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2022 OCT 17 PM 3:36

AKRON CITY COUNCIL 13-0

October 17, 2022

Requested by Office of Integrated Development

Offered by MAYOR HARRIGAN

ORDINANCE NO. 291-2022 amending and/or supplementing Title 11 “Business Regulations,” Chapter 111 “Regulations Governing Specific Businesses” of the City of Akron Code of Ordinances to enact Article 37 “Short-term Rentals” to create procedures for the registration, regulation, fees, and enforcement of short-term rentals in the City; and declaring an emergency.

WHEREAS, advances in technology have enabled residential property owners all over the world to connect with potential renters in need of short-term accommodations through the use of short-term rental applications, websites, or other platforms; and

WHEREAS, the short-term rentals made possible by these changes have given rise to a unique business model, unlike hotels and other forms of lodging, that engages a full range of market participants from homeowners and apartment dwellers to institutional investors; and

WHEREAS, the short-term rentals can range in character from distinctly residential to distinctly commercial; and

WHEREAS, short-term rentals offer supplemental income for City residents, including the chance to rent property for short periods of vacancy or while trying to sell a home, and short-term rentals also increase tourism, providing access to the City for people who might not otherwise visit, and showcase neighborhoods of the City that may not often host tourists; and

WHEREAS, short-term rentals impact the quality of life of nearby neighbors, and unregulated short-term rentals create the potential for nuisance issues; and

WHEREAS, short-term rentals can impact on-street parking and traffic patterns; and

WHEREAS, the City seeks to ensure that properties are being rented out for short periods have coordinated with emergency responders, and meet minimum safety and sanitation requirements, including all existing requirements in applicable building codes, zoning codes, housing codes and fire codes.

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Akron:

Section 1. That Title 11 “Business Regulations,” Chapter 111 “Regulations Governing Specific Businesses,” Article 37 “Short-term Rentals,” Sections 111.620 through 111.629 of the Code of Ordinances of the City of Akron be and is hereby enacted and reads as follows:

Article 37. – Short-Term Rentals

Section 111.620 – Purpose and Applicability

- A. This Article applies to all short-term rentals located in the City of Akron, including those short-term rentals operated prior to the effective date of this ordinance, and all operators and hosting platforms conducting business in the City of Akron. This Article shall have prospective application**

and shall not impair or modify the terms of any agreement executed or in effect prior to the effective date of this Article providing for the occupancy of a short-term rental by a transient guest to the extent that the agreement and the other terms thereof conflict with the provisions of this Article.

- B. This Article shall not apply to any transient use of property otherwise regulated by specific provisions of the City of Akron Code of Ordinances.

Section 111.621 – Definitions

- A. Terms used in this Article have the same meaning as in the Housing Code and Zoning Code except as defined below or context otherwise requires a different meaning.
- B. As used in Title 11 “Business Regulations”, Chapter 111 “Regulations Governing Specific Businesses”, Article 37 “Short-term Rentals” of this Code of Ordinances,
1. “Article” means Article 37 “Short-term Rentals” of Title 11 “Business Regulations”, Chapter 111 “Regulations Governing Specific Businesses” of this Code of Ordinances.
 2. “Board” means the City of Akron Board of Housing Appeals.
 3. “City of Akron’s Short-term Rental Program” means the regulations of short-term rentals established by this Article.
 4. “County Auditor” means the Fiscal Officer or other official of Summit County who oversees, manages, or otherwise maintains the tax duplicates for parcels.
 5. “Hosting Platform” means a person or entity that provides a means through which short-term rentals are offered, listed, advertised, solicited, or otherwise held out for rent.
 6. “Housing Code” means Chapter 150 of this Code of Ordinances, as amended.
 7. “Mayor” means the Mayor of the City of Akron or person designated by the Mayor.
 8. “Occupant” means an individual physically present at the short-term rental, including, but not limited to, transient guests and any visitors.
 9. “Operator” shall mean any person who offers a short-term rental or holds a short-term rental out to the public for rental by placing advertisements or solicitations with a hosting platform.
 10. “Owner” means any person, agent, firm or corporation having a legal or equitable interest in the short-term rental.
 11. “Person” shall mean 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.
 12. “Registration Certificate” means the license issued by the Director that shows that a short-term rental is registered with the City for a specific calendar year.
 13. “Responsible Person” means a natural person designated by the operator of a short-term rental as having the duty, responsibility, and authority to operate, maintain, and manage the short-term rental and whose principal residence or principal place of business is located in the County of Summit or an adjoining county.

