

AMENDED 11-21-2017

ORDINANCE

ORDINANCE NO. O-245-2017

AN EMERGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF KNOXVILLE TO AMEND CHAPTER 16 OF THE KNOXVILLE CITY CODE TO ADD A NEW ARTICLE ENTITLED "SHORT TERM RENTALS" TO ESTABLISH REGULATIONS FOR SHORT TERM RENTAL UNITS.

ORDINANCE NO: O-245-2017

REQUESTED BY: MPC

PREPARED BY: Law Department

APPROVED ON 1ST

READING: _____

APPROVED ON 2ND

READING: _____

APPROVED AS AN EMERGENCY

MEASURE: 11-21-2017

MINUTE BOOK: 81 PAGE _____

WHEREAS, with the rise of the sharing economy, the City of Knoxville and cities across the country have seen growth in the popularity of short term rentals, which are rentals of residential units or dwellings for less than thirty consecutive days; and

WHEREAS, currently, there are approximately 300 short term rental listings advertised on various hosting platforms in the City of Knoxville; and

WHEREAS, in the absence of a regulatory framework, the City of Knoxville cannot monitor these short term rental listings, cannot ensure public safety, and cannot assess and collect applicable taxes; and

WHEREAS, the City of Knoxville recognizes that short term rentals raise issues of public policy and therefore the City of Knoxville has carefully considered the topic and provided numerous opportunities and forums for public input; and

WHEREAS, the City of Knoxville believes that the best approach to short term rentals is a permit scheme that balances the protection of neighborhoods with the interests of individuals who want to rent their property on a short term basis; and

WHEREAS, the ordinance enabling the permitting of short term rentals also imposes minimum safety requirements and provides for the collection of applicable taxes, including hotel occupancy privileges tax; and

WHEREAS, the Council of the City of Knoxville therefore desires to amend the Knoxville City Code to regulate the operation of short term rentals within the City of Knoxville; and

WHEREAS, these regulations will provide short term rental operators, consumers, and citizens with guidance and certainty on the safe and reasonable operation of short term rentals; and


WHEREAS, an emergency exists in that it is necessary for the immediate preservation of the public peace, property, health and safety that this Ordinance take effect immediately upon its passage.

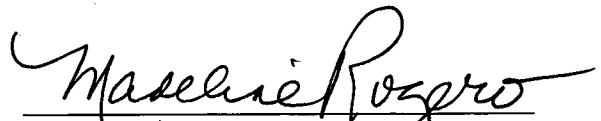
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KNOXVILLE:

SECTION 1: Chapter 16 of the Knoxville City Code is hereby amended by adding a new article as shown on Exhibit A attached hereto and made a part hereof by reference.

SECTION 2: An emergency is declared to exist in that it is necessary for the immediate preservation of the public peace, property, health and safety that this Ordinance take effect immediately upon its passage.

SECTION 3: This Ordinance shall take effect on January 2, 2018, the welfare of the City requiring it.


Recorder


Presiding Officer of the Council

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Short Term Rental Unit Ordinance
Proposed to be added to Chapter 16 as a newly created Article XV

Division 1. Generally.

