

COMMISSIONERS' ORDINANCE NO. O-XX-24

AN ORDINANCE AMENDING CHAPTER 127 OF THE COVINGTON CODE OF ORDINANCES SHORT-TERM RENTALS REVISING DENSITY LIMITS AND EXPANDING APPEAL RIGHTS RELATED TO THE GRANT OF A LICENSE.

* * * *

WHEREAS, the Board of Commissioners has adopted Chapter 127 to define, categorize, and regulate short-term rental dwelling licenses; and

WHEREAS, the *Covington Neighborhood Development Code is being amended to change short-term rentals from conditional uses to limited uses; and*

WHEREAS, revisions to Chapter 127 are necessary to *complement the change from conditional use to limited use; and*

~~allow for effective regulation and guidance related to short-term rental dwelling licenses; and~~

WHEREAS, revisions to Chapter 127 are required to provide for uniform regulation of short-term rental dwelling licenses throughout the City.

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY
OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

§ 127.02 DEFINITIONS.

For this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ADJACENT PROPERTY OWNERS. *The Owners of all properties that physically adjoin or are directly or diagonally across the street or alley from the property sought to be licensed.*

BLOCK FACE. All lots on a block fronting on a public or private street of any classification in the Kenton County Comprehensive Plan, on the same side of the street, and between two consecutive street intersections, not including alleys.

HOSTING PLATFORM. An internet-based application that allows a short-term rental host to advertise a short-term rental and provides a means for potential short-term rental tenants to arrange rental and payment through the platform.

PERSON. Any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

RENTAL AGENT. A natural person designated by the host of a short-term rental on the short-term rental license application. The host may serve as the rental agent.

RENTAL INSPECTOR. The Neighborhood Services Director or a designee including, but not limited to, code enforcement officers and/or inspectors in the Code Enforcement Division.

SHORT-TERM RENTAL.

- (1) Any residential dwelling unit or part thereof;
- (2) Offered or held out to the public for rent on a hosting platform, web or mobile application or other online platform, newspaper, magazine, or brochure through which short-term rentals are listed, advertised, solicited or otherwise held out for rent;
- (3) For a duration of occupancy of less than 30 consecutive days.

SHORT-TERM RENTAL DWELLING LICENSE. The short-term rental dwelling license established by this chapter.

SHORT TERM RENTAL HOST (HOST). Any person who is the owner of record of residential property who offers a residential dwelling or portion of such dwelling as a short-term rental or any person who is a lessee of residential property pursuant to a written agreement for the lease of such property and who is authorized by the owner to operate a short-term rental.

SHORT-TERM RENTAL, HOST-OCCUPIED. A short-term rental that is the primary residence of the short-term rental host who is also the record owner of the property. Host-occupied property refers to real property which contains one or more dwelling unit(s) where the principal dwelling unit must be occupied by the property owner and constitute his/her primary and usual place of residence. The dwelling units must share the PIDN assigned by the Kenton County PVA.

SHORT-TERM RENTAL, NON-HOST-OCCUPIED. A short-term rental that is not the primary residence of the short-term rental host. A short-term rental which serves as the primary residence for a host who is not the record owner of the property, including lessees, is included in this definition.

SHORT-TERM RENTAL TENANT (TENANT). Any person (excluding family members of the host of the short-term rental) who rents a short-term rental for a fee or any form of compensation, in exchange for occupancy of the short-term rental for a period of less than 30 consecutive days.

§ 127.05 SHORT-TERM RENTAL DWELLING LICENSE.

- (A) All hosts must register their short-term rental units with the city.
- (B) A separate license is required for each short-term rental unit.
- ~~(C) There shall be no more than 150 active short-term rental, non-host-occupied licenses in the city at any time.~~
- (D) The license is renewable annually and shall expire on the last day of the month one year after the date of issuance.
- (E) The license is non-transferable, may not be assigned to another person or entity, and is void upon transfer of the property.
- (F) Host-occupied short-term rentals are exempt from historic district ***and neighborhood*** density limits.

§ 127.07 DENSITY LIMITS.

