

THIRD AMENDED ORDINANCE 11 - 20

By: Jessica Saad

An Ordinance to Amend Chapter 1266, Chapter 882 and Chapter 1220 of the City of Bexley Codified Ordinances in order to regulate certain short-term rentals within the City of Bexley.

Whereas, new technologies have resulted in the expansion of short-term rentals of residential property across the country; and

Whereas, the use of short-term rentals within residential areas can have a negative impact on adjacent properties, and can jeopardize a resident's right to quiet enjoyment; and

Whereas, reasonable limitations to short term rental are in the best interests of the community; and

Whereas, the City of Bexley has a duty to balance the diverse interests of those impacted by these rentals, including property owners; and

Whereas, the City of Bexley, in promotion of its efforts to provide safe and healthy neighborhoods while providing reasonable protection for the rights of property owners, finds it necessary to amend Chapter 1266, Chapter 882 and Chapter 1220, which will provide regulations on short-term rental operations;

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

Section 1.

That Chapter 1266.18 be created to read as follows:

1266.18 SHORT TERM RENTALS.

(a) Definitions:

- a. "Bedroom" means a room with a door that can be closed, that is furnished as a sleeping area, and contains a window and a closet.
 - b. "Calls for Service" means any and all calls, including but not limited to those to law enforcement and/or the fire department, when those calls:
 - i. result in a representative being dispatched or directed to the short-term rental;
 - ii. allege evidence of criminal activity;
 - iii. result in an arrest, charge or citation; or
 - iv. find an imminent threat to safety of person(s) or property.
 - c. "Director" means the Public Safety Director or the Director's authorized designee.
 - d. "Hosting Platform" means a person or entity in whatever form or format that facilitates, through advertising or any other means, a short-term rental booking transaction for accommodations between a short-term rental host and short-term rental guest, including, but not limited to, reservations and/or collection of payment for such accommodations on behalf of the short-term rental host.
 - e. "Owner" means the property owner that holds the fee simple interest in the property being used for Short Term Rental.
 - f. "Principal Residence" means the home that an Owner physically occupies for a greater period of time than any other residential unit that they occupy.
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- g. "Short Term Rental" means any dwelling that is rented wholly or partly for a fee for less than thirty (30) consecutive days by tenants from which the Owner receives monetary compensation.
- h. "Short-Term Rental Host" means the Owner of a short-term rental who offers the short-term rental for temporary lodging.

(b) Principal Residence Requirement.

The Owner of a Short Term Rental must maintain the dwelling as his/her/their principal residence.

(c) Short Term Rental Activity Restrictions.

- a. A Short Term Rental may not be rented as a Short Term Rental for more than a combined total of 60 (sixty) days during the initial twelve month period and thereafter during any given twelve month look back period from the date of the annual registration.
- b. A Short Term Rental may not be used for parties, events, or gatherings in excess of 15 (fifteen) individuals.
- c. A Short Term Rental may not be rented by a group containing more individuals than the maximum number, calculated based upon a maximum occupancy of 2 (two) occupants per Bedroom.
- d. Overnight parking shall be limited to vehicles that are registered with the rental and are limited to one vehicle per available onsite off-street parking space.

(d) Registration Requirement.

- a. Owners wishing to provide short term residential rentals must be registered with the City on a form to be established by the Director and shall be subject to an annual registration fee of \$75.00.
 - i. No short-term rental host shall engage in, conduct or carry on a short-term rental without obtaining a valid permit in accordance with this chapter.
 - ii. No short-term rental host shall engage in a short-term rental operation located within the City of Bexley without listing the valid short-term rental permit number associated with the short-term rental on any property on any medium used by the short-term rental host to advertise the short-term rental.
 - b. Applications for registration shall contain the following information:
 - i. The name of the Owner, including mailing address, telephone number and e-mail address and the address of the property if different than the applicant's mailing address;
 - ii. Sufficient information to demonstrate compliance with the primary residence requirement set forth in 1266.18(b);
 - iii. The names of all hosting platforms on which the applicant is registered;
 - iv. The number of guestrooms available for short-term rental;
 - v. The name and contact information of the emergency contact as required by section 1266.18(f);
 - vi. Any additional information deemed appropriate by the Director and not inconsistent with the provisions of this Chapter.
 - c. The applicant must notify the Director of any change in information contained in the permit application within ten (10) days of the change.
 - d. Any change in ownership of the dwelling shall void the current registration and shall require submission and approval of a new application.
 - e. Upon approval, a short-term rental shall be assigned a registration/permit number that must be displayed prominently with the unit on any hosting platform or in advertisements for the short-term rental.
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- f. Registrations approved by the Director shall be valid for twelve (12) months from the date of approval. Upon registration, the Director shall cause a letter of notification to be sent to all properties adjacent to the Short Term Rental.
- g. A permit for short-term rental must be renewed prior to the expiration date of a permit that has been approved by the Director. A request for renewal shall contain the same information required for an original permit and, upon request, also include rental information for the prior twelve (12) months as required to be maintained by section 1266.18(f).