- 1.1. **Purpose.** The city has determined that regulation of Short Term Rental Units is necessary in order to protect the health, safety, and welfare of the public, as well as to promote the public interest by regulating the areas and methods of operation. To meet these ends, the city has determined that all persons or entities that desire to operate Short Tem Rental Units within the city must be issued a permit pursuant to the requirements of this article.
- 1.2. **Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section. The word "shall" is always mandatory and not merely advisory.
 - a. *Consideration.* The charge, whether or not received, for occupancy in a Short Term Rental Unit valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deductions. Nothing in this definition shall be construed to imply that consideration is charged when the Short Term Rental Unit provided to the person is complimentary from the Operator and no consideration is charged to or received from any person.
 - b. *Short Term Rental Unit.* A dwelling unit, a portion of a dwelling unit, or any other structure or space that is occupied or intended or designed for occupancy by Transients for dwelling, lodging, or sleeping and which is offered to Transients for Consideration for a period of up to 30 consecutive calendar days. Short Term Rental Unit shall not include dwelling units owned by the federal government, the state, or any of their agencies or political subdivisions; facilities licensed by the state as health care facilities, including temporary family healthcare structures; hotels, inns, motels, bed and breakfasts properly approved by the City of Knoxville, or campgrounds; or dwelling units rented according to a written, month-to-month lease.
 - c. *Hosting Platform.* A person or entity that facilitates the booking of a Short Term Rental Unit. "Facilitate" includes, but is not limited to, the act of allowing an Operator to offer to list or advertise, typically for a charge or fee, the Short Term Rental Unit on an Internet website, in a print publication, or through another forum provided or maintained by the Hosting Platform.
 - d. *Residential District.* Any zoning district designated in the City of Knoxville where the principal permitted uses in the district include residential uses, including houses, duplexes, garage apartments accessory to a principal dwelling, and multi-dwelling structures. As of the date of the adoption of this article, Residential Districts shall include: all districts identified in the City of Knoxville Code of Ordinances, Appendix B, Article IV, Section 2.1; all planned residential districts (RP-1, 2, and 3); the traditional neighborhood development district (TND-1); and the Old Sevier and Scottish Pike South Waterfront District (SW-1).
 - e. *Non-Residential District.* Any zoning district designated in the City of Knoxville that allows residential uses, but is not a Residential District. Non-Residential Districts explicitly include, but are not limited to, Town Center District (TC-1); all South Waterfront Districts except SW-1; all Cumberland Avenue Corridor Districts; and Central Business District (C-2).

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- f. *Occupancy.* The use or possession, or the right to the use or possession, of any room, lodgings, or accommodations in any Short Term Rental Unit.
- g. *Operator.* The person or entity, if applicable, offering a Short Term Rental Unit, whether as the owner, lessee, or otherwise.
- h. *Transient.* Any person who exercises Occupancy or is entitled to Occupancy of any rooms, lodgings, or accommodations in a Short Term Rental Unit for a period of less than thirty (30) consecutive calendar days.

Division 2. Permit Types, Application, and Issuance.

- 2.1. Operating Permit Required.** It is unlawful to operate or advertise any Short Term Rental Unit within the City of Knoxville without a Short Term Rental Unit Operating Permit issued under this article.
- 2.2. Application.** Every Operator desiring to operate a Short Term Rental Unit shall submit an application for an Operating Permit to the Business License & Tax Office. Each application shall contain, at the least, all of the following information. In addition to the information required by the application, the Business License & Tax Office may request other information reasonably required. The permit application shall not be considered complete until the Business License & Tax Office has all information as required by the application or otherwise.
 - a. *Acknowledgement of Rules.* Written acknowledgement by the Operator that they have read all regulations pertaining to the operation of a Short Term Rental Unit, including this article, the city's business license requirements, the city's occupancy privilege tax requirements, any additional administrative regulations promulgated or imposed by the city to implement this article, and acknowledging responsibility for compliance with the provisions of this article.
 - b. *Affidavit of Life Safety Compliance.* During each Short Term Rental Unit Occupancy, each Short Term Rental Unit shall have the following life safety equipment on the premises and installed to manufacturer specifications: (i) a smoke alarm meeting Underwriters Laboratory (UL) 217 standards inside each sleeping room, outside of and within fifteen feet of sleeping rooms, and on each story of the dwelling unit, including basements; (ii) a carbon monoxide detector within 15 feet of all bedrooms; and (iii) and a fire extinguisher. Every smoke and carbon monoxide alarm must function properly with the alarm sounding after pushing the test button and the fire extinguisher must be operational. It shall be unlawful to operate a Short Term Rental Unit without a smoke alarm, carbon monoxide detector, or fire extinguisher as required by this section. An application for an Operating Permit must be accompanied by an affidavit verifying the number, locations, and operation of the required life safety equipment for the Short Term Rental Unit and the equipment will be subject to verification or inspection.
 - c. *Lessee Information.* If a lessee is operating a Short Term Rental Unit, the lessee shall provide (i) the full legal name of the owner the Short Term Rental Unit, (ii) the mailing address, email address, and telephone number(s) of the owner, and (iii) a signature of the owner acknowledging the owner's understanding of all City of Knoxville Short Term Rental Unit rules and verifying the owner's agreement that they are legally responsible and liable for compliance by the Operator and all occupants of the Short Term Rental Unit with all provisions of this article and other applicable ordinances of the City of Knoxville.