- (A) There shall be no more than two short-term rental licenses per structure.
- (B) In order to supplement and provide additional guidance for the consideration of requests for conditional use permits under the current Neighborhood Development Code, and in order to protect the residential character of Covington's national historic districts ***and neighborhoods***, and generally protect Covington's residential character, ***the affordability of its housing stock for long term residents, encourage investment in underserved neighborhoods,*** the following density limits are established:
 - (1) ***Historic districts—, with boundaries as set forth on the National Register of Historic Places:***
 - ~~(a) Austinburg: maximum of ten non-host-occupied short-term rental units, with no more than one per block face.~~
 - (b) Downtown Commercial, including 1991, 1996 and 2001 expansions: unlimited number of non-host-occupied short-term rental units with no distance separation requirements.
 - ~~(c) Emery Price: maximum of four non-host-occupied short-term rental units, with no more than one per block face.~~

- ~~(d) Helentown: maximum of 15 non-host-occupied short-term rental units, with no more than one per block face.~~
 - ~~(e) Holy Cross: host-occupied only.~~
 - ~~(f) Lee-Holman: maximum of five non-host-occupied short-term rental units, with no more than one per block face.~~
 - ~~(g) Lewisburg: maximum of five non-host-occupied short-term rental units, with no more than one per block face.~~
 - (h) Licking Riverside: maximum of five non-host-occupied short-term rental units, with no more than one per block face.
 - ~~(i) Main Strasse: maximum of 25 non-host-occupied short-term rental units, with no more than one per blockface, except that in the TUMU zone within the Main Strasse Historic District break-out commercial zone there may be no more than three non-host-occupied short-term rental units per block face.~~
 - (j) Mutter Gottes: maximum of 12 non-host-occupied short-term rental units, with no more than one per blockface, except that on Fourth Street and Fifth Street there may be no more than three non-host-occupied short-term rental units per block face.
 - (k) Ohio Riverside, including 1987 expansion: one short-term rental unit per block face, host-occupied only.
 - ~~(l) Ritte's Corner, including 2000 expansion: maximum of five non-host-occupied short-term rental units, with no more than one per block face.~~
 - ~~(m) Seminary Square: maximum of four non-host-occupied short-term rental units, with no more than one per block face.~~
 - ~~(n) Wallace Woods: maximum of five non-host-occupied short-term rental units, with no more than one per block face.~~
 - ~~(o) West Fifteenth Street: maximum of one non-host-occupied short-term rental units.~~
- (2) **Neighborhoods, with boundaries as set forth on the City of Covington website and as may be amended in the future:**
- (a) **Austinburg Neighborhood: maximum of ten (10) non-host-occupied short-term rental units, with no more than one per block face;**

- (b) Botany Hills Neighborhood: maximum of twelve(12) non-host-occupied short-term rental units, with no more than one per block face;
- (c) City Heights Neighborhood: no host or non-host-occupied short term rentals allowed;
- (d) Eastside and Helentown Neighborhoods combined, except that portion of the neighborhoods included in the Downtown Commercial Historic District including expansions: maximum of fifteen (15) non-host-occupied short-term rental units, with no more than one per block face;
- (e) Kuhr's Lane Neighborhood: maximum of three (3) non-host-occupied short-term rental units, with no more than one per block face;
- (f) Kenton Hills Neighborhood: maximum of three (3) non-host-occupied short-term rental units, with no more than one per block face;
- (g) Latonia, including the West Latonia, Latonia Milldale, Latonia Ritte's East and Latonia Rosedale Neighborhoods combined: maximum of twenty (20) non-host-occupied short-term rental units, with no more than one per block face;
- (h) Levassor Park Neighborhood: maximum of three (3) non-host-occupied short-term rental units, with no more than one per block face;
- (i) Lewisburg Neighborhood: maximum of eight (8) non-host-occupied short-term rental units, with no more than one per block face;
- (j) Main Strasse neighborhood:-maximum of twenty-five (25) non-host-occupied short-term rental units, with no more than one per block face, except that in the TUMU zone within the Main Strasse Historic District break out commercial zone there may be no more than three non-host-occupied short-term rental units per block face;
- (k) Monte Casino Neighborhood: maximum of five (5) non-host-occupied short-term rental units, with no more than one per block face;

- (l) Peaselburg Neighborhood: maximum of ten (10) non-host-occupied short-term rental units, with no more than one per block face;
 - (m) Seminary Square Neighborhood: maximum of seven (7) non-host-occupied short-term rental units, with no more than one per block face;
 - (n) South Covington Neighborhood: maximum of five (5) non-host-occupied short-term rental units, with no more than one per block face;
 - (o) Wallace Woods Neighborhood: maximum of seven (7) non-host-occupied short-term rental units, with no more than one per block face;
 - (p) West Fifteenth Street Neighborhood: maximum of one non-host-occupied short-term rental units
 - (q) Westside Neighborhood: except that portion of the neighborhood included in the Downtown Commercial Historic District including expansions: maximum of seven (7) non-host-occupied short-term rental units, with no more than one per block face.
- (3) *Remainder of the city.* No more than one non-host short-term rental structures permitted per block face.

§ 127.08 APPLICATION CONTENTS.

