

**ORDINANCE GOVERNING SHORT-TERM RENTAL UNITS
FOR THE CITY OF DIAMONDHEAD, MISSISSIPPI**

This article shall be known as Short-Term Rental Units.

ARTICLE ____ - SHORT TERM RENTAL UNITS

Sec. _____ - 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:

Licensed premises means the premises specified in an approved application for a license under this chapter which are owned or in the possession of the licensee and within which such licensee is permitted to provide a short-term rental in accordance with the provisions of this article.

Local contact person means the person designated by the owner or the owner's authorized agent or representative who is responsible for the day-to-day operations of the short-term rental unit living within 25 miles of the unit and who may be contacted and will be available 24 hours per day, seven days per week for the purpose of:

- (1) Responding within 60 minutes in person to complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit; and
- (2) Taking remedial action to resolve any such complaints within a reasonable period of time after notification by a city, water & sewage, or fire department representative.

The local contact person may be the owner or agent of the owner. As shall be appropriate under the circumstances the local contact person (in addition to the owner) shall be subject to any enforcement action as shall be commenced by the city. The local contact person shall be required to adhere to all laws and regulations of the city, county and state as shall be applicable to their activities in this regard.

Owner means the persons or entities that hold legal and/or equitable title to the licensed premises.

Premises means the same as the term "dwelling," which is a room or suite of rooms with a single kitchen used for the residential use and occupancy of one family, including a single-family residence or residential condominium unit or any other residential real estate improvement that is located in a zoning district within which short-term rental is allowed pursuant to the ordinances of the city, and which is rented to persons other than the owner.

Short-term rental unit means any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests, paying a fee or compensation for a period of less than 30 consecutive days. The term “short-term rental” does not include any hospital, convalescent or nursing home, shell houses, group homes, or sanitarium or any similar facility associated with a hospital providing rooms for medical patients and their families. The term “short-term rental unit” shall also not include mobile homes, manufactured homes, travel trailers, tents, recreational vehicles, campers or other similar vehicles or similar type of structures and does not include a bed and breakfast facility that is permitted separately by city ordinance. Proof of ownership of the premises may be established via warranty deed, quitclaim deed, or property tax statement. 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. Short-term rental units will not be allowed to be used as an outdoor venue for weddings, receptions, parties, or similar activities or functions, except in such zones where otherwise allowed in the city’s code.

(Ord. No. ____ Sec. _____)

Sec. _____ - Permit required.

It is unlawful to conduct or operate a short-term rental without having obtained a permit pursuant to the provisions of this article. Therefore:

- (1) A short-term rental permit is required for each short-term rental unit.
- (2) Applications may be made for short-term rental and permits granted, where appropriate, in all R-1, R-2, R-3, R-4, and MH zones, as identified in the city’s zoning maps and ordinances implementing same. In all R-1, R-2 and MH zones, short term rentals shall not be within 1,000 linear feet from property to property of another short-term rental.
- (3) The permit process requires an application completed in accordance with the following which may be obtained at the Building Department:
 - a. The application shall contain such information as the Building Department shall from time to time reasonably require, including, but not limited to, the location/address of the short-term rental unit, number of bedrooms, the number of persons the short-term rental proposes to accommodate, the name of the property owner and warranty deed, sales tax collection certificate, and the name, address, email, and telephone number of the local contact person who is available for contact, a copy of the proposed rental agreement, proposed parking plan (reviewed and determined upon signing and inspection by the Building Department), rules applicable to renters, and a plan for waste management.