14. **“Short-term Rental”** means any residential dwelling unit or part of a residential dwelling unit offered or held out for rent for a duration of occupancy of less than 30 consecutive days.
15. **“Transient guest”** means a person or persons who enters into a contractual arrangement with the operator of a short-term rental whereby the person or persons pay rent to the operator, or to a person designated by the operator to receive rent, in exchange for occupancy of the short-term rental.
16. **“Zoning Code”** means Chapter 153 of this Code of Ordinances, as amended.

Section 111.622 – Registration Required

- A. No person shall operate or advertise any short-term rental unit within the City of Akron without first having applied for and received a registration certificate pursuant to this Article. The registration certificate of a short-term rental unit must be displayed prominently at the entrance inside of each short-term rental unit and must be included on any advertisement, solicitation, or other posting for the short-term rental on a hosting platform. Any property being used as a short-term rental unit without a registration certificate is a public safety hazard and a nuisance.
- B. The operator of a short-term rental shall apply annually for a registration certificate. In addition to any additional information or paperwork required by the Director, the operator’s application shall provide all of the following information and documentation required by subsections (B)(1)-(12) except where clearly inapplicable.
 1. **Owner information.** The full legal name, mailing address, email address and telephone number of each owner. In cases where a business entity or trust is an owner, the registration application must identify a specific individual along with that person’s mailing address, e-mail address, and telephone number. The registration application shall include a signature of each owner acknowledging the owner’s understanding of the City of Akron’s short-term rental regulations and verifying the owner’s acknowledgement that the owner is legally responsible and liable for compliance by the operator.
 2. **Operator information.** The full legal name, mailing address, email address and telephone number of the operator, and in cases where a business entity or trust is the operator, the individual who has responsibility to oversee the operation of the property including the mailing address, email address and telephone number of such individual.
 3. **Responsible Person Information.** The full legal name, mailing address, e-mail address, and phone number of the responsible person, who shall be available 24 hours a day, seven days a week to respond, as necessary, within 45 minutes of notification of a complaint regarding the condition, operation or conduct of occupants of the short-term rental unit and can take remedial action as necessary to resolve such complaints.
 4. **Hosting Platforms.** A current list of all hosting platforms through which the short-term rental is listed, advertised, solicited, or otherwise held out for rent.
 5. **Certificates of tax and public utility compliance or evidence of compliance with a payment plan.**
 6. **Evidence of compliance with rental registry requirements in Section 150.30 of the Housing Code.**
 7. **Affidavit of Life Safety Compliance** verifying the number, locations and operation of the life safety equipment required in Section 111.624 of this Article.

8. Proof of general liability insurance in the amount of at least \$1,000,000.
 9. A basic site plan identifying the number of sleeping rooms for maximum occupancy.
 10. A signed acknowledgement from each owner and operator agreeing to receive any notices of violation and/or orders to comply via electronic mail at the e-mail addresses listed in the application in lieu of personal service, posting, or certified or regular mail.
 11. An acknowledgement that the operator has read the City of Akron Municipal Code Chapter 38 "Unlawful Discrimination," including Section 38.03 "Unlawful discrimination related to housing" and Section 38.04 "Unlawful discrimination related to business establishments, public accommodations and/or educational institutions."
 12. Payment of a \$250 application fee, which shall be non-refundable.
 13. Any additional information or documentation that the Mayor determines to be necessary or proper to promote the purposes of this Article or otherwise to aid in its enforcement.
- C. Registrations are valid for one calendar year and must be renewed by January 31 of each year.
- D. An operator may not receive a registration certificate if any of the following are true:
1. The applicant failed to provide all required application materials or to pay the application fee.
 2. Any registration associated with the operator making the application or for the short-term rental that is the subject of the application is currently revoked or suspended as of the date of the application.
 3. The applicant, operator, or owner of the short-term rental is delinquent in the payment of existing tax and utility payment liabilities to the city, including payment of the short-term rental excise tax.
 4. The applicant has made a material misrepresentation of fact on the registration application.
 5. The applicant, operator, or owner of the short-term rental is shown to have been engaged in the act of prostitution or soliciting for prostitution, or an act that would constitute a violation of the Ohio Revised Code Chapters 2925 or 3719, on the premises of the short-term rental in question, or any short-term rental in which that individual has an interest in, including but not limited to ownership or operation.
 6. The applicant, operator or owner of the short-term rental has failed to correct violations of this Article or has obstructed or interfered with correction of the violations.
 7. The short-term rental premises is subject to outstanding orders from a City department that have not been corrected.
 8. The property is subject to any outstanding orders, unpaid fines or fees, or delinquent taxes or is otherwise not in compliance with the requirements of this Code of Ordinances.
 9. The property has been subject to three or more orders for noncompliance with the requirements of this Article or the requirements of any other portion of this Code of Ordinances in the previous five years.