- (A) The application for a short-term rental dwelling license shall require the following information:
- (1) The current street address of the unit to be licensed;
 - (2) The name, address, email address, and phone numbers of the owner of the premises or corporation's owner's representative, as applicable;
 - (3) If the owner is not a natural person, the applicant shall identify all partners, officers and directors of any such entity and provide their personal contact information;
 - (4) The name, address, email address, and phone number of the designated rental agent;
 - (5) The number of bedrooms in the unit and maximum occupancy;

- (6) The number and location of parking spaces allotted to the unit;
 - (7) ***Documentary*** (E) evidence of ***actual*** notice to ***all*** adjacent property owners of intent to apply for a license ***within thirty(30) days prior to submission of the application; failure to notify all adjacent property owners will disqualify the application;***
 - (8) If the applicant is a lessee of the property, evidence of approval by the property owner for authority to operate the unit as a short-term rental;
 - (9) The rental agent's written statement of acceptance of the responsibilities;
 - (10) A list of all hosting platforms through which the short-term rental is listed or is reasonably anticipated to be listed; and
 - (11) (a) If the license application is for a short-term rental, host occupied, the host must submit a sworn affidavit stating that the primary dwelling unit is the legal residence and domicile of the applicant and provide proof of residency in the form of two of the following:
 1. A valid Kentucky driver's license, other state issued I.D., or other identification recognized by the Covington Police Department;
 2. Registration for vehicles owned by and registered in the name of the applicant;
 3. Voter registration card;
 4. Previous year's W-2 form or IRS tax return;
 5. Deed; or
 6. Utility bill.(b) This requirement may also be satisfied if the owner's address in the Kenton County PVA is the same as the address of the short-term rental.
- (B) The applicant shall certify that to the best of his, her or its knowledge, the short-term rental is in conformity with:
- (1) The Kentucky Building Code (residential only);
 - (2) The International Residential Code (one- and two-family dwellings);
 - (3) International Property Maintenance Code;
 - (4) The Fire Code NFPA 1; and

- (5) The Life Safety Code NFPA 101.
- (C) The applicant shall further acknowledge that the short-term rental must at all times maintain compliance with applicable federal, state and local laws, regulations, ordinances or other rules or codes governing the operation of the short-term rental, including the Covington Nuisance Code;
- (D) The applicant shall acknowledge an obligation to use his or her best effort to assure that use of the premises by a short-term rental tenant will not disrupt the neighborhood and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties.
- (E) The City Manager or a designee shall have the authority to obtain additional information from the applicant as necessary to achieve the objectives of this chapter.

§ 127.09 LICENSE REVIEW, INSPECTION AND LICENSE ISSUANCE.

- (A) Applications shall not be considered complete unless all documentation required is submitted and the full license fees have been paid. Incomplete applications will be rejected.
- (B) The applicant will be notified of a final determination on an application no later than 30 days following submission of a complete application.
- (C) A City rental **code** inspector shall inspect the property ~~within 20 days of~~ **prior to** the issuance of the license **and** ~~the short-term rental unit must pass inspection to prevent the license from being suspended,~~ **obtain the license.**
- (D) If the inspection finds violation of any of the codes, the rental **code** inspector shall provide written notice to the rental agent and the rental agent shall discontinue leasing the unit **license application shall not be further considered** until the code violations are corrected and the unit successfully reinspected. **If the violations are not corrected within twenty days after notice of violation the application shall be denied, unless the deadline is further extended by the code inspector;**
- (E) All application denials shall be in writing and shall set forth specific reasons for the denial.
- (F) An application may be denied if:
 - (1) The applicant is not in good standing with the City of Covington;
 - (2) The applicant has made a material misrepresentation of fact on the application;

- (3) The short-term rental premises are subject to outstanding orders from a city department that have not been corrected;
 - (4) The short-term rental premises have been determined to be a location of a criminal activity nuisance in accordance with § 92.10 of this code of ordinances;
 - (5) The applicant, owner, or rental agent of the short-term rental has failed to comply with or enforce the requirements of this chapter;
 - (6) The maximum number of allowed licenses in the historic district, neighborhood or zone has been reached;
 - (7) ~~The maximum number of licenses in the city has been reached;~~ **The unit failed code inspection;**
 - (8) Ownership limits set forth in § 127.06 have been reached; and/or
 - (9) Other identified violations of the requirements of this subchapter.
- (G) Any short-term rental dwelling license applicant or licensee aggrieved by any license application denial, may, within seven days of receipt of notice of such action, file a written appeal with the Rental License Appeals Board setting forth his or her reasons for contesting the action.

§ 127.14 SUSPENSION OR REVOCATION.

