

**CITY OF BEECHWOOD VILLAGE
ORDINANCE NO. 4, SERIES 2019-2020**

**AN ORDINANCE ESTABLISHING THE REGISTRATION, REGULATION AND
PERMITTING OF RENTAL PROPERTIES INCLUDING SHORT TERM RENTALS
IN THE CITY OF BEECHWOOD VILLAGE**

WHEREAS, The City of Beechwood Village finds that the operation of rental properties, including short term rentals, for compensation is a recognizable and distinct class of business within the City, which the City is entitled to regulate and permit under KRS 92.280,

AND WHEREAS, the City has found that the rental of houses within the City requires licensure and regulation, due to the instances of unresolved health and safety property conditions at rental dwellings which have occurred in the City;

AND WHEREAS, the City finds that a narrowly tailored ordinance that establishes a registration and permitting process enabling the City to keep and establish a means of clear and concise communication with the owners of rental property in the City is a reasonable regulation that addresses a real public health and safety concern and which power is specifically authorized and given to the City under KRS 92.280 and KRS 92.330;

NOW THEREFORE, be it ordained by the City of Beechwood Village:

Section 1: PURPOSE

The City Commission does hereby find (pursuant to KRS 92.330), that it is necessary to provide for the licensure and taxing of rental properties as businesses, because renting of property in exchange for compensation is in fact a business and the operation of rental property can be detrimental to property values and community appearance and interfere with the comfortable enjoyment of adjacent property or premises. Further, there are conditions in the operation of rental property which (unless corrected), can be hazardous or injurious to the health, safety or general welfare of the public. KRS 92.280 grants authority to the City to tax and license rental businesses and to establish a clear and concise communication process between the City and each owner of each rental unit. This updated information and communication process is essential for the City to make sure that it can address any detrimental property conditions, or health or safety violation at the rental property, quickly and efficiently. The fee for the annual license going to the general fund of the City to help defray the cost of maintaining current contact information for all rental properties in the City and also the cost of providing City services, such as lighting, police protection and public work expenditures, which the rental properties use each day.

Section 2: DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. Carrying on, transacting or exercising, for gain or economic benefit, either directly or indirectly enterprise, the collection of rent from residential real property within the City (including short term rental as defined herein), conducted by an individual, partnership, firm, joint venture, association, corporation or any other entity; but shall not include allowing a person to occupy property without charging rent.

CITY- The council/commission for the City of Beechwood Village.

HOST- Any person who is the owner of record of real property, or any person who is a lessee of real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short term rental.

HOSTING PLATFORM - A person or entity that provides a means through which a host may offer a dwelling unit, or portion thereof, for short term rental use. Most platforms are internet based and allow a Host to advertise a dwelling unit as short term rental through a website or mobile app.

PERSON. Any natural person, partnership, firm, joint venture, fiduciary, association or corporation. Whenever “person” is used in any clause prescribing and imposing a penalty in the nature of a fine, the word, as applied to a partnership or other form of unincorporated enterprise shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.

PRIMARY RESIDENCE (or Principal Residence) - A primary residence is the main home of an individual. An individual has only one primary residence at a time. If an individual owns and lives in just one dwelling unit, then that property is his or her primary residence. If an individual owns or lives in more than one dwelling unit, then he or she must apply a “facts and circumstances” test to determine which property is his or her primary residence. While the most important factor is where he or she spends the most time, other factors are relevant as well. The more of the following factors that are true of a home, the more likely that it is a primary residence. Factors include, but are not limited to, the address listed on the individual’s U.S. Postal Service address, Voter Registration Card, Federal and state tax returns, driver’s license, state identification card, and/or vehicle registration.

SHORT TERM RENTAL - A dwelling unit that is rented, leased, or otherwise assigned for a tenancy of less than 30 consecutive days duration, where no meals are served. This term does not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns or boarding and lodging house rooms.

SHORT TERM RENTAL ADVERTISEMENT - Any method of soliciting the use of a dwelling unit or portion thereof as a short term rental.

