

**AN ORDINANCE TO CHAPTER 24, "TAXATION," AND CHAPTER 27, "ZONING,"
REGARDING SHORT-TERM RENTALS OF THE CODE OF THE CITY OF
BROOKHAVEN**

WHEREAS, Section 1.03(b)(25) of the Charter of the City of Brookhaven grants the City of Brookhaven the power to provide comprehensive planning and regulation through zoning and subdivision requirements to ensure a safe, healthy, and aesthetically pleasing community; and

WHEREAS, The Mayor and City Council have determined that further amending the City's short-term rental ordinance is in the best interest of the public's health, safety, and welfare.

WHAREAS, The City of Brookhaven is charged with providing for the health, safety, and welfare of the citizens of the city; and

WHEREAS, the City regulates short-term rentals within the City limits; and

WHEREAS, the city desires to amend its code of ordinances to further improve the short-term rental program and to make necessary changes; and

WHEREAS,

BE IT ORDAINED by the Mayor and Council of the City of Brookhaven, Georgia and it is hereby ordained by the authority of same:

SECTION I:

The identified sections of Chapter 24, "Taxation" and Chapter 27, "Zoning", related to short-term rental are amended to read as shown in the attached mark-up.

SECTION II:

Severability: Should any section of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

SECTION III:

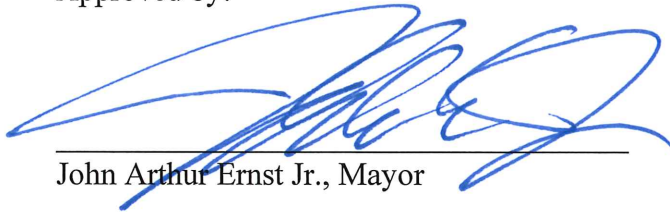
Repeal of Conflicting Provisions: All ordinances, part of ordinances, maps, or regulations in conflict herewith are repealed.

SECTION IV:

Effective Date: This ordinance shall be effective immediately upon adoption.

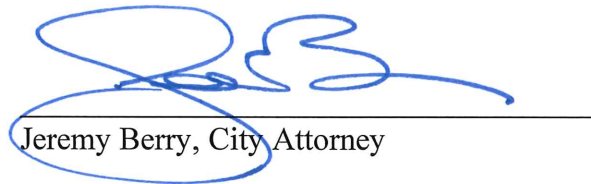
SO ORDAINED, this 24th day of October, 2023.

Approved by:



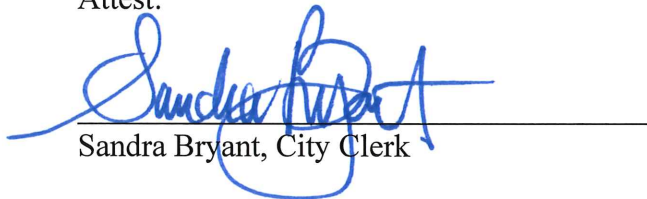
John Arthur Ernst Jr., Mayor

Approved as to Form and Content



Jeremy Berry, City Attorney

Attest:



Sandra Bryant, City Clerk



TA23-12 MARK-UP An Ord to Amend Ch 24 Taxation and Ch 27 Section 27-629 Lodging

PART 1

Chapter 24 "Taxation," Article VI (Excise Tax on Short-Term Rentals of Rooms, Lodgings, and Accommodations) shall be amended as follows:

Section 24-141 (Intent and authority to levy the tax), shall be amended as follows:

(d) The city council hereby designates ~~the DeKalb Convention and Visitors Bureau, Inc., a Georgia non-profit corporation~~ the Brookhaven Convention Visitors Bureau, as its destination marketing organization for purposes of carrying out this article. For each fiscal year in which the tax is levied and collected at the rate of eight percent, the city shall adopt a budget plan specifying how the proceeds of the tax are to be expended. Prior to adopting the budget, the city shall contract with the destination marketing organization to meet the budget expenditure requirements of this section. Following the end of each fiscal year, the destination marketing organization shall provide the city with audit verification that the funds were expended in accordance with the requirements of this section.

Section 24-145 (Due date of taxes; returns; payments; civil penalties and interest).

(b) On or before the 20th day of the month following each monthly period, each operator shall file a return with the city clerk, showing the gross rent, rent from permanent residents, rent from government officials or employees while traveling on official business, taxable rent, amount of taxes due for the related period, and such other information as may be required by the city manager. For all returns filed for or on behalf of short-term rental properties, each operator or any person or entity filing a return on their behalf shall also provide the City with the address of each property for which such return is being filed, the gross rent for the short-term rental property for that period, and the number of days/nights that the property was rented for the prior month (the month for which the return is being filed).

PART 2

Chapter 27 "Zoning," Article VII (Uses), Section 27-629 (Lodging), shall be amended as follows:

Sec. 27-629. - Lodging.

Uses that provide temporary overnight sleeping accommodations or lodging for guests paying a fee or other form of compensation for a period of less than 30 consecutive days. Lodging uses sometimes provide food or entertainment, primarily to registered guests. Lodging use types include: bed and breakfast inns, hotels and motels and short-term rentals.

