

CITY OF SENECA

ORDINANCE NO. 2018-01

AN ORDINANCE TO AMEND THE OFFICIAL REVISED ZONING ORDINANCE
OF THE CITY OF SENECA TO REGULATE SHORT-TERM RENTALS
OPERATING WITHIN THE CITY LIMITS OF THE CITY OF SENECA

WHEREAS, in pursuance of authority conferred by the General Statutes of South Carolina, 1976 Code of Laws, Title VI, Chapter 29, the City of Seneca finds it desirable and appropriate to amend its Revised Zoning Ordinance to regulate short-term rentals operating within the city limits pursuant to the comprehensive plan. The purpose of these provisions is to protect public health, safety and general welfare of the individuals and community at large, as well as the integrity of the city's neighborhoods, while monitoring and providing reasonable means for citizens to mitigate impacts created by occupancy of short-term rental units. The regulation of short-term rentals as provided herein is not intended to restrict homeowners from continuing to utilize their residence in any other manner permitted by the City of Seneca's Revised Zoning Ordinance for the type of zone in which a particular residence is located. Similarly, this article does not restrict businesses from operating legal year-round transient accommodations in the form of hotels or motels located in appropriate commercial zones and pursuant to the appropriate licenses.

NOW, THEREFORE, upon motion of City Council, and BY SENECA CITY COUNCIL, in Council duly assembled, and with a quorum present and voting, BE IT ORDAINED that the Revised Zoning Ordinance of the City of Seneca is hereby amended to include Section 737 as outlined in the attached document, as well as amendments to Sections 501, 502, 503, 504, 505, 506, 507, 509, and 514 permitting the use of short-term rental units as conditional uses in Districts R-20, R-15, R-10, R-6, RM-8, RM-16, RG, RO, and CC, respectively, as follows:

SECTION 737 SHORT-TERM RENTALS

Short-term rental units operating as conditional uses within each of the established residential districts and the core commercial district, including Districts R-20, R-15, R-10, R-6, RG, RO, RM-8, RM-16, and CC, are subject to the following requirements:

737.1 Intent; purpose.

It is the purpose of this Section to protect the public health, safety and general welfare of individuals and the community at large; to monitor and provide reasonable means for citizens to mitigate impacts created by occupancy of short-term rental units; and to implement rationally based regulations to protect the integrity of the city's neighborhoods.

737.2 Definitions; general provisions.

Short-term rental business license - is a document issued by the City of Seneca and executed by a short-term rental owner(s) wherein the owner(s) certify that the proposed short-term rental unit complies with applicable zoning, building, health and safety code provisions and the City of Seneca authorizes the use of said unit as a short-term rental unit pursuant to the provisions of this Section. No owner(s) or short-term rental agent shall allow occupancy or possession of any short-term rental unit if the premises are in violation of any applicable zoning, building, health and safety code provisions.

Short-term rental - means an accommodation for transient guests where, in exchange for compensation, a residential dwelling unit, or any portion of a dwelling unit, is provided for lodging for a period of time not to exceed twenty-seven (27) consecutive days. Periods greater than 27 days shall not be considered short-term. Such use may or may not include an on-site manager. For the purposes of this definition, a residential dwelling unit shall include one-family dwellings, two-family dwellings (duplexes), and townhouses and shall exclude hotels, motels, bed and breakfast establishments, or inns that are subject to and compliant with the city's business license requirements and other applicable Code of Ordinances and Revised Zoning Ordinance requirements.

Short-term rental agent - means a natural person designated by the owner(s) of a short-term rental on the short-term rental business license application. Such person shall be available for, and responsive to, contact by short-term rental occupants and local government officials at all times. Such person shall also be subject to the requirements and responsible for performing the duties outlined in Section 737.5

Short-term rental occupants - means guests, tourists, lessees, vacationers or any other person(s) who, in exchange for compensation, occupy a dwelling unit or any portion of a dwelling unit for lodging for a period of time not to exceed twenty-seven (27) consecutive days.

737.3 Short-term rental business license and Certificate of Zoning Compliance.

No person or business owning or controlling a residential dwelling shall rent, lease or otherwise exchange for compensation all or any portion of a dwelling unit as short-term rental, as defined in Section 737.2, without first obtaining a short-term rental business license from the City of Seneca Administration/Finance Department, a Certificate of Zoning Compliance from the City of Seneca Planning and Development Department, and complying with the provisions and regulations contained in this Section. No short-term rental business license issued under this Section may be transferred, assigned, or used by any person other than the one to whom it is issued, or used at any location other than the one for which it is issued.

