

AN ORDINANCE AMENDING SECTION 13-76 OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT CODE OF ORDINANCES TO DEFINE ADDITIONAL TERMS; CREATING SECTION 13-77 OF THE CODE TO PROHIBIT ANY HOST FROM OWNING OR OPERATING A SHORT TERM RENTAL IN LEXINGTON-FAYETTE COUNTY UNLESS THE HOST POSSESSES A VALID LOCAL BUSINESS LICENSE AND HAS REGISTERED THE SHORT TERM RENTAL WITH THE URBAN COUNTY GOVERNMENT, WHICH REGISTRATION SHALL RESULT IN THE SHORT TERM RENTAL BEING ISSUED A UNIQUE LOCAL REGISTRATION NUMBER, COST \$100.00, AND BE RENEWED BY NO LATER THAN DECEMBER 31ST EACH YEAR, FURTHER AUTHORIZING THE ADMINISTRATION TO REFUSE TO REGISTER OR RENEW REGISTRATION, AND TO REVOKE REGISTRATION, OF SHORT TERM RENTALS THAT ARE BEING OPERATED IN VIOLATION OF LAW OR ARE SUBJECT TO UNSATISFIED PENALTIES, FINES OR LIENS, FURTHER ESTABLISHING A RIGHT FOR CITIZENS TO APPEAL SUCH REFUSALS OR REVOCATIONS TO THE ADMINISTRATIVE HEARING BOARD ESTABLISHED IN SEC. 12-6 OF THE CODE; CREATING SECTION 13-78 OF THE CODE TO EXPLAIN THAT HOSTS ARE RESPONSIBLE FOR THE COLLECTION AND PAYMENT OF TRANSIENT ROOM TAXES, BUT A HOSTING PLATFORM MAY PAY AND COLLECT TRANSIENT ROOM TAXES ON BEHALF OF HOSTS BY WRITTEN AGREEMENT WITH THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, AND THAT ALL INCOME GENERATED BY OPERATION OF A SHORT TERM RENTAL IS BUSINESS INCOME ON WHICH HOSTS MUST PAY OCCUPATIONAL LICENSE FEES; CREATING SECTION 13-79 OF THE CODE TO PLACE CERTAIN DUTIES ON HOSTS, INCLUDING ENSURING THAT SAFETY REQUIREMENTS ARE MET, THAT THE LOCAL REGISTRATION NUMBER BE PLACED ON ALL ADVERTISEMENTS FOR THE SHORT TERM RENTAL, THAT A MONTHLY REPORT BE FILED WITH THE ADMINISTRATION UNLESS THE HOST ADVERTISES EXCLUSIVELY WITH HOSTING PLATFORMS THAT HAVE VOLUNTARY TAX COLLECTION AGREEMENTS WITH THE URBAN COUNTY GOVERNMENT, AND THAT THE SHORT TERM RENTAL ABIDE BY ALL APPLICABLE REQUIREMENTS WITHIN THE ZONING ORDINANCE; CREATING SECTION 13-80 OF THE CODE TO ALLOW HOSTS REGISTERED WITH THE URBAN COUNTY GOVERNMENT TO ADVERTISE THEIR SHORT TERM RENTALS FOR STAYS OF LESS THAN THIRTY DAYS AND TO PROVIDE AUTHORITY TO THE CODE ENFORCEMENT HEARING BOARD TO SUBPOENA INFORMATION FROM HOSTING PLATFORMS PURSUANT TO KRS 65.8821 TO ENSURE COMPLIANCE BY HOSTS; CREATING SECTION 13-81 TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS ARTICLE; AND AUTHORIZING THE DIVISION OF REVENUE TO AMEND THE LICENSE FEE REGULATIONS (5th EDITION) AS NECESSARY TO IMPLEMENT THIS ORDINANCE.

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 section, the following definitions shall apply:

- (a) *Director* shall mean the Director of the Lexington-Fayette Urban County Government, Division of Revenue.
- (b) *Host* shall mean any person or corporate entity that owns or operates a short term rental.
- (c) *Hosting platform* shall mean an internet based platform that generally allows an owner or tenant to advertise a short term rental through a website and provides a means for

potential transient users to arrange rental and payment through the platform.