(e) Inspection Requirement.

Prior to being registered for Short Term Rental use, the Code Enforcement Officer shall satisfactorily inspect the property for life-safety and code compliance issues.

- a. Minimum life-safety standards shall include full compliance with current fire code. Properties that are otherwise pre-existing "grandfathered" per the fire code shall additionally be furnished with smoke and carbon monoxide detectors on every level and in every sleeping room and in any room containing a fuel burning appliance, adjacent to a room containing a fuel burning appliance, and adjacent to attached garage(s). Fire extinguishers shall be required in all kitchens and all rooms containing a fuel burning appliance.
- b. Any firearms stored by the Owner in the Short-Term Rental must be stored in a secured area to prohibit access to such firearms by the persons renting the Short-Term Rental.
- c. The Director may require additional life-safety standards, provided said standards are reasonable and universally applied across all registered properties.
- d. In the event that, upon inspection, the Code Enforcement Officer determines improvements to the property were made without the issuance of a valid permit for said improvements, the property Owner must obtain a retroactive permit prior to being registered for Short Term Rental use.
- e. The Code Enforcement Officer may additionally inspect an actively registered Short Term Rental at any point, with reasonable notice, for compliance with this chapter.
- f. The Code enforcement Officer may inspect a registered Short-Term rental upon re-application.

(f) Disclosure and Emergency Contact Requirement.

Short-term rental hosts must provide written notice to the short-term rental guest(s) of any known, non-obvious or concealed condition, whether man made or artificial, which may present a danger to the short-term rental guest(s) and must comply with and post in the short-term rental, all applicable local laws and regulations; and, disclose the designated 24 hour emergency contact and cell phone number for the Short Term Rental who resides within 20 miles of the Short Term Rental.

(g) Surveillance Requirement.

Short-term rental hosts must comply with Section 2933.52 of the Ohio Revised Code. Such compliance shall also include known, non-obvious or concealed surveillance equipment, including, but not limited to, digital video cameras/recorders/monitors, livestreaming video security cameras, audio recorders/monitors, or any other electronic means of secretly watching, listening, or recording. In the event a short-term rental host utilizes an indoor and/or outdoor interception device(s), or any specific or similar aforementioned device, the short-term rental host shall notify the short-term rental guest in writing. In the event the short-term rental guest does not consent to the short-term rental host utilizing an indoor interception device(s), or any specific or similar aforementioned device for the duration of the short-term rental period, the short-term rental

host must deactivate the indoor interception device(s) and shall not intercept, listen, monitor, record, or like thereof, any activity inside the dwelling.

(h) Taxation.

Short Term Rental income shall be subject to Hotel /Motel/Bed and Breakfast Inn/Short Term Rental Tax as specified in Chapter 882.

(i) Insurance Requirement.

All short-term rental hosts must obtain liability insurance for the short-term rental. Each short-term rental shall at all times maintain the following insurance coverage meeting all of the following requirements:

- a. A general liability insurance policy or certificate that shall provide minimum coverage of not less than three hundred thousand dollars (\$300,000). Such policy or certificate must be issued by an insurance company that is authorized to do business in the state of Ohio or by an eligible surplus lines company or risk retention group.
- b. The policy or certificate shall provide notice of cancellation of insurance to the Director at least ten (10) days prior to cancellation.
- c. Any cancellation of insurance required by this section shall result in an automatic revocation of the registration of the short-term rental.
- d. In the event that a Hosting Platform provides liability insurance to a host, such insurance would be deemed acceptable for submission provided the insurance meets the requirements of this section.