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- d. *Local Contact Person.* A person designated by the Operator, who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of: (i) being able to physically respond, as necessary, within forty-five (45) minutes of notification of a complaint regarding the condition, operation, or conduct of occupants of the Short Term Rental Unit, and (ii) taking remedial action necessary to resolve any such complaints. A Local Contact Person may be the owner, the lessee, or the owner's agent.
- e. *Owner Information.* The full legal name, street and mailing addresses, the email address, and the telephone number of the owner of the Short Term Rental Unit and in cases where a business entity or trust is the owner of the property, the individual who has responsibility to oversee the ownership of the property on behalf of the business entity or trust, including the mailing address, the email address, and the telephone number of the individual having such responsibility. If the owner of a Short Term Rental Unit is a business entity, information and documentation is required demonstrating the owner's valid status with the Tennessee Secretary of State.
- f. *Site Plan.* A site plan and floor plan accurately and clearly depicting the size and location of the existing dwelling and the approximate square footage in the dwelling, the number and location of designated off-street parking spaces and the maximum number of vehicles allowed for overnight occupants. The floor plan shall describe the use of each room in the dwelling, the number, location and approximate square footage of all bedrooms, and any accessory buildings, including but not limited to garages and accessory dwelling structures or units.
- g. *Indemnification.* Written acknowledgement and agreement by the Operator that, in the event a permit is approved and issued, the Operator and owner, if the Operator is not the owner, agree to assume all risk and indemnify, defend and hold the city harmless concerning the city's approval of the permit, the operation and maintenance of the Short Term Rental Unit, and any other matter relating to the Short Term Rental Unit.

2.3. Short Term Rental Unit Operating Permit Types.

- a. *Type 1 Operating Permit, Owner Occupied in Residential Districts.*
 - i. Generally. A Type 1 Operating Permit is available in Residential Districts upon meeting the criteria in this article. A Type 1 Operating Permit can be issued only to an owner of the Short Term Rental Unit. The property where the Short Term Rental Unit is located must be the owner's principal residence, except in the instance of duplexes as further described in this section. A person can only hold one (1) Type 1 Operating Permit in the City of Knoxville. The Type 1 Operating Permit is available only to natural persons. The owner is not required to remain or be present at the Short Term Rental Unit during the Occupancy.
 - ii. Accessory Structures and Duplexes. If there is an accessory dwelling structure on the property, the Type 1 Operating Permit can be for either the primary dwelling structure or the accessory dwelling structure, but not for both. If a property houses a legal duplex and an owner owns both sides of the duplex, one (1) Type 1 Operating Permit is available to the owner for either side of the duplex so long as the owner's principal residence is one side of the duplex.

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iii. **Proof of Ownership and Residency.** Ownership shall be established by the deed for the property as recorded in the Knox County Register of Deeds. Residency shall be established by at least two of the following documents, which must list the address of the Short Term Rental Unit on the document:

1. The owner's motor vehicle registration;
2. a valid driver's license or TN identification card of the owner;
3. the address of the owner's children's school registration;
4. the owner's voter registration card; or
5. the owner's W-2 mailing.