737.4 Applications for short-term rental business license and Certificate of Zoning Compliance.

a) Applicants seeking short-term rental use of their property shall submit, on an annual basis, an application to the City of Seneca Planning and Development Department for a Certificate of Zoning Compliance for use as a short-term rental. The application for a Certificate Zoning Compliance shall be furnished by the Planning and Development Department. Submission of the Certificate of Zoning Compliance application shall be accompanied by a non-refundable application fee of one hundred fifty dollars (\$150.00). Attached to and concurrent with submission of the Certificate of Zoning Compliance application described in this Section, the owner(s) shall provide:

1) A written exemplar agreement, which shall consist of the form of document to be executed between the owner(s) and occupant(s) and which shall contain the following provisions:

a) The occupant(s)' agreement to abide by all of the requirements of this Section 737, City of Seneca ordinances, and state and federal law, as well as an acknowledgement that his or her rights under the agreement may not be transferred or assigned to anyone else;

b) Owner(s)' acknowledgement that the occupant(s) has been provided a written copy of the City of Seneca's Noise Ordinances (Sec. 18-66 and 18-67);

c) The occupant(s)' acknowledgement and agreement that parking shall be maintained pursuant to the following provisions while the property is being used as a short-term rental:

(i) Parking shall be provided exclusively on-site;

(ii) Parking shall be maintained in accordance with the maximum number of vehicles permitted, which shall be based on the number of bedrooms in the rental property and the design of the driveway. No more than one vehicle per bedroom shall be permitted;

(iii) On-site parking shall be clearly delineated with an improved surface such as pavement, gravel or another method approved by the city. Parking on unimproved surfaces, including, but not limited to, grassed, wooded or dirt surfaces shall be prohibited while the property is being used as a short-term rental; and

(iv) No on-street parking shall be permitted at any time in the use of a property as a short-term rental.

d) The occupant(s)' acknowledgement and agreement that they shall conform to the regulations stated in the 2015 International Property Maintenance Code on Overcrowding and Bedroom requirements (IPMC 404.4 & 404.5). In addition to these regulations, there shall be a maximum total occupancy of two persons per bedroom of the rental

unit, and in no cases shall rental occupancy of a unit exceed ten persons total;

- e) Owner(s)' acknowledgement that the occupant(s) has been provided a written copy of the City of Seneca Sanitation Departments requirements concerning trash disposal and that the occupant(s) has agreed to comply with such requirements;
 - f) The occupant(s)' acknowledgement and agreement that large gatherings, including, but not limited to, weddings and reunions are prohibited unless specifically approved in writing by the city and the respective property owner(s);
 - g) The occupant(s)' acknowledgement and agreement that violation of the agreement or this Section may result in immediate termination of the agreement and eviction from the short-term rental unit by the owner(s) or short-term rental agent, as well as the potential liability for payments of fines levied by the city pursuant to this Section 737.
- 2) Proof of the owner(s)' current ownership of the short-term rental unit;
 - 3) Proof of property and liability insurance, including any requisite short-term rental rider, along with an acknowledgement that property owners are responsible for their own safety and insurance needs, as well as the safety and sanitation of their tenants. By providing a registration and licensing process allowing property owners to conduct short-term rentals of their dwelling, the city does not assume responsibility for safety or any other liability related to rental activities;
 - 4) A written certification from the short-term rental agent that he or she agrees to perform the duties specified in Section 737.5; and
 - 5) Access to the rental unit for life/safety inspections as may be required by the city.
- b) Applicants seeking short-term rental use of their property shall submit, on an annual basis, an application for a short-term rental business license to the City of Seneca Administration/Finance Department. Those applicants granted a short-term rental business license shall be subject to fees levied in accordance with the Business License Ordinance of the City of Seneca Code of Ordinances, as may be amended from time to time. The business license application shall be furnished by the Administration/Finance Department. Such application shall include:
- 1) The name, address, telephone number and, if applicable, email address of the owner(s) of record of the dwelling unit for which a license is sought. If such owner is not a natural person, the application shall identify all partners, officers and/or directors of any such entity, including personal contact information;
 - 2) The address of the unit to be used as a short-term rental;

- 3) The name, address, telephone number and, if applicable, email address of the short-term rental agent, which shall constitute his or her 24-hour contact information;
- 4) The owner(s)' signature of sworn acknowledgement that he or she has received a copy of this Section, has reviewed it and understands its requirements;
- 5) The owner(s)' signature of sworn acknowledgement certifying that the proposed short-term rental unit complies with applicable zoning, building, health and safety code provisions.
- 6) The owner(s)' agreement to use his or her best efforts to ensure 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.
- 7) Any other information that this Section 737 or the City of Seneca's Business License Ordinance requires the owner(s) to provide to the city as part of an application for a short-term rental business license.