10. An owner or operator of the short-term rental has been convicted of violating this Article in the previous five years.

Section 111.623 – Short-term Rental Registration Renewal

- A. All operators shall apply to renew the registration certificate no earlier than one hundred eighty days and no later than sixty days before its expiration date.

Section 111.624 – Operating Requirements

- A. Each owner and operator of a short-term rental shall ensure that the short-term rental is operated in accordance with the requirements of this section.
- B. Display of registration certificate and advisory.
 1. The registration certificate number for the short-term rental must be displayed on any and all electronic or non-electronic advertisements intended to promote the availability of the short-term rental unit.
 2. The registration certificate must be prominently displayed at the entrance inside of each short-term rental unit directly next to an advisory form that indicates the contact information for the responsible person, the contact information for the police department and the fire department that serve the area in which the short-term rental is located, the location of all means of egress from the short-term rental, and a list of activities and behaviors prohibited by this Article. If the Mayor has designated an official advisory form, then that official advisory form must be used in the short-term rental.
- C. Maximum occupancy. The number of overnight occupants in a short-term rental unit shall not exceed two occupants per sleeping room. Notwithstanding the foregoing, a property may not be used in a manner inconsistent with the regulations set forth in other chapters of this Code of Ordinances, including, but not limited to, the Housing Code and the Zoning Code.
- D. Life Safety Equipment. Each short-term rental unit shall have the following fully functional life safety equipment on the premises and installed to manufacturer specifications:
 1. Smoke alarms meeting the requirements of Section 150.08 of this Code of Ordinances;
 2. A carbon monoxide detector within 15 feet of each sleeping room; and
 3. A fire extinguisher meeting the requirements of Section 150.08 of this Code of Ordinances.
- E. Rental Records. There shall be maintained for each short-term rental a record of the periods the short-term rental was rented as well as the price paid by the transient guests and a copy of the rental agreement. These records must be maintained for at least seven years.
- F. Rental Registration. The short-term rental must be registered as a rental unit pursuant to Section 150.30 of this Code of Ordinances.
- G. Code Compliance. The short-term rental shall be maintained and operated in accordance with applicable building codes, zoning codes, housing codes, fire codes and the provisions of this Article.
- H. Each owner and operator of the short-term rental must remain current on all existing tax liabilities to the City of Akron, including payment of the short-term rental excise tax and filing an Annual Akron Municipal Income tax return reflecting a Federal Schedule E rental property income/loss.

- I. Each owner and operator is required to update the information provided with the application for the registration certificate in the event of a change, including, but not limited to, changes of mailing address, e-mail address, phone number, ownership, or operation. Owners and operators shall provide the updated information in the manner determined by the Mayor within seven (7) days of the change occurring.

Section 111.625 – Rules and Regulations

- A. The Mayor is authorized to adopt procedural rules and regulations to promote the purposes of this chapter and to aid in its enforcement. Such rules and regulations shall not alter the substantive provisions of this Article.
- B. Owners and operators shall comply with any rule or regulation adopted by the Mayor.

Section 111.626 – Excise Tax

All operators of short-term rentals shall pay, or shall cause any hosting platform on which their short-term rental is rented, to pay on their behalf, the short-term rental excise tax established in Chapter 104, Article 2 of the City of Akron Code of Ordinances.