(j) Hosting Platform Requirements

- a. No Hosting Platform shall list a short-term rental located within the City of Bexley without prominently displaying a valid permit account number for that short-term rental on any medium the Hosting Platform uses to advertise the short-term rental. Hosting Platforms shall not advertise any short-term rental that does not have a valid permit; and,
- b. If the ~~administration~~ Director notifies a Hosting Platform that a short-term rental permit is no longer valid, the Hosting Platform shall remove or deactivate all listings for that short-term rental operation within three (3) business days to prevent that short-term rental from being rented or advertised.
- c. The owner is responsible for hosting platform compliance.

(k) Records Required.

Short-term rental hosts and Hosting Platforms that offer short-term rentals shall maintain and provide to the City records as follows:

- a. Each Hosting Platform advertising listings of short-term rentals located in the City of Bexley shall provide the Director with the following information for each short-term rental:
 - i. The physical address;
 - ii. The name of the person who registered the unit, and
 - iii. The dates and duration of stay in a short-term rental, the number of persons who were scheduled to stay each night, and the room rate charged for each short-term rental.
- b. A short-term rental host that offers a short-term rental shall retain and provide to the Director or law enforcement officials records to demonstrate compliance with this section, including, but not limited to, primary residency, the name of the short-term rental guest responsible for the reservation and/or who rented the unit on each night, dates and duration of stay in a short-term rental, the rate charged for each short-term rental on each night and the name and contact information of the emergency contact as required by section 1266.18(f).

- c. Hosting Platforms and Short-Term Rental Hosts shall retain records required by this section for a period of at least four (4) years.
- d. If the request for records described in division (C) of this section is denied, any officer or employee of the Police Department, Building Department, or Franklin County Public Health may seek an administrative search warrant from a court of competent jurisdiction authorizing said inspection.

~~(l) — Revocation or Denial.~~

~~Revocation of a registration or denial of a registration renewal may be made at the discretion of the Director based upon any of the following violations:~~

- ~~a. The applicant makes a material misrepresentation of fact on the application;~~
- ~~b. The applicant has violated local, state, or federal fair housing and/or non-discrimination laws, including section 1266.20 of this Chapter. The short-term rental host is not in good standing with the City of Bexley Income Tax Division.~~
- ~~c. The applicant is not in compliance with this Chapter.~~
- ~~d. Any prostitution activity or evidence of human trafficking.~~
- ~~e. Evidence of drug activity.~~
- ~~f. A pattern of any of the following has been established to exist at the property:

 - ~~1. Felonious activity;~~
 - ~~2. More than 2 calls for service to the property, when in use as a short term rental, during a consecutive twelve month period.~~
 - ~~3. The short-term rental has a documented history or repeated conduct that endangers neighborhood safety or compromises the peaceful enjoyment of the neighborhood.~~~~
- ~~g. Any other matter which may affect the health, welfare and safety of the community as a whole and the parcels in the immediate vicinity of the site.~~

- (m) Nothing in this section shall be construed as permitting any person to register or offer a short-term rental, where prohibited by any other provision of law.

1266.19 GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION

- (a) The Director shall issue a new permit or grant the renewal of an existing permit unless the applicant fails to meet the criteria or requirements set forth in section 1266.18.
 - (b) The Director has the authority to revoke a previously approved application if the registered Owner fails to meet the requirements of section 1266.18.
 - (c) Revocation of a registration or denial of a registration renewal may be made at the discretion of the Director based upon any of the following violations:
 - a. The applicant makes a material misrepresentation of fact on the application;
 - b. The applicant has violated local, state, or federal fair housing and/or non-discrimination laws, including section 1266.20 of this Chapter.
 - c. The short-term rental host is not in good standing in the payment of City of Bexley income taxes or property assessments.
 - d. The applicant is not in compliance with this Chapter.
 - e. Any prostitution activity or evidence of human trafficking.
 - f. Evidence of drug activity.
 - g. A pattern of any of the following has been established to exist at the property:
 - 1. Felonious activity;
 - 2. More than 2 calls for service to the property, when in use as a short-term rental, during a consecutive twelve month period.
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3. The short-term rental has a documented history or repeated conduct that endangers neighborhood safety or compromises the peaceful enjoyment of the neighborhood.

h. Any other matter which may affect the health, welfare and safety of the community as a whole and the parcels in the immediate vicinity of the site.