TRANSIENT USER- 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 30 consecutive days duration.

Section 3: LICENSE REQUIRED

(A) No person shall collect rent from a residential dwelling in the city without first applying for and obtaining a license from the City Clerk or other duly authorized issuing authority. The fee for a license shall be \$150.00. This fee and license requirement shall apply to any person renting their real property including short term rentals. No person shall conduct any business in the city that is not allowed by the Land Development Code of Metro Louisville/ Jefferson County or KRS (State law) and federal law.

(B) Registration of rental dwellings: Application shall include:

- 1) The address of the rental dwelling.
- 2) The name, residence address, business address, rental property address, business phone number and personal phone number of the owner and each of its principals, officers, and partners, if applicable, and the local agent of the rental property. One of the names and addresses must be specified for city communications.
- 3) Designation of local agent: If the owner of a rental dwelling, or a responsible member or officer of the owner, does not reside within 50 miles of the city, the owner shall designate a responsible local agent who shall be legally responsible for operating such rental dwelling in compliance with this article, this code of ordinances, and other applicable laws or regulations. All official notices may be served on the responsible local agent, and any notice so served shall be deemed to have been served upon the owner of record.
- 4) Verification that all state and city taxes levied and assessed against the rental dwelling that are due and payable at the time of the filing of the application have been paid. Delinquencies on such taxes may result in the denial of an application for registration or re-registration under this section.
- 5) Inaccurate or incomplete registration information: It shall be a violation of this article for an owner to provide inaccurate information for the registration or re-registration of rental dwellings or to fail to provide information required by the application.
- 6) All rental property must be kept in compliance with the City of Beechwood Village Code of Ordinances, as well as all Metro Louisville Ordinances (including, but not limited to Chapter 156), and Land Development Code as a condition of operating a rental property in the City of Beechwood Village. Each rental dwelling shall provide measures acceptable to the City to prevent any excessive noise at any property line.

Each rental dwelling shall provide measures acceptable to the City to prevent violations of the City's parking ordinance by Tenants of the rental unit.

(C) Every license shall be issue to a real party in interest in the enterprise or business, and unless otherwise provided no license shall be assigned or transferred.

(D) Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the licensed premises, the license certificate.

Section 4: ANNUAL REGISTRATION REQUIRED

No person, firm, or corporation shall own or operate a rental property, including a short term rental on any premises within the City of Beechwood Village unless the rental property has been registered annually with the City.

- A. Each property shall have its own registration, permit and fee.
- B. The City may refuse to issue or renew the registration of a rental unit until all outstanding penalties associated with any violations that have been assessed against the property owner and/or host are paid in full
- C. The City may refuse to issue or renew the registration of a rental unit all outstanding property taxes, fines and liens that have been assessed by the City against the subject property are paid in full.
- D. The City may deny or refuse to renew the registration of any host for violating or failing to comply with any applicable provision of this ordinance.
- E. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the City may revoke the approval. When the City revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to remedy the issues. If the issues are not remedied, the revocation shall become final on the thirty-first (31st) day after the initial action by the City. Civil complaints include, but are not limited to, reported violations of building, safety, property, maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include but are not limited to, reported drug activity, theft and criminal mischief.
- F. When any owner or host has a rental registration revoked, they shall be ineligible to receive any new rental registrations for a period of one calendar year.

Section 5: ANNUAL REGISTRATION FEE

- A. Each annual registration for a rental property, including short term rentals, shall be per the procedure prescribed by the City.
- B. Each annual registration shall be due and payable on January 1st of each year and shall be considered delinquent if not received by February 1 of each year.
- C. A non-refundable fee of \$150 shall accompany the annual registration form of a rental property.

- D. No prorating of a calendar year registration fee is permitted.
- E. A registration shall expire at the end of each calendar year and shall be renewed annually.
- F. A change in host, ownership, or tenancy of a dwelling unit used as short term rental invalidates any existing registration. The new host, property owner, and/or tenant must apply for a registration in their name.

