rental Occupancy shall mean occupancy under any lease, sublease, rental, or other licensing of the use of a Vacation Rental Unit for any period of fewer than one hundred eighty (180) consecutive days.

Written Vacation Rental Agreement shall mean a written agreement allowing the vacation rental occupancy of a dwelling unit in a single family, duplex, or multi-family structure for a fixed term of days with a specific date and time for departure, with no provision for automatic renewal of the term or for renewal of the term solely at the option of the occupant, and with a prominently displayed

statement reading substantially as follows:

This is a Vacation Rental Agreement subject to the provisions of Section 54-_____ of the Code of Ordinances of the City of Orange Beach. Guest expressly acknowledges and accepts the right of owner or owner's authorized agent to remove or cause the removal of Guest and Guest's invitees and permittees from the premises for any of the reasons enumerated, and in the manner provided in Section 54-_____.

Guest shall mean any person entering into the Written Vacation Rental Agreement with the owner with respect to the VRU.

Premises shall mean the interior of a VRU, the exterior porches, decks, balconies, and yards of a VRO, and all condominium common and limited common areas in the case of a VRU located in a multi-family structure.

Sec. 54-_____ Regulations.

1. *Ejection or Removal* - The owner or operator of any Vacation Rental Unit ("Owner") may remove or cause to be removed from the Premises of such VRU, in the manner hereinafter provided, any Guest who, while on the Premises of the VRU:

(a) illegally possesses or deals in controlled substances as defined above, or who is intoxicated, profane, lewd, or brawling;

(b) who indulges in any language or conduct which disturbs the peace and comfort of other guests or which injures the reputation, dignity, or standing of the Premises;

(c) who, fails to make payment of rent at the agreed-upon rental rate by the agreed-upon checkout time;

(d) who, fails to check out by the time agreed upon in writing by the Guest at check-in unless an extension of time is agreed to by the Owner or the Owner's agent prior to checkout; or

(e) who, in the opinion of the Owner, is a person the continued entertainment of whom would be detrimental to the Premises.

The admission to, or the removal from, such VRU shall not be based upon race, religion, creed, color, sex, physical disability, or national origin.

2. *Notice of Ejection or Removal* - The Owner of any Vacation Rental Unit shall notify such Guest that the Owner no longer desires to entertain the Guest and shall request that such Guest immediately depart from the Premises. Such notice may be given orally or in writing. If the notice is in writing, it shall be as follows:

"You are hereby notified that the owner of this Unit no longer desires to entertain you as a guest, and you are requested to leave at once. To remain after receipt of this notice is a misdemeanor under the laws of this state."

If the Guest is not present in the VRU at the time notification is attempted, the required notice may be given by posting the notice in writing on the front door of the Unit, endorsed with the date and time of posting.

3. *Refusal of Guest to Leave after Notice* - Any person who refuses to leave or who remains or attempts to remain on the Premises of any VRU after being requested to leave is guilty of a misdemeanor.

4. *Removal by Law Enforcement* - If any person is illegally on the Premises of any Vacation Rental Unit in violation of paragraph 3 above, the owner or owner's authorized agent may call upon any law enforcement officer of this state for assistance. Such law enforcement officer, may upon the request of such owner or owner's authorized agent, place under arrest and take into custody for violation of this ordinance, any person who is in violation in the presence of the officer; provided, however:

(1) no such arrest shall be made in the absence of the production to the

officer by the owner or the owner's agent of a copy of a Written Vacation Rental Agreement conforming to the requirements of this ordinance;

(2) no such arrest shall be made in the absence of a determination by the officer that probable cause exists to believe that misconduct as listed above has occurred, that notice and a request for the person to leave as provided herein has been given, and that the violator has been afforded a reasonable period of time to remove his or her personal property and vacate the premises.

Arrest for violation of paragraph 3 above, shall be made only upon warrant issued by the magistrate upon the sworn complaint of the owner or the owner's authorized agent. If a warrant has been issued by a magistrate for the arrest of any alleged violator of this ordinance upon sworn complaint of the owner or the owner's authorized agent, the officer shall serve the warrant and may arrest the person and take the person into custody.

5. *Right to Occupancy and Personal Belongings of Violator following Arrest* – Upon arrest, with or without warrant, the Guest shall be deemed to have given up any right to occupancy or to have abandoned such right of occupancy of the Premises, and the owner of the Unit may then make such Premises available to other Guests. However, the owner of the Unit shall employ all reasonable and proper means to care for any personal property that may be left on the Premises by such Guest and shall refund any unused portion of moneys paid by such Guest for the occupancy of such Premises.

Sec. 54- _____ Violations and Penalties.

Violations of this ordinance shall be punished in accordance with Chapter 1 of the City's Code of Ordinances.

Sec. 54- _____ Effective Date.

This ordinance shall become effective immediately upon its adoption and publication as required by law.

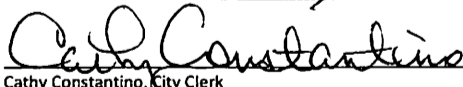
SECTION 2. All ordinances and regulations in conflict with this Ordinance are hereby repealed.

ADOPTED this 1st day of March, 2016.


Cathy Constantino, MMC
City Clerk

The City Clerk of the City of Orange Beach, Alabama hereby certifies that the foregoing Ordinance 2016-1220 was posted on 03/03/2016 in the following four

(3) public places:
Orange Beach City Hall _____
Orange Beach Post Office _____
Orange Beach Public Library _____


Cathy Constantino, City Clerk