(d) Evidence of conduct under paragraph (c) of this section need only be that of de facto violation of law. Evidence of a conviction is not a prerequisite unless specifically indicated.

(e) Prior to revoking any previously approved application, the Director may suspend such permit for up to thirty (30) calendar days.

(f) Any applicant or Owner who has been denied, suspended, revoked or refused a license under this Chapter may appeal such decision and request a hearing before the Board of Zoning and Planning within ten (10) business days of such action. At the hearing, the applicant or Owner may present evidence supporting the application and alleged compliance with this Chapter. The Board of Zoning and Planning shall consider all relevant evidence and information so presented along with the evidence considered by the Director or designee when denying or revoking the application.

1266.20 DISCRIMINATION PROHIBITED

(a) An owner, permanent occupant, short-term rental host or hosting platform shall not decline a short-term residential guest, impose different terms and conditions on such guest or otherwise discriminate based on race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability or military status.

1266.21 SHORT-TERM RENTAL PENALTY

(a) Whoever violates any provision of this Chapter shall be guilty of an unclassified misdemeanor and shall be fined not more than \$250. Upon subsequent convictions, the penalty shall be a misdemeanor of the third degree and a fine of not more than \$500 or imprisonment of not more than sixty (60) days.

1266.22 SEVERABILITY

(a) In the event any provision of this Chapter is declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Chapter as a whole or the remaining parts of this Chapter other than the parts declared invalid or unconstitutional.

Section 2.

That Chapter 882.01 and 882.02 be amended to read as follows:

CHAPTER 882

Hotel /Motel/Bed and Breakfast Inn/Short Term Rental Tax

882.01 DEFINITIONS.

As used in this chapter, except where the content clearly indicates a different meaning:

(a) "Bed & Breakfast Inn", "Hotel" and "Motel" all mean every establishment kept, used, maintained, and advertised or held out to the public to be a place where sleeping accommodations are offered to guests for monetary consideration, in which one or more rooms are used for the sleeping

accommodation of such guests, whether such rooms are in one or several structures. College dorms and Student dorms are exempt from this definition.

(b) "College dorms" or "Student dorms" mean structures where sleeping accommodations are offered by a college, accredited private primary or secondary institution, public school district, seminary or university to enrolled students, whether full time, part time, or for special event activities.

(c) "Short Term Rental" means any dwelling that is rented wholly or partly for a fee for less than thirty (30) consecutive days by tenants from which the Owner receives monetary compensation.

(d) "Transient guest" means a person occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

882.02 IMPOSITION OF TAX

(a) ~~Effective July 1st 2013, for the purpose of providing with which to meet the needs of the City for use in the general fund of the City, a~~ An excise tax of six percent (6%) (comprised of the up to three percent (3%) allowed by Ohio R.C. 5739.08(A) and up to an additional three percent (3%) allowed by Ohio R.C. 5739.09(B)) is hereby levied on transactions where sleeping accommodations by a Bed and Breakfast Inn, Hotel, Motel, or Short Term Rental are furnished to transient guest(s), pursuant to Ohio R.C. 5739.02(C)(1).

Section 3.

That Chapter 1220.02 shall be amended to add the following:

(t) To hear appeals from applicants for short-term rental permits that have been denied by the City pursuant to section 1266.19 of this Code. Section 4.

That this Ordinance shall be in full force and effect ninety (90) days after it is signed by the Mayor.

Passed June 9th, 2020

Attest: Bill Harvey
Bill Harvey, Clerk of Council

Lori Ann Feibel
Lori Ann Feibel, President of Council

Approved: June 9th, 2020

Ben Kessler
Ben Kessler, Mayor

First Reading: 2-25-20

Second Reading - 3-10-20

Third Reading - 3-24-20

TABLED - 3-24-20

PASSED - 6-9-20