Section 111.627 – Notice of Violation

- A. Whenever it is determined that there has been a violation of any of the provisions of this Article, notice of the violation shall be given to the person responsible therefor and order compliance as herein provided. The notice and order shall
 1. Include a list of violations, refer to the sections and subsections violated;
 2. Impose an administrative penalty as set forth in Section 111.629(A) and set forth a reasonable time in which to satisfy the payment; and
 3. To the extent the violation is ongoing, order remedial action, which will effect compliance with the provisions of this Article, and specify a reasonable time within which to comply.
- B. Any notice or order issued pursuant to subsection (A) of this section may be served on the operator and owner, if applicable, at the e-mail address listed on the registration application. If the City receives notice that the e-mail was not received or if the short-term rental is not registered with the City, the notice may be served personally or by certified mail and regular mail to the person's address supplied in the rental registration application or, if property is not registered, the residence, regular place of business, or last known address of the operator and/or owner or the building affected. If the certified and regular mail are both return unclaimed and/or undelivered, the notice may be posted at the short-term rental property.
- C. Notwithstanding subsection (A) of this section, the imposition of an administrative penalty may be waived or reduced by the Mayor if, in the discretion of the Mayor, there is good cause to believe that imposing the administrative penalty would not further the purposes of this Article.
- D. In addition to the imposition of an administrative penalty, a registration certificate may be revoked if any of the following is true.
 1. The use of the property as a short-term rental poses a risk to the public health, safety, and welfare.
 2. In the preceding five years, the property has been subject to three or more notices of

violation and/or orders to comply with the requirements of this Code of Ordinances, including, but not limited to, the requirements of this Article, the Housing Code, the Zoning Code, the Litter Code, the Fire Code, or the Building Code.

3. An owner or operator of the property has been convicted of violating the requirements of this Article within the past five years.
- E. A notice of violation and/or an order to comply is valid upon any person on whom it is served. It is not a defense to a notice of violation and/or order to comply issued pursuant to this section that another person who is an owner or operator was not also served and lack of service upon another person does not invalidate the notice of violation and/or order to comply upon any person who has been served.

Section 111.628 – Appeals

- A. Any person who receives a notice of violation and/or order to comply issued pursuant to section 111.627 of this Article may appeal the notice and/or order to the City of Akron Board of Housing Appeals. An appeal taken under this section is limited to the violations of this Article set forth in the notice of violation and/or order to comply and cannot be used to challenge or collaterally attack notices of violation and/or orders to comply issued pursuant to other sections of this Code of Ordinances including, but not limited to, violations of the Zoning Code or the Housing Code. Any appeal of a notice of violation and/or order to comply issued pursuant to a separate section of this Code of Ordinances shall be taken in the manner provided in the pertinent section of the Code.
- B. Any person who wishes to appeal a notice of violation and/or order to comply must submit a written notice of appeal to the Department of Neighborhood Assistance, Housing Division, within ten days after the day the notice is served and shall be accompanied by a deposit of fifteen dollars, which deposit shall be non-refundable. The notice shall set forth the name, address, and phone number of the appellant and a brief statement of the grounds for the hearing and appeal.
- C. A hearing before the Board will be held within a reasonable time after a request has been filed.
- D. At the hearing, the appellant shall be given an opportunity to be heard and show cause why the notice and/or order should be modified or dismissed. The failure of the appellant or representative to appear and present the appellant's position at the hearing shall be grounds for affirming the notice and/or order.
- E. On hearing, the Board may affirm, disaffirm, modify, or dismiss the notice and/or order by a majority vote of the members of the Board who are present. The appellant and the City shall be notified in writing of the findings, which may be delivered via electronic mail.
- F. The proceedings at the hearings, including the findings and decision of the Board and reasons therefor, shall be summarized in writing and entered as a matter of public record in the office of the Director of Neighborhood Assistance. The record shall also include a copy of every notice and order issued in connection with the matter. Any person aggrieved by the decision of the Board may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the state.