At least one owner listed on the deed for the Short Term Rental Unit must establish residency at the Short Term Rental Unit according to the criteria set forth in this Section 2.3.

b. *Type 2 Operating Permit, Non-Owner Occupied in Residential Districts.* A Type 2 Operating Permit is available in Non-Residential Districts upon meeting the criteria in this article. A Type 2 Operating Permit can be issued to an owner or lessee of the property. A Type 2 Operating Permit is available to a person or an entity. A person or entity can only hold two (2) Type 2 Operating Permits in the City of Knoxville. Upon application for a Type 2 Operating Permit, a lessee must provide the signature of the owner as further described in Section 2.2.

c. *Type 3 Operating Permit, Limited Non-Owner Occupied in Residential Districts.*

- i. Generally. A Type 3 Operating Permit is available in Residential Districts to operators who have operated a Short Term Rental Unit prior to March 1, 2017 ("Qualifying Date") upon meeting the criteria in this article. A person or entity can obtain a Type 3 Operating Permit for each Short Term Rental Unit operating prior to the Qualifying Date and meeting the other criteria in this article. Proof of operation shall be required upon application and must demonstrate that the Short Term Rental Unit was both listed on a Hosting Platform and was occupied by a Transient for Consideration at least once prior to the Qualifying Date. A Type 3 Operating Permit is specific to the Short Term Rental Unit for which it issued; it cannot be transferred to another location.
- ii. **Window of Availability.** A Type 3 Operating Permit must be obtained within thirty (30) days of the effective date of this ordinance, after which time no Type 3 Operating Permits shall be issued under any circumstances whatsoever.
- iii. **Expiration.** All Type 3 Operating Permits shall expire one (1) year from the effective date of this ordinance and shall not be renewed.
- iv. **Owner or Lessee Eligible.** A Type 3 Operating Permit can be issued to either an Owner or lessee of the property, who does not need to occupy the Short Term Rental Unit as a principal residence; provided that a lessee must obtain the signature of the

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Owner on the application for the Operating Permit. A Type 3 Operating Permit is available to a person or an entity.

- v. **Accessory Structures and Duplexes.** If there is an accessory dwelling structure on the property, the Type 3 Operating Permit can be for either the primary dwelling structure or the accessory dwelling structure, but not for both. If a property houses a legal duplex and an Owner owns both sides of the duplex, only one (1) Type 3 Operating can be issued for only one side of the duplex, but not both sides of the duplex.

2.4. Fees. An application for an Operating Permit under this article shall be accompanied by a fee in the amount of seventy dollars (\$70.00) for a Type 1 Permit and one hundred and twenty dollars (\$120.00) for Type 2 and Type 3 Permits. The Business License & Tax Office shall collect the permit fee. There shall be no proration of fees. Fees are non-refundable once a permit has been issued by the Business License & Tax Office.

2.5. Issuance of Permit. Once the application is considered complete by the Business License & Tax Office, the Business License & Tax Office shall issue or deny the unit permit within fourteen (14) business days. If the Business License & Tax Office is satisfied that the application and the Short Term Rental Unit conforms to the requirements of this article and other pertinent laws and ordinances, a permit shall be issued to the applicant. If the application or Short Term Rental Unit does not conform to the requirements of this article or other pertinent laws or ordinances, the Business License & Tax Office shall not issue the permit, but shall inform the applicant of the denial. Such denial, when requested, shall be in writing and state the reasons for denial. The Operating Permit shall be valid for one (1) calendar year from the date of issuance, unless the Operating Permit is revoked pursuant to this article or terminated by ordinance or otherwise.

2.6. Permit Renewal. Type 1 and Type 2 Operating Permits, unless suspended or revoked for a violation of any provision of this article or other rule or of the city, can be renewed annually provided that a renewal fee of fifty dollars (\$50.00) is paid no later than fourteen (14) business days before the Operating Permit's expiration. An application for renewal of a unit permit shall be made through the Business License & Tax Office. After the Operating Permit's expiration, the holder of the Operating Permit forfeits the right to renew and the Operator must reapply for a new Operating Permit. A renewed Operating Permit shall be good for one calendar year from the date of issuance. Type 3 Operating Permits cannot be renewed and are only valid for one (1) year and thirty (30) days from the effective date of this ordinance, unless suspended or revoked earlier for a violation of any provision of this Article or other rule or of the city. If a Type 3 Operating Permit is revoked under this Article, it cannot be renewed or reapplied for, and the ability of the Owner or lessee to obtain or hold a Type 3 Operating Permit for the Short Term Rental Unit is extinguished permanently.