Section 6: SHORT TERM RENTAL REQUIREMENTS/ Non Primary Residence of Host

A short term rental that is not the primary residence of the host must meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals.
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated.
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or a condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. This evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board wherein all condominiums would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to any notification required, an applicant for a short term rental within a condominium shall provide notice of the Conditional use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted.
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in a residential zoning district.
- H. There shall be a sufficient amount of parking available for guests, as determined by the

Jefferson County Metro Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity.

- I. The short term rental and host shall meet any and all additional requirements set forth in the Louisville Metro Code of Ordinances.
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the City may revoke the approval. When the City revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to remedy the issues. If the issues are not remedied, the revocation shall become final on the thirty-first (31st) day after the initial action by the City. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include but are not limited to, reported drug activity, theft and criminal mischief.
- K. Prior to commencement of any short term rental on the subject property, the host shall also register the short term rental pursuant to the Louisville Metro Code of Ordinances and send proof of registration to the City. If the short term rental is not registered with proof sent to the City within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void.
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by the Jefferson County Metro Land Development Code.

Section 7: SHORT TERM RENTAL REQUIREMENTS/Primary residence of the host

A short term rental of a dwelling unit that is the primary residence of the host is permitted by the City with special standards set forth in this section.

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant for 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in

excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals.

- D. The building in which the dwelling unit is located shall be a single-family residence or duplex unless the dwelling unit is located on property zoned C-R, C-N, C-1, C-2, or EZ-1. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- G. There shall be a sufficient amount of parking available for guests, as determined by the Jefferson County Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. In the event that a complaint is filed concerning the lack of adequate parking, the City may require that the host submit a parking study to the City. If the parking study concludes that there is inadequate parking available to the host and guests, the host shall either a) increase the amount of parking to be sufficient or b) discontinue the short term rental use.
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the City may revoke the approval. When the City revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to remedy the issues. If the issues are not remedied, the revocation shall become final on the thirty-first (31st) day after the initial action by the City. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include but are not limited to, reported drug activity, theft and criminal mischief.
- J. In a case in which a) the primary residency of the host is in question due to conflicting documentation or b) inadequate documentation concerning the primary residency of the host, the City may review the registration and make a determination related to the residency of the host with the information they were provided by the host.

Section 8: COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS

Each separate rental shall be in compliance with any currently applicable laws and regulations of the federal, state, or local governments, as may be amended from time to time including but not limited to, laws or regulations on nondiscrimination, zoning, building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, mechanical, and other applicable laws.

Section 9: DUTIES OF A HOST

It shall be the duty of a Host under this subchapter to ensure that:

- A. The short term rental meets the smoke detector requirements set forth in LMCO § [94.02](#); has at least one functional carbon monoxide detector installed in an appropriate location as set forth in Kentucky Residential Code; has at least one properly maintained and charged fire extinguisher on each habitable floor; every sleeping room shall have at least one operable emergency and rescue opening as set forth in the Kentucky Residential Code; and that a clearly marked evacuation plan is posted on the premises;
- B. There shall be no more than one contract per short term rental at a time;
- C. There is no signage on the premises of the short term rental advertising or identifying the short term rental in residential zoning districts.
- D. The name and telephone number of the Host and any emergency contact shall be conspicuously posted within the short term rental.
- E. Any Host using a Hosting Platform shall include the valid, Louisville Metro-issued registration number for the short term rental in the Short Term Rental Advertisement.

