

ORDINANCE NO. _____ - 2024

AN ORDINANCE AMENDING SECTION 13-76 OF THE CODE OF ORDINANCES TO REQUIRE CERTAIN DOCUMENTS TO PROVE PRIMARY RESIDENCY; AMENDING SECTION 13-77 OF THE CODE TO CLARIFY THAT APPROVAL BY THE DIVISION OF PLANNING IS NECESSARY TO APPLY FOR A SPECIAL FEE LICENSE AND TO PROVIDE THAT A LICENSE SHALL AUTOMATICALLY EXPIRE UPON A CHANGE IN USE FROM ONE FORM OF SHORT-TERM RENTAL (HOSTED OR UN-HOSTED) TO THE OTHER; AMENDING SECTION 13-79 OF THE CODE TO AMEND THE MAXIMUM OCCUPANCY OF A SHORT-TERM RENTAL, TO LIMIT THE NUMBER OF CONTRACTS OR BOOKINGS A SHORT-TERM RENTAL MAY HAVE AT ONE TIME, AND TO REQUIRE THAT ONLY A PORTION OF THE DWELLING UNIT NOT OTHERWISE OCCUPIED MAY BE RENTED AT ONE TIME; ALL EFFECTIVE UPON PASSAGE OF COUNCIL.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 13-76 of the Lexington-Fayette Urban County Government Code of Ordinances be and hereby is amended to read as follows:

Sec. 13-76. - Definitions.

For the purposes of this Article, the following definitions shall apply:

- (a) *Director* shall mean the Director of the Lexington-Fayette Urban County Government, Division of Revenue.
- (b) *Hosted short-term rental* shall mean a short-term rental in which the dwelling unit utilized as the short-term rental, or another dwelling unit on the subject property, is a primary residence, and the primary resident continues to occupy the property while the short-term rental is being rented to a transient guest.
- (c) *Hosting platform* shall mean an internet-based platform that generally facilitates the rental of the short-term rental accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations.
- (d) *Licensee* shall mean any person who owns a short-term rental that possesses a short-term rental special fees license pursuant to this Article.
- (e) *Person* shall have the same meaning as provided in Section 13-1 of the Code.

(f) *Primary residence* shall mean the permanent residence or the usual place of return for housing of the owner of the short-term rental, the operator of the short-term rental, or an individual who otherwise consents to be an agent of the owner or operator for the purposes of this article, as documented by ~~at least two (2)~~ of the following:

(1) One of the following:

- a. Un-expired driver's license; or
- b. Current voter registration; and

(2) One of the following, dated within the past year:

- a. Tax document showing the premises as the individual's residence; or
- b. Bank statement; or
- c. Motor vehicle registration; or
- d. Utility bill.

~~(1) Motor vehicle registration;~~

~~(2) Driver's license;~~

~~(3) Voter registration;~~

~~(4) Tax documents showing the premises as the individual's residence;~~

~~(5) Utility bill.~~

An individual may only have (1) primary residence and must reside there for a minimum of two hundred and seventy-five (275) days during the calendar year.

(g) *Primary resident* shall mean the owner of the short-term rental, the operator of the short-term rental, or an individual who otherwise consents to be the agent of the owner or operator for the purposes of this article, whose primary residence is the dwelling unit utilized as the short-term rental, or another dwelling unit on the subject property.

(h) *Rent* shall have the same definition as provided in Section 2-172 of the Code.

(i) *Short-term rental* shall mean a dwelling unit that is rented, leased, or otherwise assigned, in whole or in part, for temporary occupancy by

transient guests for a tenancy of less than thirty (30) consecutive days, where no meals are served. This term does not include hotel or motel rooms, extended stay hotels, bed and breakfast facilities, or boarding and lodging house rooms.

- (j) *Short-term rental advertisement* shall mean any method of soliciting another to use a dwelling unit or portion thereof as a short-term rental.
- (k) *Transient guest* shall mean an individual who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement for a period of less than thirty (30) consecutive days. This term shall not be construed to include individuals who rent their primary residence on a weekly basis.
- (l) *Un-Hosted short-term rental* shall mean a short-term rental in which the dwelling unit utilized as the short-term rental, or another dwelling unit on the subject property, is not a primary residence, or a primary resident fails to occupy the subject property while the short-term rental is being rented to a transient guest.

Section 2 – That Section 13-77 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 13-77. – Short-term rental special fee license.