2.7. Prohibitions Against Transfer.

- a. *Generally.* No person or entity holding an Operating Permit shall sell, lend, lease, or in any manner transfer the permit for value.
- b. *Type 1 Operating Permit, Owner Occupied; Type 3 Operating Permit, Limited Non-Owner Occupied in Residential Districts.* The permission to operate a Short Term Rental Unit under

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a Type 1 or Type 3 Operating Permit shall be personal and limited to the owner to whom the city issued the permit. A Type 1 or Type 3 Operating Permit shall terminate immediately upon the transfer of property covered by the permit, whether such transfer is by deed, by law, or otherwise.

- c. *Type 2 Operating Permit, Non-Owner Occupied.* As an exception to 2.7.a., the holder of a Type 2 Operating Permit may transfer the permit as part of the sale of a majority of the stock in a corporation holding such permit, as part of the sale of a majority of the membership interests of a limited liability company holding such permit, or as part of the sale of a business or substantially all of its assets; provided that there shall be no allocated or actual value for the transfer of the permit. Prior to any such transfer permitted by this subsection, the transferor shall notify the Business License & Tax Office in writing and the transferee shall submit a permit application for approval to the Business License & Tax Office pursuant to the process set forth in this section. Any such transfer shall be subject to the terms and conditions of the original permit.
- d. *Transfers Invalid.* Any unauthorized transfer or attempt to transfer a permit shall automatically void such permit. Persons violating this provision, including both the transferor and transferee, may be subject to a citation and fine. Each unauthorized transfer or attempt to transfer of each permit shall constitute a separate violation.

2.8. No Vested Rights. Except in instances where constitutional principles or binding state or federal laws otherwise provide, the provisions of this article and any ordinances or other measures concerning Short Term Rental Units are not a grant of vested rights to continue as a Short Term Rental Unit indefinitely. Any Short Term Rental Unit use and permits for Short Term Rental Units are subject to provisions of other ordinances, resolutions, or other city measures concerning Short Term Rental Units that may be enacted or adopted at a later date, even though such ordinances, resolutions, or other city measures may change the terms, conditions, allowance, or duration for Short Term Rental Unit use, including but not limited to those that may terminate some or all Short Term Rental Unit uses, with or without some period of amortization. While this recitation concerning vested rights is implicit in any uses permitted by the city, this explicit recitation is set forth to avoid any uncertainty or confusion.

Division 3. Compliance with Laws, Complaints, Remedies, and Permit Revocation.

- 3.1. Compliance with City and State Laws.** It shall be unlawful to operate a Short Term Rental Unit that does not comply with all applicable city and state laws.
- 3.2. Operation without Permit.** Any Short Term Rental Unit operating or advertising for operation without a valid permit shall be deemed a public safety hazard. The city may issue and the Operator, the owner, or the Local Contact Person may receive a civil citation for operating or advertising for operation without a permit and the penalty for such is fifty dollars (\$50.00) per day.
- 3.3. Public Nuisance.** It is unlawful and a violation of this article, and is hereby declared a public nuisance for any person to commit, cause, or maintain a violation of any provision or to fail to comply with any of the requirements of this article. The operation or maintenance of a Short Term Rental Unit in violation of this article or any other city ordinance may be abated or summarily abated by the city in any manner by this code or otherwise provided by law for the abatement of public nuisances. The city may issue and the Operator, the owner, the occupants, or the Local Contact Person may receive a civil citation for any violation of this article or any other city ordinance by the Operator, the owner, the

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Local Contact Person, or the occupants of the Short Term Rental Unit and the penalty for such is fifty dollars (\$50.00) per day.

