ORDINANCE NO. 2015-11

AN ORDINANCE AMENDING NO. 13-1976 BEING THE "COMPREHENSIVE ZONING ORDINANCE OF OCEAN SPRINGS, MISSISSIPPI", SO AS TO PROVIDE FOR SHORT TERM RENTALS OF DWELLINGS IN RESIDENTIAL ZONES AFTER APPLICATION, HEARING, AND APPROVAL

WHEREAS, the City of Ocean Springs, Mississippi, did on or about December 21, 1976, adopt a Comprehensive Zoning Ordinance of Ocean Springs, Mississippi, which has from time to time been amended; and

WHEREAS, several times new uses or interpretations have been brought to the attention of the City and reviewed by the Ocean Springs Planning Commission; and

WHEREAS, it has been brought to the attention of the City that residential property within the City is being used in short term rentals and the potential issues and problems affiliated with such use must be addressed;

WHEREAS, The City has a legitimate interest in preserving its long-term housing stock and not have such limited resources depleted as there is an influx of individuals and families associated with the military, government contractors and the gaming industry seeking residential opportunities in Ocean Springs*; and*

WHEREAS, the use of short term rental units as a use in residential zones is considered a valuable and needed use for those desiring to engage their dwelling or condominiums to rent to guests visiting Ocean Springs in exchange for compensation and further provides for another type of short term stay opportunity similar to hotels, motels and bed and breakfast facilities and will aid and encourage tourism as well as, promote the local economy; and

WHEREAS, by requiring special use permits for the short term rental of residential property the City of Ocean Springs will be able to balance the desire of owners to make such

use of their property with those owners who desire peace and tranquility in their neighborhoods;

WHEREAS, by requiring special use permits for the short rental of residential property, the City of Ocean Springs will be able to investigate applications to assure compliance with the provisions set forth herein, as well as all local, State and Federal laws and will be able to address any adverse impact of short term rentals; and

WHEREAS, it is the intent of the City of Ocean Springs to review the Ordinance annually in order that the City may address any adverse impact of the allowed use of property as short term rentals; and

WHEREAS, The Planning Commission and Board of Aldermen having held numerous work sessions and having published due notice thereof did on the 2nd day of September, 2014, 4th day April, 2015, 16th day of June 2015, and the 7th Day of July, 2015 conduct a public hearing on such proposed changes at which time public testimony was taken and considered; and

WHEREAS, after due consideration the Mayor and Board of Aldermen now find and determine that it would be in the best interest of the City of Ocean Springs that the recommended changes be adopted;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN of the City of Ocean Springs, Mississippi, as follows: Section 401 R-1 single family residential district is hereby amended to allow as a permitted use, after public hearing, notice and recommendations, the following use by addition to those uses permitted in:

Section 401.3

Subsection10: Short Term Rentals which shall be with permit

BE IT FURTHER ORDAINED as follows:

SHORT TERM RENTALS - RESIDENTIAL

1. DEFINITION:

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

Short Term Rental: "*Short Term Rental*" means any dwelling or condominium or portion there of 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.

Local Property Manager: The person specifically named on the application and permit 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 and shall reside within two (2) miles of the Ocean Springs city limits.

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.

2. *PERMIT REQUIRED*

IT IS UNLAWFUL TO CONDUCT OR OPERATE A SHORT-TERM RENTAL WITHOUT HAVING OBTAINED A PERMIT THEREFORE.

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

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

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

(1) 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.

(2) 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 may result in the suspension or revocation of the permit.

(3). 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.

(4) It shall be the duty of the applicant to produce proof of any mortgage or deed of trust which may encumber the property and submit proof that the mortgage or deed of trust does not prohibit the use of the property as a short term rental.

(5) The application shall include a statement from the applicant affirming that the applicant is in compliance with all applicable zoning requirements, building codes, deed restrictions and/or covenants, and has paid all applicable taxes, fees and other charges including taxes approved by House Bill 1836 (1998).

(6) The applicant shall execute a written statement acknowledging that a violation of the ordinances of the City of Ocean Springs may result in the suspension or revocation of the permit.

(7) 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.

(8) Upon the filing of an application in accordance with Subsections (1) through (7), the City shall notify all landowners within five hundred (500) 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 certified 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 five hundred (500) feet of the applicant's land boundaries:

a. Name, address and telephone number of the applicant;

b. Name, address and telephone number of the local contact person who will be available for contact at all times;

c. Name, address and telephone number of every agent;

d. Copy of the application;

e. Notice will also be posted on the bulletin board at City Hall and a sign will be posted in the applicant's yard until such time as the permit is granted or denied.

(9) The City shall notify the landowners within five hundred (500) 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. Each landowner within five hundred (500) feet of the applicant's boundary line who appears in the public hearing shall be afforded an opportunity to be heard in accordance with the regulations set by the Planning Commission.

(10) 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.

(11) 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 notice of appeal with the City Clerk and shall provide copies to all interested parties including the applicant and all landowners within five hundred (500) feet of the applicant's land boundaries. The City will provide information to the aggrieved party regarding landowners within five hundred (500) feet of the applicant's land boundaries which is contained in the City land rolls. It will be the responsibility of the aggrieved party to provide notice.

(12) In the event no appeal is filed, the decision of the Planning Commission shall be finally accepted by the City Building Official 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.

D. 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

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

F. Permit renewal may be obtained for $50.00 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.

G. 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 of personal services to invitees for marketing or similar purposes. The outdoor display of goods and merchandise for sale is prohibited.

H. 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.

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

J. The total number of permits issued for residential short term rental shall not exceed thirty-five (35) at any given time.

4. 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.

5. 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.

6. 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.

7. NOISE

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

8. 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 in accordance with Section 20-3 of the Municipal Code.

9. POSTING OF RULES

Short term lodging 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 No. 2015-11 shall be posted within the unit and displayed at all times.

10. LOCAL CONTACT PERSON

All short term lodging 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.

11. 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 Ocean Springs 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.

12. 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:

A. 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.

B. The applicant failed to conform to the conditions set forth herein for the current or previous year.

C. Guests and/or users of the property were issued noise ordinance and/or disturbing the peace citations during the previous or current year.

D. 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).

E. 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 will be revoked by issuing such and 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. The City may appoint a hearing officer to preside over any such appeal.

13. 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. Those found guilty of such violation shall, upon conviction, be fined for each violation not exceeding $250.00 for the first offense, not exceeding $500.00 for the second offense within a calendar year and not exceeding more than $1,000.00 for other offenses within a calendar year, plus all court costs.

14. 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.

15. 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 Ocean Springs, 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.

16. 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.

The above Ordinance having been first reduced to writing, the vote was follows:

Alderman Impey	*Aye*
Alderman Gill	*Nay*
Alderman McDonnell	*Nay*
Alderman Cody	*Aye*
Alderman Denyer	*Aye*
Alderman Dalgo	*Aye*
Alderman Cox	*Aye*

BY ORDER OF THE MAYOR AND BOARD OF ALDERMEN of the City of Ocean Springs, Mississippi, on this the **7th day of July, 2015.**

Connie Moran
MAYOR

Shelly Ferguson
CITY CLERK