- b. The city does not enforce private restrictive covenants. Approval of any short-term rental shall not legalize any use of a structure otherwise prohibited by any restrictive covenant or applicable law as shall be determined by a court of competent jurisdiction.
 - c. The application shall include a statement from the building official and fire department affirming that the structure to be rented is otherwise in compliance with all applicable zoning requirements, building and fire codes, including, but not limited to, smoke and carbon monoxide detectors, emergency means of egress, fire extinguishers, GFCI outlets in wet locations, and that all applicable property taxes, fees and other charges have been paid.
 - d. A nonrefundable application fee of \$200.00 or such fee as shall be established by order of the city council hereafter shall be paid by the applicant at the time of filing the application with said application fee concerning the costs of inspection, enforcement, and administrative expenses and time affiliated with the processing of the application.
 - e. If the Building Department shall determine that any applicant is not entitled to a permit, the applicant upon receipt of written notification may appeal such decision within 10 days thereof and seek Planning and Zoning Commission approval upon an advertised hearing. The Planning and Zoning Commission shall schedule an advertised hearing of such matter as set forth in the Planning and Zoning Ordinance in the same manner as is set forth for the appeal of a decision of the Building Official.
 - f. As the conclusion of the public hearing, the Planning and Zoning Commission shall approve or disapprove the application and send its decision. If the applicant is aggrieved by the decision of the Planning and Zoning Commission, the applicant, within 10 days thereof may appeal such decision to the City Council to be heard at the next regularly scheduled meeting of the City Council. The appeal before the City Council shall be confined to the record made before the Planning and Zoning Commission unless the City Council decide, in their sole discretion, to receive additional evidence. The City Council shall consider the appeal and render its decision with respect to the issuance or denial of the permit, setting forth its reasons for such. Any aggrieved person may appeal such decision to the circuit court in the time and manner provided by law.
- (4) The short-term rental unit will be considered a residential R-3 occupancy under the city's International Residential (IRC) and International Building (IBC) Codes.
- (5) Each short-term rental permit shall expire one year from the date of issuance of the permit and is non-transferable. Renewal application must be submitted no later than 30 days prior to permit expiration.

- (6) A renewal permit may be obtained by the payment of \$200.00, or such fee as may be established by order of the City Council hereafter and filing an application for renewal with the 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 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 serve as basis for denying a permit renewal. If permit renewal is denied, the Building Department shall provide notice as to the reasons for denial, and if applicable, the applicant shall be allowed 10 days to correct any deficiencies itemized. At the expiration of 10 days, an applicant may appeal the denial of the permit renewal to the Planning and Zoning Commission. The appeal must be in writing and must be filed within 10 days of receipt of the final denial of the permit renewal. The appeal process thereafter will follow the process set forth herein above for the original permit.
- (7) Short-term 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 owners shall be required to apply for a new permit in accordance with this article. The new permit shall be for a period of one year from the date approved.

(Ord. No. ____ Sec. _____)

Sec. ____ - Rules and regulations of short-term rental units.

- (a) *Occupancy.* The maximum occupancy for each short-term rental shall be as determined by the building official based on the inspection of the premises and applicable codes, laws, and regulations. Each permit shall specify the maximum number of occupants, which may be limited due to building codes and/or parking constraints. A short-term rental unit shall be considered as a residential R-3 occupancy for lodging house (transient) with five or fewer guest rooms and ten or fewer occupants. (See 2018 IBC Section 310.4. Commentary.)
- (b) *Number of Vehicles.* The maximum number of vehicles will be determined upon site inspection by the building official. This determination will take into consideration availability of off-street parking conditions and other relevant considerations unique to the site. It is required that the applicant/owner provide off-street parking. Recreational vehicles and campers parked at short-term rental units must not be used for habitation during the rental period and must be parked in accordance with the applicable ordinances of the city.