- 3.4. Complaints.** If a complaint is filed with the City of Knoxville alleging that an Operator has violated the provisions of this article, the City of Knoxville shall provide written notification of the complaint by regular mail to the Operator at the Operator's address listed on the application, and the City of Knoxville shall investigate the complaint. Within thirty (30) days of date that the notification was sent to the Operator, the Operator may respond to the complaint, present evidence, and respond to evidence produced by the investigation. If the City of Knoxville, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the City of Knoxville may revoke the unit permit or take or cause to be taken other enforcement action as provided in the Knoxville City Code.
- 3.5. Revocation of Permit.** The City of Knoxville may revoke an Operating Permit if the City discovers that (i) an applicant obtained the permit by knowingly providing false information on the application; (ii) the continuation of the Short Term Rental Unit presents a threat to public health or safety; or (iii) the Operator or Short Term Rental Unit violates regulations of this article or any other city ordinance.
- 3.6. Appeal of Revocation.** If a permit is revoked, the City Business License & Tax Office shall state the specific reasons for the revocation. Any Operator whose Operating Permit has been revoked may appeal such denial by submitting a written request for a hearing submitted to the revenue administrator of the Business License & Tax Office within ten (10) days of revocation. A hearing shall be conducted within thirty (30) days of the revenue administrator's receipt of said appeal by a panel comprised of the zoning chief, the neighborhood coordinator, and the revenue administrator of the city. The panel shall consider whether the revocation was justified and whether good cause exists to reinstate the permit. The panel shall issue its decision on the appeal in a written opinion within ten (10) business days; the written opinion will be sent via first class mail to the Operator at the address listed on the application. The decision resulting therefrom shall be final and subject only to judicial review pursuant to state law. Following the revocation of a permit, an Operator must wait six (6) months before reapplying for a new permit, unless stated otherwise in this Article. Upon reapplication, the Operator must pay the full permit fee.
- 3.7. Additional Remedies.** The remedies provided in this section are not exclusive, and nothing in this section shall preclude the use or application of any other remedies, penalties or procedures established by law.
- 3.8. City Shall Not Enforce Private Agreements.** The city shall not have any obligation or be responsible for making a determination regarding whether the issuance of an Operating Permit or the use of a dwelling as a Short Term Rental Unit is permitted under any private agreements or any covenants, conditions, and restrictions or any of the regulations or rules of the homeowners' association or maintenance organization having jurisdiction in connection with the Short Term Rental Unit, and the city shall have no enforcement obligations in connection with such private agreements or covenants, conditions and restrictions or such regulations or rules. If the Short Term Rental Unit Operator is a lessee, the owner of the Short Term Rental Unit shall provide written acknowledgement and agreement to the Short Term Rental Unit, but the city shall not have any obligation or be responsible for verifying the ownership information.

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Division 4. Operational Requirements

- 4.1. **Taxes.** All Short Term Rental Unit Operators are responsible for applicable taxes, including, but not limited to, Hotel Occupancy Privilege Tax to the City of Knoxville, sales tax to the State of Tennessee, and gross receipts tax to the State of Tennessee. An Operator may be required to obtain a City of Knoxville and a Knox County business license for the purposes of gross receipts tax.
- 4.2. **Advertising.** It shall be unlawful to advertise any Short Term Rental Unit without the Operating Permit number clearly displayed on the advertisement. For the purposes of this section, the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a Short Term Rental Unit in any forum, whether electronic or non-electronic, in order to promote the availability of the Short Term Rental Unit.
- 4.3. **Maximum Occupancy.** The number of Transients in a Short Term Rental Unit shall not exceed the sum of two (2) Transients per bedroom plus two (2) additional Transients; provided, however, that the maximum occupancy of the Short Term Rental Unit shall not exceed 12 persons, including Transients and any other individuals residing in or otherwise using the Short Term Rental Unit.

Division 5. Miscellaneous Provisions

- 5.1. **Severability.** The City Council of the City of Knoxville hereby declares that should any section, paragraph, sentence, phrase, term or word of this ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance independent of the elimination of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.