(d) *Short term rental* shall mean a dwelling unit that is rented, leased, or otherwise assigned 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.

(e) *Short term rental advertisement* shall mean any method of soliciting another to use a dwelling unit or portion thereof as a short term rental.

(f) *Transient user* shall mean a person 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.

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 registration.

(a) No Host shall own or operate a short term rental in Lexington-Fayette County unless the Host: (i) possesses a valid business license for the short term rental issued by the Lexington-Fayette Urban County Government, Division of Revenue, as provided in Section 13-9 of the Code, and (ii) has registered the short term rental with the Lexington-Fayette Urban County Government, Division of Revenue, which registration must be renewed by no later than December 31st each year.

(b) The Director may promulgate such forms and procedures as reasonably necessary for the orderly and efficient processing of short term rental registrations and renewals. Provided, however, that registrants shall be required to provide the following information as part of their applications for registration and renewal:

- (1) Address of the proposed short term rental;
- (2) Name, home address, phone number, and email address of the Host; and,
- (3) Name, home 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.
- (4) An affidavit confirming that the requirements of Section 13-79(a) of the Lexington-Fayette Urban County Government Code of Ordinances have been satisfied.

(c) All applications for registration and renewal shall be accompanied by a \$100.00 registration and renewal fee.

(d) All registrations and renewals shall expire upon the earlier of (i) the December 31st following the most recent registration or renewal or (2) a change in Host or ownership of a dwelling unit used as a short term rental.

(e) Upon registration, all short term rentals shall be issued a unique Local Registration Number, by which the short term rental may be identified.

(f) The Director may refuse to register or renew the registration of a short term rental in the following circumstances:

(1) When the Host or owner of a short term rental is subject to unsatisfied fines or penalties related to violation of Chapter 13, Article V, of the Lexington-Fayette Urban County Government Code of Ordinances.

(2) 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 Lexington-Fayette Urban County Government for any reason.

(3) When the Host or owner of a 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.

(g) The Director may revoke the registration of any short term rental that, within a twelve (12) month period, is the site of two (2) or more civil or criminal violations, or any combination thereof, or is registered to a Host or owner that has been found to be in violation of Chapter 13, Article V, of the Code of Ordinances two (2) or more times.

(h) If an application is denied, a short term rental's registration is revoked, or the Director fails to renew a short term rental's registration under this section, Host shall be notified, and shall have thirty (30) days to appeal the decision to the Code Enforcement Board established in Chapter 2B of the Lexington-Fayette County Code of Ordinances in accordance with the rules and procedures established therein. If no appeal is requested within thirty (30) days, the decision shall become final. When any Host or owner has a short term rental registration revoked, such Host or owner shall be ineligible to register any new short term rental(s) for a period of one (1) year from the date such revocation becomes final.

Section 3 – That Section 13-78 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 13-78. – Taxes.

(a) Pursuant to Section 2-172 of the Lexington-Fayette Urban County Government Code of Ordinances, Hosts are responsible for the collection and payment of transient room taxes to the Lexington-Fayette Urban County Government. Although transient room taxes are the responsibility of Hosts, a Hosting Platform may collect and pay such taxes on behalf of Hosts using its platform by written agreement with the Lexington-Fayette Urban County Government.

(b) Pursuant to Chapter 13, Article I of the Lexington-Fayette County Code of Ordinances, Hosts are responsible for payment of occupational license fees on income earned from the operation of short term rentals. The operation of a short term rental in Lexington-Fayette County is and shall be considered engaging in a "business activity" under Chapter 13, Article I of the Code of Ordinances, which requires a license fee to be paid and a return to be filed.

Section 4 – That Section 13-79 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 13-79. – Duties of a Host.