- (c) *Noise.* Property owners and local contact persons shall ensure that the occupants of the short-term rental are aware of city noise ordinances and state laws regarding disturbing the peace. No radio receiver, musical instrument, phonograph, compact disc player, loudspeaker, karaoke machine, sound amplifier or any machine, device or equipment that produces or reproduces any sound that shall disturb the public peace of the neighborhood shall be played outside of any short-term rental unit or be audible from the usable area of any adjacent residences between the hours of 9:00 p.m. and 7:00 a.m.
- (d) *Premises and garbage management.* It shall be the duty of every local contact person 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. Each Licensed Premises must provide two garbage containers. Garbage shall be disposed of in covered containers and placed in the rear of the residence until scheduled pick-up locations. No on-site outdoor advertising signs will be permitted on the premises.
- (e) *Posting of permits and rules.* Short-term rental unit permits and rules shall be posted inside the rental unit in a conspicuous location, i.e., the rear of the main entry door, readily visible to all tenants. The rules shall include occupancy; parking limits; noise rules; and garbage management. A written copy of the ordinance from which this article is derived shall be always available for inspection with the unit. The current name, address, and telephone number of the local contact person shall also be posted within the unit. No unit shall be rented to an individual that is less than 25 years of age and all renters must be present during the rental period.
- (f) *Complaints and dispute resolutions.* Complaints regarding violation of this article 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 shall contact the Building Department. The city police department shall have an updated list provided by the Building Department of all local contact persons and owners for short-term rental units in case complaints are received after regular city office hours. Verified complaints concerning noncompliance with the terms of this article may be considered in determining whether a permit shall be revoked or renewed.

(Ord. No. _____, Sec. _____)

Sec. _____ - Denial, suspension, 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) The applicant failed to conform to the conditions set forth herein for the current or previous year.
- (2) Guests and/or users of the property were issued three or more noise ordinance and/or disturbing the peace citations during the previous or current year and the owner/local contact person subsequently failed to take the appropriate corrective action to prevent such disturbances after being notified by the city to do so.
- (3) Any reasonable or rational factors or combination of factors, including, but not limited to, inadequate lot size, inadequate off-street parking, lack of response from owner or local contact person to resolve complaints, filed complaints of violation of the zoning code, building code, property maintenance code and/or applicable laws or regulations (may be a basis for suspending or denying a permit) where the owner or local contact person failed to take reasonable steps to prevent such violations.
- (4) The Building Department is authorized to revoke permits under the aforementioned circumstances. A permitted owner shall be provided written notice of the reasons the permit is subject to revocation. The applicant shall be allowed 10 days from the date written notice is issued and transmitted to the applicant to correct defective conditions. If the condition is not corrected within 10 days to the reasonable satisfaction of the Building Department, the permit for the short-term rental unit may be revoked by issuing such order. Upon receipt of such by the owner or local contact person, the unit shall immediately cease operation. The owner may appeal the order revoking the permit. The owner's appeal must be in writing and filed with the Building Department within 10 days of entry of the order. The revocation order shall remain in full force and effect during the pendency of the appeal. The appeal shall be presented to the Planning and Zoning Commission at the next available scheduled meeting following the filing of the appeal. The owner must be afforded notice and the opportunity to be heard. The decision of the Planning and Zoning Commission shall be final unless within 10 days of the issuance of the decision the owner shall file an appeal to the City Council.

(Ord. No. _____, Sec. _____)

Sec. _____ - Violations.

Any persons or users who allow such use of a residential property in violation of this article shall be guilty of a misdemeanor. For the purposes of prosecution of violations of this article, each day that any violation occurs (rental without a permit) is deemed to constitute a separate violation. Those found guilty of a first violation of this article shall be fined, for the first offense, not less than \$300.00 and, for second and subsequent offenses within any 12-month period, not less than \$500.00 and not to exceed \$1,000.00, plus court costs and assessments, if any.

(Ord. No. _____, Sec. _____)

Secs. _____. Reserved.

This Ordinance having been adopted shall be in force and effective thirty (30) days after is adoption and publication by the Mayor and City Council of the City of Diamondhead, Hancock County, Mississippi.

ORDAINED, ADOPTED AND APPROVED by the Mayor and City Council of the City Diamondhead, Hancock County, Mississippi at its regular meeting held on the _____ day of _____, 2022.

	Aye	Nay	Absent
Councilmember Finley	_____	_____	_____
Councilmember Liese	_____	_____	_____
Councilmember Cumberland	_____	_____	_____
Councilmember Clark	_____	_____	_____
Councilmember Maher	_____	_____	_____
Mayor Depreo	_____	_____	_____

Whereupon, the Mayor declared the motion carried and the Ordinance adopted this the _____ day of _____, 2022.

APPROVED _____
Nancy Depreo, MAYOR

ATTEST: _____
Jeannie Klein, CITY CLERK

SEAL