- (a) No person shall own a short-term rental in Lexington-Fayette County unless the person possesses a valid special fee license for the short-term rental issued by the Lexington-Fayette Urban County Government, Division of Revenue, as provided in Section 13-13 of the Code and this Article.
- (b) The Director may promulgate such forms and procedures as reasonably necessary for the orderly and efficient processing of short-term rental special fee license applications and renewals. Provided, however, that an applicant shall be required to provide the following information as part of its application for a special license and renewal:
 - (1) Address of the proposed short-term rental;
 - (2) Name, address, phone number, and email address of the applicant;
 - (3) Name, address, phone number, and email address of the operator of the short-term rental, if different from the applicant;
 - (4) Name, address, phone number, and email address of an emergency contact that resides or is otherwise located in Lexington-Fayette County, Kentucky, or within twenty-five (25) miles of the proposed short-term rental;

- (5) Approval by the Division of Planning ~~that the short-term rental is a hosted short-term rental or is otherwise a legal nonconforming hosted or un-hosted short-term rental under Section 3-13(i) and (j) of the Zoning Ordinance; that the un-hosted short-term rental has a conditional use permit issued by the Board of Adjustment if applicable; that the hosted short-term rental with an occupancy greater than twelve (12) individuals has a conditional use permit issued by the Board of Adjustment, if applicable; or that the short-term rental otherwise~~ complies with the Zoning Ordinance;
 - (6) The maximum number of occupants requested for the short-term rental, which shall ~~not be greater~~ be no greater than ~~be consistent with~~ the number permitted by Section 13-79(a)(7);
 - (7) A site plan and floor plan depicting the short-term rental, including the number of vehicles that can be legally parked on the property, without encroaching onto the street, sidewalks, alleys, public rights of way or public property;
 - (8) A certificate of insurance or other valid proof of general liability insurance in the amount not less than one million dollars (\$1,000,000.00) per occurrence, which shall remain in effect at all times while engaged in the licensed activity;
 - (9) An affidavit confirming that the health and safety requirements of Section 13-79(a)(1)-(6) of the Code of Ordinances have been satisfied for each short-term rental;
 - (10) An affidavit confirming that the applicant complies and shall continue to comply with all aspects the applicable building codes, fire codes, and all other applicable state, federal, and local laws or regulations; and
 - (11) For short-term rentals utilizing septic tanks, evidence indicating that the septic tank is of sufficient size to accommodate the occupancy requested in subsection (6).
- (c) All applications for a special fee license and renewal shall be accompanied by the fee referenced in Section 13-13 of the Code for short-term rental special fee licenses.
 - (d) The operator of the short-term rental may apply on behalf of the owner of the short-term rental, with the express written permission of the owner. However, the owner of the short-term rental shall remain the Licensee.
 - (e) A short-term rental special fee license shall cover all short-term rentals owned by the Licensee holding the license.

- (f) All short-term rental special fee licenses and renewals shall expire upon the earlier of (1) December 31st following the most recent application or renewal; (2) a change in Licensee or ownership of a dwelling unit used as a short-term rental; 3) a change in use from one form of short-term rental (hosted or un-hosted) to the other; or ~~34)~~ the revocation of a conditional use permit.
- (g) Upon receipt of the short-term rental special fee license, each Licensee shall be issued a unique Local Registration Number, by which the short-term rental may be identified.
- (h) The Director may refuse to issue a license or renew the license of a Licensee in the following circumstances:
 - (1) When the applicant intentionally or knowingly makes a false statement as to a material matter in an application;
 - (2) When the applicant fails to complete any part of the application;
 - (3) When the Licensee has failed to pay any fee, tax, fine, or penalty related to a violation of Sections 13-76 through 13-82;
 - (4) When the property submitted for registration or renewal as a short-term rental is subject to unsatisfied penalties, fines, or liens assessed or levied by the Government for any reason;
 - (5) When the Licensee fails to maintain a conditional use permit, if applicable; or
 - (6) When the Licensee or short-term rental is not in compliance with any applicable federal, state, or local law or regulation, including, without limitation, mandatory zoning, building, safety, maintenance, health, sanitation, fire, electrical, plumbing, and mechanical codes.
- (i) The Director may revoke the registration of any short-term rental for any of the following reasons:
 - (1) When any one of the circumstances provided in section (h), above, occurs;
 - (2) When the Licensee or the short-term rental has been found to be in violation of Sections 13-76 through 13-82 two (2) or more times during the relevant license term.