- (A) Any action unfavorable to the applicant or licensee, including license denial, suspension or revocation, or decisions related to violations of this chapter may be appealed to the Rental License Appeals Board.
- (B) **Adjacent property owners or their Neighborhood Association may, within thirty days of the grant of a license, appeal any action by the City granting a license in reliance on incomplete or inaccurate information contained the application required by § 127.08 or violation of the density limits established in §127.07 of this chapter**

§ 127.15 RENTAL LICENSE APPEALS BOARD.

- (A) The Rental License Appeals Board shall be comprised of full-time city employees as appointed by the City Manager or a designee and shall include at least one staff member selected from the Finance Department and one from the Police Department. The staff Board will receive evidence; however, the rules of evidence will not govern the proceeding. The staff Board will issue a written finding as to each alleged infraction, specifically identifying each founded accusation, which shall constitute a violation.

(B) The Rental License Appeals Board may appoint a hearing officer who shall be empowered to conduct the hearing and make a written recommendation to the Board.

~~(B)~~**(C)** The Rental License Appeals Board shall be empowered to hear appeals and conduct hearings arising from:

- (1) The denial of an application for a short-term rental dwelling license;
- (2) The denial of an application for renewal of a short-term rental dwelling license; and
- (3) Conduct that may give rise to suspension or revocation of a license.
- (4) **Appeals from third parties alleging an unlawful approval of a short-term rental license based on inaccurate or incomplete information contained in the application required by § 127.08 or violation of the density limits established in §127.07 of this chapter.**

~~(C)~~**(D)** Upon receipt of an appeal, or in the case of a hearing for possible suspension or revocation, the Board shall set a date for a hearing and shall notify the applicant or licensee **and adjacent property owners.** Except upon mutual agreement by the applicant or licensee and the city, the hearing shall be held not less than three days and not more than 30 days from the date the appeal is received.

~~(D)~~**(E)** If the applicant or licensee fails to appear at a properly scheduled hearing before the Board, the Board shall summarily affirm the action, unless the applicant or licensee shows good cause for his or her failure to appear.

~~(E)~~**(F)** At the hearing before the Board, the city, **or the third party,** shall present evidence supporting the appealed action. The applicant or licensee shall be given an opportunity to show cause why the appealed action should be **sustained,** modified or reversed. The burden of proof shall be upon the city **or the third party** to demonstrate that the appealed action was permitted by the provisions of this chapter **or was in violation of the requirements of this chapter.**

~~(F)~~**(G)** The Rental License Appeals Board may:

- (1) Affirm the action;
- (2) Reverse the action; and/or
- (3) Modify the action by reversing with conditions or granting an extension of time for the performance of any act required where there is a practical difficulty or undue hardship connected with the performance of any act required by the provisions of this chapter, provided that such extension or other action shall be consistent with the general purpose of this chapter to ensure the public health,

safety and welfare. Where conditions are imposed or additional time is granted, the Board may delay final action and continue the matter to a later date in order to ensure compliance.

(G)(H) The decision of the Rental License Appeals Board shall be reduced to writing and shall be final unless continued. The written decision shall be mailed or hand delivered to the appellant and the short-term rental agent ***or third party appellant.***

(H)(I) Any aggrieved party to a final decision of the Board may appeal, within 20 days of the date of the issuance thereof, to the city's Code Enforcement Board for a hearing pursuant to § 92.18 of the Covington Code of Ordinances.

(J) Any decision of the Code Enforcement Board adverse to the appellant shall indicate that the appellant has a right to appeal to the Kenton County Circuit Court in accordance with the Rules of Civil Procedure.

§ 127.16 SHORT-TERM RENTAL DWELLING LICENSE FEES.

- (A) The fee for the issuance of the initial license shall be \$500 effective ~~November 1, 2023~~ ***June 1, 2024.*** The fee shall be \$30 for all licensure applications received prior to ~~November 1, 2023.~~ ***June 1, 2024.***
- (B) The fee for renewal of the license shall be \$250.
- (C) A code enforcement re-inspection fee of \$100 shall be charged if the unit has to be re-inspected because it failed to meet the standards set forth in this chapter or if the host or rental agent failed to appear for a scheduled inspection.
- (D) A code enforcement re-inspection fee of \$150 shall be charged if ***a second reinspection is required*** ~~the unit has to be re-inspected because it~~ ***the unit*** failed to meet the standards set forth in this chapter or if the host or rental agent failed to appear for a scheduled inspection.
- (E) Short-term rental units that were operated without a license shall be charged a fee of equal to three times the amount of the license fees set forth above.

Section 2

That this ordinance shall take effect and be in full force when passed, published, and recorded according to law.

MAYOR

ATTEST:

CITY CLERK

Passed: _____ (Second Reading)

_____ (First Reading)

DRAFT