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

- (a) Every short term rental operated by the Host:
 - (1) Meets the smoke detector requirements set forth in Section 12-1 of the Code of Ordinances;
 - (2) Has at least one (1) functional carbon monoxide detector installed in an appropriate location as set forth in the Kentucky Residential Code;
 - (3) Has 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) Has 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, a clearly marked emergency evacuation plan for the premises;
 - (6) Has posted, in a conspicuous location in the short term rental, the name and telephone number of the Host and the registered emergency contact for the short term rental.
- (b) All advertisements for a short term rental, including without limitation those on Hosting Platforms, include the short term rental's Local Registration Number.
- (c) A true and accurate report is submitted monthly 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 Host;
 - (2) The Local Registration Number of each short term rental owned or operated by the Host; and,
 - (3) The number of contracts to which each short term rental owned or operated by the Host was subject in the preceding month, and the duration of each contract. Such report shall be due even if the number of nights a short term rental was under contract during the preceding month was zero (0).

Provided, however, that any host advertising exclusively via hosting platforms that have entered voluntary agreements with the Lexington-Fayette Urban County Government for the collection and remission of the transient room taxes identified in Section 13-78(a) of the Lexington-Fayette Urban County Government Code of Ordinances is and shall be exempt from the duty to provide monthly reports as established herein.

- (d) Every short term rental operated by the Host complies with all applicable planning and zoning rules, ordinances, and regulations.

Section 5 – That Section 13-80 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 13-80. – Advertising on a Hosting Platform.

- (a) Short term rentals registered in accordance with Sec. 13-77 may be advertised for stays of less than thirty (30) days on a Hosting Platform.

(b) Pursuant to KRS 65.8821, the Code Enforcement Board established in Sec. 12-6 of the Lexington-Fayette County Code of Ordinances and assigned hearing officers shall have the authority to subpoena information from any Hosting Platform to determine whether there has been a violation of any Lexington-Fayette County Ordinance that the Board or hearing officer has jurisdiction to enforce. Any such subpoena shall:

- (1) Be served upon the Hosting Platform's registered agent via certified mail;
- (2) Identify the provision(s) of the Lexington-Fayette County Code of Ordinances that the Lexington-Fayette Urban County Government has reason to believe the Host may have violated;
- (3) Describe with reasonable specificity the evidence supporting the Lexington-Fayette Urban County Government's reasonable belief that the Host may be in violation of the identified provisions of the Lexington-Fayette County Code of Ordinances.

Section 6 – That Section 13-81 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 13-81. – Enforcement.

(a) Any person or corporate entity that violates any provision of this Article, with the exception of Sec. 13-78; 13-79(b) and 13-79(d), shall be subject to civil penalties, as imposed by a Code Enforcement Officer, in the following amounts:

1st Offense	\$125.00
2nd Offense	\$250.00
3rd Offense	\$500.00
4+ Offense	\$1,000.00

(b) Any person or corporate entity that violates Sec. 13-78 of the Lexington-Fayette Urban County Code of Ordinances shall be subject to the penalty provided for failure to pay the applicable tax or occupational license fee. Nothing provided herein shall limit the power of the Director, as provided in Sec. 13-77, to deny, revoke, or fail to renew the registration of a short term rental.

(c) Any person or corporate entity that violates Sec. 13-79(b) of the Lexington-Fayette Urban County Code of Ordinances shall be subject to civil penalties, as imposed by a Code Enforcement Officer, in the amount of \$125.00 per offense.

(d) Any person or corporate entity that violates applicable planning and zoning rules, ordinances, and regulations, shall be subject to the penalty provided by that rule, ordinance, or regulation. Nothing provided herein shall limit the power of the Director, as provided in Sec. 13-79(d), to deny, revoke, or fail to renew the registration of a short term rental.

(e) Each day that a violation continues after notice of the offense has been served shall constitute a separate offense.

(f) This Article shall be enforced by Code Enforcement Officers and the Administrative Hearing Board established in Sec. 12-6 of the Lexington-Fayette County Code of Ordinances in accordance with the rules and procedures established therein. Provided, however, that Sec. 13-78 shall be enforced by the entity responsible for the enforcement of the collection of transient room taxes and occupational license fees and Sec. 13-79(d) shall be enforced by the entity responsible for the enforcement of the applicable planning and zoning rule, ordinance, and regulation.

(g) In addition to the penalties provided herein, the Director is authorized, with the assistance of the Department of Law, to bring and prosecute civil actions for violations of this Article as appropriate, including without limitation actions for injunctive relief and declarations of rights, in any court of competent jurisdiction.

Section 7 – 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 8 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

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