A Licensee whose special fees license is revoked is not eligible to apply for another short-term rental special fees license for the dwelling unit in which the license was revoked for a period of one (1) year.

- (j) The Director may revoke, suspend, or refuse to renew or issue a license on a dwelling unit basis.
- (k) Relevant divisions and departments with necessary information for the Director to perform his or her responsibilities under this article should provide such information to the Director at his or her request. Members of the public may also provide complaints and relevant evidence indicating violation of this article to the Director.

Section 3 – That Section 13-79 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 13-79. – Duties of a Licensee.

It is the duty of a Licensee under this Article to ensure that:

- (a) Every short-term rental owned by the Licensee meets and complies with the following at all times:
 - (1) Contains sufficient smoke detectors installed and in working order as required in Section 12-1 of the Code of Ordinances;
 - (2) Contains at least one (1) functional carbon monoxide detector installed in an appropriate location as set forth in the Kentucky Residential Code;
 - (3) Contains at least one (1) maintained and charged fire extinguisher located in an open and easily accessible location on each habitable floor of the short-term rental;
 - (4) Contains at least one (1) operable emergency and rescue opening in every sleeping room, as set forth in the Kentucky Residential Code;
 - (5) Has posted, in a conspicuous location in the short-term rental, the following:
 - a. the name, email address, and telephone number of the Licensee or operator of the short-term rental, if different from the Licensee;
 - b. the name, email address, and telephone number of the registered emergency contact for the short-term rental referenced in the Licensee’s application for a special fees license;

- c. the emergency and non-emergency telephone numbers for police, fire, and emergency medical service providers;
 - d. trash and recycling pickup information;
 - e. a clearly marked emergency evacuation plan for the premises showing exit routes, exits, and fire extinguisher locations;
 - f. the maximum number of occupants permitted in the short-term rental;
 - g. a copy of the conditional use permit, if applicable; and
 - h. the website address of the Lexington-Fayette Urban County Government where the guest may review the locally-required duties of a Licensee and file a complaint;
- (6) Contains no outdoor signage identifying the dwelling unit as a short-term rental;
- (7) May be occupied by a maximum of two (2) individuals per bedroom, plus an additional ~~two (2)~~ ~~four (4)~~ individuals, up to a maximum of ~~ten (10)~~ ~~twelve (12)~~ individuals; or as otherwise allowed in the Licensee's conditional use permit or the Zoning Ordinance. Any permanent resident of the dwelling unit present during the short-term rental period shall count toward the maximum occupancy; and
- (8) May not become the location where a violation of the laws governing assault, sexual offenses, prostitution, controlled substances, weapons, gambling on the premises, or any felony has occurred. Instances in which the Licensee or primary resident is the victim of the crime and had no control over the criminal act, including domestic violence, shall not be considered.
- (b) Short-term rentals shall not be utilized for private events, such as weddings or parties, in which the number of participants exceeds the maximum occupancy limit described in this section. No private events, such as weddings or parties, shall occur between the hours of 11:00 p.m. and 7:00 a.m. Special events for a commercial purpose shall be prohibited at all times;
- (c) The Licensee shall abide by all requirements contained within the conditional use permit, if applicable;
- (d) There shall be no more than one contract per short-term rental at a time;
- (e) The Licensee of a hosted short-term rental shall not allow "entire (or whole) house," "entire (or whole) home," or "entire (or whole) dwelling unit" rentals

for those short-term rentals occupied by someone other than the transient guest.

- (f) The Licensee shall submit a true and accurate report annually to the Division of Revenue, in the manner and form specified by the Director, identifying:
 - (1) The address of each short-term rental owned or operated by the Licensee;
 - (2) The Local Registration Number of each short-term rental owned or operated by the Licensee; and,
 - (3) The number of contracts to which each short-term rental owned or operated by the Licensee was subject in the preceding year, and the duration of each contract;
- (g) Every short-term rental operated by the Licensee complies with all applicable planning and zoning rules, ordinances, and regulations.

Section 4 – That the Division of Revenue be and hereby is authorized to amend the Lexington-Fayette Urban County Government, Division of Revenue, License Fee Regulations (5th Edition) as necessary to implement this Ordinance.

Section 5 – That if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 6 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF THE URBAN COUNTY COUNCIL

PUBLISHED:
0699-23:EPT:
4863-5501-5119, v. 4