Section 111.629 – Penalties

- A. **Administrative Penalties.** In addition to any criminal penalties that may be imposed pursuant to subsection (D) of this section, any person, occupant, operator, or owner who violates or fails

to comply with any of the provisions of this chapter shall be subject to following administrative penalties in accordance with the criteria stated in Section 111.627 of this Article:

1. For a first offense, an administrative fine of up to one hundred dollars.
 2. For a second offense, an administrative fine of up to five hundred dollars.
 3. For a third and subsequent offense, an administrative fine of up to one thousand dollars.
 4. In addition to the administrative penalties set forth in (A)(1)-(3) of this section, an administrative penalty of \$100 per week for operating or advertising for operation of an unregistered short-term rental unit up to a maximum of \$4,500 per calendar year.
- B.** If a person, occupant, operator, owner, or purchaser fails, neglects, or refuses to pay an administrative penalty within the time ordered pursuant to Section 111.627 of this Article, then the Mayor shall so notify the Director of Finance. The Director of Finance shall certify the administrative penalty to the County Auditor. In addition to the administrative penalty, an interest rate equal to the current rate of interest charged by the City on special assessments shall be imposed by the City for the life of the administrative penalty, added to the administrative penalty, and collected as provided in this section. The Director of Finance shall then certify the amount of the administrative penalty, including interest, to the County Auditor. The County Auditor shall enter the amount on the tax duplicate of the county as a special assessment against the person's real estate at issue.
- C.** Money collected under this section shall be used exclusively for the Department of Neighborhood Assistance, including the Housing Division.
- D. Criminal Penalties.** In addition to any administrative penalties that may be imposed pursuant to division A of this section, any person, occupant, operator, or owner who violates or fails to comply with any of the provisions of this Article shall be guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars, imprisoned not more than sixty days, or both, and shall, in addition to any other penalties within these maximum amounts, be subject to the imposition of the following minimum mandatory penalties, which shall not be suspended or held in abeyance:
1. A person, occupant, operator, or owner who has not previously been convicted of any violation of a section of the Fire Prevention Code, Health, Safety, and Sanitation Code, Litter Code, Housing Code, Zoning Code, or Building Code shall be fined not less than fifty dollars.
 2. A person, occupant, operator, or owner who has previously been convicted of one violation of a section of this Article, the Fire Prevention Code, Health, Safety, and Sanitation Code, Litter Code, Housing Code, Zoning Code, or Building Code shall be fined not less than two hundred dollars.
 3. A person, occupant, operator, or owner who has previously been convicted of two violations of a section of this Article, the Fire Prevention Code, Health, Safety, and Sanitation Code, Litter Code, Housing Code, Zoning Code, or Building Code shall be fined not less than three hundred and fifty dollars.
 4. A person, occupant, operator, or owner who has previously been convicted of three or more violations of a section of this Article, the Fire Prevention Code, Health, Safety, and Sanitation Code, Litter Code, Housing Code, Zoning Code, or Building Code shall be fined not less than

five hundred dollars.

- E. **Revocation of Certificate.** In addition to any of the other penalties set forth above, the Director may revoke the short-term rental certificate associated with the property if any of the following are true:
1. The use of the property as a short-term rental poses a risk to the public health, safety, and welfare.
 2. In the preceding five years, the property has been subject to three or more notices of violation and/or orders to comply with the requirements of this Code of Ordinances, including, but not limited to, the requirements of this Article, the Housing Code, the Zoning Code, the Litter Code, the Fire Code, or the Building Code.
 3. An owner or operator of the property has been convicted of violating the requirements of this Article within the past five years.
- F. **Continuing Violations.** A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
- G. **Strict Liability.** The provisions of this chapter are specifically intended to impose strict liability.
- H. **Individual Liability.** It is the intent of this Article that each owner and operator be responsible for compliance with its requirements and that each owner and operator is jointly and severally liable for the violations of this Article. A private agreement between any owners and operators assigning responsibility for compliance is not a defense for violations of this Article and penalties imposed. Any person properly served with a notice of violation and/or an order to comply cannot raise as a defense that other owners and operators did not receive service or were not named in the notice of violation and/or order to comply.

Section 2. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that it is immediately necessary to establish a registration program for the operation of short-term rentals and provided this ordinance received the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed October 31, 2022

Dona R. Buirano
Clerk of Council

Ray Lammell
President of Council

Approved 11/1, 2022

[Signature]
MAYOR