737.5 Short-term rental agent.

- a) The owner(s) of a short-term rental shall designate a short-term rental agent on their application for a short-term rental business license. This agent shall be located within a 75 mile radius of the City of Seneca and is responsible for the care and maintenance of the residence. The agent shall also be responsible for responding in case of emergency or in case issues arise. This agent shall acknowledge that they submit to the jurisdiction of the municipal court of the City of Seneca. A property owner may serve as the short-term rental agent. Alternatively, the owner(s) may designate a natural person as his or her agent who is over the age of eighteen (18).
- b) The duties of the short-term rental agent are to:
 - 1) Be reasonably available to handle any problems arising from use of the short-term rental unit;
 - 2) Appear on the premises of any short-term rental unit within a reasonable time following notification from the city of issues related to the use or occupancy of the premises. Such issues may include, but are not limited to, notification that occupants of the short-term rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the City of Seneca Code of Ordinances and/or City of Seneca Revised Zoning Ordinance or other applicable laws pertaining to noise, disorderly conduct, overcrowding, excess 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 Section, including the revocation or suspension of the short-term rental business license. These provisions are 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 related to the use or occupancy of the premises; and
 - 4) Monitor and inspect the short-term rental unit for compliance with this Section.
- c) The owner(s) may change their designation of a short-term 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(s) shall notify City of Seneca Planning and Development Department in writing of the new agent's identity within fourteen (14) days of such a change, together with all information regarding such person as required by the applicable provisions of this Section. Until such time as the notification of a change in short-term rental agent has been received by the city, the previous short-term rental agent shall remain responsible for the duties outlined in this Section, particularly those duties described in Section 737.5(b) herein.

737.6 Issuance of short-term rental business license and Certificate of Zoning Compliance

- a) The City of Seneca Administration and Finance Department shall approve the issuance of a short-term rental business license and the City of Seneca Planning and Development Department shall issue Certificate of Zoning Compliance to an applicant within thirty (30) days after receipt of an application unless they find one or more of the following to be true:
- 1) An applicant is under eighteen (18) years of age.
 - 2) An applicant or an applicant's spouse is overdue in his or her payment to the city of taxes, fees, fines, or penalties assessed against him or her or imposed upon him or her in relation to the use of their dwelling as a short-term rental unit.
 - 3) An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the applicant form.
 - 4) An applicant is residing with a person, or owns the proposed rental property with a person, who has been denied a short-term rental business license or Certificate of Zoning Compliance by the city within the preceding twelve (12) months, or residing with a person, or owns the proposed rental property with a person, whose short-term rental business license or Certificate of Zoning Compliance has been revoked within the preceding twelve (12) months.
 - 5) The premises sought to be used as a short-term rental unit is not in compliance with applicable zoning, building, health and safety code provisions.
 - 6) The fees required by this Section have not been paid.
 - 7) An applicant for the proposed short-term rental unit is in violation of or is not in compliance with any of the provisions of this Section.

- b) 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 Section, 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 immediate revocation, suspension and/or imposition of penalties, including denial of future applications.

737.7 Short-term rental units.

- a) A copy of the short-term rental business license shall be posted within the unit and include all of the following information:
 - 1) The name and address of the short-term rental owner(s) and/or agent;
 - 2) The short-term rental business license number;
 - 3) The maximum number of occupants allowed in the rental unit; and
 - 4) License effective and expiration date.
- b) Short-term rental units shall be properly maintained and regularly inspected by the owner(s) and/or short-term rental agent to ensure continued compliance with all applicable zoning, building, health and safety code provisions. The City of Seneca assumes no responsibility for ensuring such compliance.