Section 10: ADVERTISING ON A HOSTING PLATFORM

- A. Short-term rentals registered in accordance with this Ordinance may be advertised for short-term stays of less than 30 days on a Hosting Platform. A Host and/or property owner that advertises an un-registered short-term rental on a Hosting Platform is subject to enforcement as stated and contained herein.
- B. The City may request that a Hosting Platform remove any listing or Short-Term Rental Advertisement from the platform where the registration number associated with a short-term rental listing is invalid, expired, or has been revoked. The City must identify the listing(s) to be removed by the listing URL and displayed registration number (whether valid or invalid) and state the reason for removal. The Hosting Platform shall remove the listing within ten business days of notification by the City.
- C. The City may request that a Hosting Platform provide the following information to the City of Beechwood Village on a monthly basis:

- a. The total number of short-term rentals in the City of Beechwood Village that were listed on the platform during the applicable reporting period; and
 - b. The total number of nights all short-term rental units were rented through the platform during the applicable reporting period.
 - c. These reports shall be due at the end of each month to include information from the preceding month.
- D. At the direction of the City, the Attorney for the City shall have the authority to subpoena information from any Hosting Platform. Any such subpoena shall:
- a. Be submitted in writing by the City attesting that the City of Beechwood Village Government has a reasonable belief based on evidence that a short-term rental may be in violation of this Ordinance;
 - b. Be served on the platform via its registered agent;
 - c. Be related to a specific investigation by the City relating to a short-term rental that is identified in the subpoena; and
 - d. Identify the alleged violations of this Ordinance.
 - e. The platform shall notify their user/Host of the information requested in the subpoena within ten business days of receiving the subpoena and produce records within 21 days of providing notice to the user/Host, except to the extent that the user/Host has sought relief in a court of competent jurisdiction.

Section 11: APPEAL AND REVIEW

In case any applicant has been denied a license, or if his license has been revoked or suspended, the applicant or licensee shall within three business days have the right to appeal to the City from the denial, revocation, or suspension. Notice of appeal shall be filed in writing with the City Clerk who shall fix the time and place for a hearing which shall be held not later than one week thereafter. The City Clerk shall notify the Mayor and all members of the governing body of the time and place of the hearing not less than 24 hours in advance thereof.

Section 12: ENFORCEMENT

In addition to the penalties provided in this ordinance, the City is authorized to enforce the provisions of this subchapter through declaratory, injunctive and other civil actions filed in any court of competent jurisdiction.

Section 13: PENALTY

1. Any person who violates any provision of this ordinance will be subject to a civil penalty of \$125 as imposed by the City and or Enforcement Officer. A second offense will be subject to a civil penalty of \$250 as imposed by the City and or Enforcement Officer. A third offense will be subject to a civil penalty of \$500 as imposed by the City or an

Enforcement Officer. Any additional offense beyond the third offense will be subject to a civil penalty of \$1,000 as imposed by the City and or an Enforcement Officer. Each day that a violation continues after separate notice has been served shall be deemed a separate offense. Any person who receives a citation for violating this ordinance may appeal the violation to the Code Enforcement Board.

2. Any person who violates any provision of this ordinance related to advertising on a Hosting Platform shall receive a notice of violation as a warning for a first offense. Any additional offense will be subject to a civil penalty of \$125 as imposed by the City and or an Enforcement Officer. Each day that a violation continues after separate notice has been served shall be deemed a separate offense. Any person who receives a citation for violating this ordinance may appeal the violation to the Code Enforcement Board.
3. Nonpayment will result in a lien being placed on the property with resulting lien filing and release fees paid to the Jefferson County Clerk, along with an attorney collection fee of \$100 dollars. Property so encumbered cannot be sold or transferred without the removal of the lien thereon.
4. In addition to the penalties provided herein, the City is authorized to pursue remedial civil action for violations of this ordinance by civil complaint or petition for injunctive relief, declaration of rights or other appropriate proceedings filed in the Jefferson County, Kentucky Circuit Court.

Section 14: EFFECTIVE DATE

This ordinance shall be effective upon its passage and upon publication.

First Reading: 11-12-2019 _____

Second Reading: 12-10-2019

Passed and Approved: 12-10-2019

Timothy Logan Griggs
Mayor

ATTEST:

Cherie Brewer
City Clerk

Votes in Favor 6

Votes Opposed 0