(1)Bed and breakfast inn. A lodging establishment in a detached house in which the resident owner/operator offers accommodations and meal service to overnight guests for compensation. Unless otherwise approved through approval of a special land use permit, the following supplemental regulations apply to bed and breakfast inns:

a. The length of stay in for guests in a bed and breakfast inn may not exceed seven continuous days, and guests may not re-register for at least 30 days from the termination of their previous stay.

b. The bed and breakfast inn shall be occupied by the owner or renter of the principal dwelling unit.

TA23-12 MARK-UP An Ord to Amend Ch 24 Taxation and Ch 27 Section 27-629 Lodging

- c. The minimum lot area required for a bed and breakfast use is 20,000 square feet. The detached house in which the use is located shall have floor area of at least 2,500 square feet.
 - d. No separate kitchen facilities are allowed.
 - e. At least one off-street parking space shall be provided for each bedroom in bed and breakfast inn.
 - f. The residential character of the dwelling shall be maintained.
 - g. Meals may be served only to members of the household occupying the principal dwelling unit and to registered guests of the bed and breakfast inn.
 - h. Business and accounting records of the facility shall be made available to the city upon request to verify compliance with regulations.
- (2) Hotel or motel. A lodging establishment other than a bed and breakfast inn or short-term rental. Guest rooms in hotels are accessed via internal corridors, while motels provide access directly from the exterior to each guest room.
- (3) Short-term Rental. The use of an owner-occupied residential dwelling unit or portion of such dwelling unit for lodging. The following supplemental regulations apply to short-term rentals:
- a. Permit required. No person shall rent, lease or otherwise exchange for compensation all or any portion of a dwelling unit as short-term rental, as defined in this Code, without first obtaining a permit from the department of community development and complying with the regulations contained in this section. No permit issued under this chapter may be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued. An applicant may receive only one license per year from the City for short-term rentals. Applicants cannot have any interest of any kind in more than one property that is licensed by the City for short-term rentals.
 - b. Application for permit. Applicants shall submit, on an annual basis, an application for a short-term rental permit to the department of community development. Such application shall include:
 - 1. The name, address, telephone and email address of the owner(s) of record of the dwelling unit for which a certificate is sought. Applicants shall be limited to owner-occupiers receiving a current homestead exemption through DeKalb County for the property to be rented;
 - 2. The address of the dwelling unit to be used as a short-term rental;
 - 3. The name, address, telephone number and email address of the short-term rental agent, which shall constitute his or her 24-hour contact information;
 - 4. The owner's sworn acknowledgement that he or she has received a copy of this section and all other laws pertaining to short-term rentals, has reviewed ~~it~~ such laws, and understands ~~its~~ their requirements;
 - 5. The number and location of parking spaces allotted to the premises;

TA23-12 MARK-UP An Ord to Amend Ch 24 Taxation and Ch 27 Section 27-629 Lodging

6. The owner's agreement to use his or her best efforts to assure that use of the premises by short-term rental occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties; and

7. Any other information that this chapter requires the owner to provide to the city as part of an application for a short-term rental permit. The department of community development shall have the authority to obtain additional information from the applicant as necessary to achieve the objectives of this chapter.

8. If the rental agent changes, the property owner shall notify the city within five business days.

9. Application fees shall be as established by the city council.

10. As part of the application, applicants must provide proof of insurance for the property to be used as a short-term rental.

11. Applicants must state which marketplace facilitator(s) the applicant intends to contract with or contracts with for short-term rental of the applicant's property. If the applicant/owner changes the marketplace facilitator for the short-term rental property, the applicant/owner must notify the City of the change and new marketplace facilitator.

c. All short-term rentals shall be subject to excise tax pursuant to chapter 24 of the Code of the City of Brookhaven.

d. All short-term rentals shall be subject to nuisance and noise regulations pursuant to chapter 16 of the Code of the City of Brookhaven.

e. The city manager or their designee shall conduct a reasonable search of the city's records to determine if the applicant property has been the subject of two or more citations for a violation of the Code of the city in the preceding calendar year. If the search reveals two or more citations, without regard to a finding of adjudication of guilt, the permit shall not be renewed.

f. No property authorized by this subsection for short term rentals may ~~list~~ rent the property for such use for more than 180 days per calendar year.

g. Short-term rentals shall be limited to five percent (5%) of the residential parcels within each city council district. Holders of a short-term rental permit before October 24, 2023 ("Pre-Existing Permit") that seek renewal of a pre-existing permit shall not be denied on the grounds that issuance of the permit will exceed the per-district maximum cap limitation. When a transfer of property title occurs for a parcel with a pre-existing permit(s), a new application from the transferee/grantee shall not be denied on the grounds that the issuance of the permit(s) will exceed the per-district maximum cap limitation if the transferee/grantee applies for the new short-term vacation rental permit(s) within six (6) months from the date of title transfer.