737.8 Short-term rental regulation procedure.

- a) To ensure the continued application of the intent and purpose of this Section, the Zoning Administrator of the city shall notify the owner(s) of a short-term rental unit, as well as the short-term rental agent, of all instances in which nuisance behavior of the rental guest(s) or the conduct of his or her short-term rental unit occupant(s) results in a citation for a code violation or other legal infraction.
- b) The Zoning Administrator shall maintain in each short-term rental location file a record of all code violation charges, founded accusations and convictions occurring at or relating to a short-term rental unit. When a property owner(s) has accumulated three (3) code violation convictions for a particular property within a period of twelve (12) consecutive months, the short-term rental business license shall be suspended for a period of twelve (12) months and any pending certificates or applications shall be rejected for a period of twelve (12) months.
- c) If a short-term rental unit owner(s) has been cited and found to be in violation of any zoning, building, health or life safety code provision, the owner(s) must demonstrate compliance with the applicable code prior to being eligible to receive a short-term rental business license.
- d) Citations for code violations and any other violation of the city's Revised Zoning Ordinance or Code of Ordinances may be heard by the Zoning Administrator or Code Enforcer of the City of Seneca.

- e) Violations of this Section or the provisions of the rental agreement, including those outlined in Section 737.4(A)(1)(a-g), are subject to penalties that can be found in Section 809 of the Revised Zoning Ordinance of the City of Seneca, which shall not be waived or reduced and which may be combined with any other legal remedy available to the city.
- f) A person aggrieved by the city's decision to revoke, suspend or deny a short-term rental license may appeal the decision to the Board of Zoning Appeals (BZA). The appeal must be filed with the Zoning Administrator in writing, within thirty (30) calendar days after the adverse action and it shall contain a concise statement of the reasons for the appeal. Timely filing of an appeal shall stay the revocation, suspension or denial pending a decision by the BZA.
- g) The Board of Zoning Appeals shall consider the appeal within thirty (30) days after receipt by the Zoning Administrator of a request unless otherwise agreed in writing by the city and aggrieved party. All interested parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The BZA shall render a determination, which will constitute a final ruling on the application.
- h) Nothing in this Section shall limit the city from enforcement of its code, state or federal law by any other legal remedy available to the city. Nothing in this Section shall be construed to limit or supplant the power of any city inspector or other duly empowered code official under the city's ordinances, rules and regulations and the authority granted under state law, as amended, to take necessary action, consistent with the law, to protect the public from a property which constitutes a public nuisance or to abate a nuisance by any other lawful means of proceedings.

737.9 Accommodations, sales, income taxes, and other fees

Short-term rental unit owners are subject to federal taxes, state taxes, including state sales tax, city hospitality and accommodation taxes, short-term rental business license fees, and Certificate of Zoning Compliance application fees and are liable for payment thereof as established by federal and state law, the city's Code of Ordinances, and the city's Revised Zoning Ordinance. The city may seek to enforce payment of all applicable taxes to the extent provided by law, including injunctive relief. The city does not accept or collect such taxes or fees other than the city's hospitality and accommodation taxes, those fees associated with a short-term rental business license, and those fees associated with an application for a Certificate of Zoning Compliance.

737.10 Signage

No property used as a short-term rental may display a sign advertising said rental.

737.11 Liability

By authorizing the use of residential properties as short-term rentals the city assumes no liability for any claim that may arise from use thereunder.

737.12 Conflict of laws

Should any homeowners' association for any neighborhood situated within the city limits of Seneca impose regulations or provisions more restrictive than those provided in this Section, the more restrictive regulations or provisions shall prevail as provided for by state and federal law.

501.3 Conditional Uses:

- h) Short-term rental units, provided that such use complies with the requirements of Section 737.

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- h) Short-term rental units, provided that such use complies with the requirements of Section 737.

509.3 Conditional Uses:

- g) Short-term rental units, provided that such use complies with the requirements of Section 737.

514.3 Conditional Uses:

- c) Short-term rental units, provided that such use complies with the requirements of Section 737 and does not occur on the first floor of the building. The first floor shall be determined by the property's main access to the street or streets on which the building fronts. No short-term rental units shall be permitted on the first floor of a building in this District.

DONE AND DULY ORDAINED BY THE municipal Council for the City of Seneca, in Council duly assembled on the date hereinafter set forth.

Effective Date:

This ordinance shall become effective on July 1, 2018, provided that it is appropriately approved, ratified, and adopted as required by State law and the City of Seneca Municipal Code prior to that time.

PROPOSED ORDINANCE APPROVED AS TO FORM this _____ day of _____, 2018.

R. BOATNER BOWMAN, City Attorney

APPROVED AND RATIFIED on First Reading this 10th day of April, 2018 by a vote of

_____ YES _____ NO _____ ABSTAIN

APPROVED, RATIFIED and ADOPTED on Second and Final Reading this ____ day of _____, 2018 by a vote of

_____ YES _____ NO _____ ABSTAIN

_____, Clerk

Attest:

_____, Mayor