

Ordinance No. 72-2021

By Council Members Brancatelli and McCormack

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by amending Sections 215.01, 215.03, 215.04, 215.06, 215.07, 325.51, 325.72, 327.02, 337.02 and 337.251, as amended by various ordinances, related to transient residential buildings, lodging houses and limited lodging in residence districts.

WHEREAS, this ordinance constitutes an emergency measure providing for the immediate preservation of public peace, property, health, or safety, now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by amending:

Sections 215.01, 215.04, 215.06 and 215.07, as amended by Ordinance No. 511-76, passed June 14, 1976,

Section 215.03, as amended by Ordinance No. 2393-02, passed February 3, 2003,

Section 325.51, as amended by Ordinance No. 1105-57, passed April 14, 1958,

Section 325.72, as amended by Ordinance No. 845-62, passed April 27, 1964,

Section 327.02, as amended by Ordinance No. 1551-50, passed June 25, 1951,

Section 337.02, as amended by Ordinance 586-16, passed July 13, 2016, and

Section 337.251, as amended by Ordinance No. 1444-16, passed January 23, 2017, to read, respectively, as follows:

Section 215.01 Definition

As used in this chapter, “transient residential building” means any building or structure kept, used or maintained as a place where sleeping accommodations are offered for pay to transient guests and the general public. The term includes all buildings known as hotels, motels or motor hotels, and also includes industrial camps where people are temporarily lodged by their employer. The term “transient residential building” also includes lodging houses, as defined in Section 325.72. The term “transient residential building” does not include dwelling units used for limited lodging under Section 337.251.

Section 215.03 License Application and Fee

Every application for a transient residential building license shall be on a City form and shall state the name and address of the applicant; the nature and extent of his or her interest and, if the applicant is not the proprietor, then the application shall also state the name and address of the proprietor. The application shall further contain an accurate description of the transient residential building, its location, the number of rooms, the maximum number of guests to be accommodated at any one time and any other information as may be required by the Commissioner of Assessments and Licenses. The application shall be accompanied by fees for each transient residential building under the following schedule:

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Number of <u>Sleeping Rooms</u>	Fee
0-50 <u>1-10</u>	\$60.00 <u>\$150.00</u>
<u>11-50</u>	<u>\$250.00</u>
51 - 100	\$115.00 <u>\$350.00</u>
101 - 200	\$220.00 <u>\$450.00</u>
over 200	\$310.00 <u>\$550.00</u>

Section 215.04 Inspection Prior to License Issuance; Approval Standards

The Commissioner of Environmental Health shall authorize the Commissioner of Assessments and Licenses to grant to the applicant an operating license for the transient residential building, provided the Commissioner of Environmental Health or designee has found it has been found, after a thorough inspection, that the transient residential building complies to comply in all respects with the provisions of this chapter Health Code, the terms and conditions of the license, and any city or state laws, rules, regulations or executive orders, including, but not limited to the Zoning Code, and is not the subject of nuisance violations or other illegal activity, and of all state laws and City ordinances applicable to the operation thereof.

Section 215.06 Posting License; Advertisements

The transient residential building license shall be affixed to a wall of such building in a conspicuous place, so that it may be seen by persons entering such building.

Any advertisement for rental of a lodging house, including any advertisement with a booking agent, shall have the license number clearly displayed on the face of the advertisement.

Section 215.07 Register of Guests

The owner, lessee and person in charge of any transient residential building, except an industrial camp or a lodging house, shall keep a register or record containing the name and place of residence of all guests, date of arrival and departure and room occupied, along with the signature of all guests. Such register or record shall always be open for inspection to police officers and other authorized City officials.

Section 325.51 Multiple Dwelling, Class B

“Multiple dwelling, Class B,” means a multiple dwelling occupied, as a rule transiently, as the more or less temporary abode of individuals or families with or without meals, and in which, as a rule, the rooms are occupied singly and not as dwelling units. Class B multiple dwellings include, among others:

- ~~Lodge houses;~~
- Rooming houses;
- Boarding houses;
- Furnished room houses;
- ~~Tourist homes;~~
- Club houses with sleeping accommodations;
- Fraternity houses;
- Sorority houses;
- Dormitories;
- Convents;
- Monasteries;
- School and college buildings containing ~~sleeping; accommodations.~~ sleeping accommodations.

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Section 325.72 Tourist Home Lodging House

“Tourist home” means a rooming house in which transients are lodged for hire.

“Lodging House” means a dwelling unit, not the primary residence of the owner, that is used for temporary rental by the owner or through a booking agent for the accommodation of transient guests for an aggregate rental of at least ninety-one (91) days per calendar year but where the provision of lodging to any particular transient guest is for less than thirty (30) consecutive days. “Owner” means the titled owner of the property. “Primary residence” shall have the same meaning as in Section 337.251. “Booking agent” means any person or entity that facilitates reservations or collects payment for lodging house accommodations on behalf of or for an owner. Merely publishing an advertisement for accommodation in a dwelling unit for lodging house accommodations does not make the publisher a booking agent.

Section 327.02 Enforcement; Permits and Certificates of Occupancy

(a) This Zoning Code shall be enforced by the ~~Division~~ Department of Building and ~~Division~~ of Housing under the direction of the ~~Commissioner~~ Director of Building and the ~~Commissioner~~ of Housing, with the exception of Section 337.251.

(b) No building shall be erected, altered or enlarged until a permit for such erection, alteration or enlargement has been issued by the ~~Commissioner~~ Director of Building and Housing.

(c) There shall be no change or substitution in the use of any existing building or premises and no extension of any existing use, nor shall any premises be occupied for any new use, until a certificate of occupancy has been issued.

(d) Before any permit or certificate of occupancy is issued, the ~~Commissioner~~ Director of Building or the ~~Commissioner~~ of and Housing shall examine or cause to be examined the application therefor, and any plans and plot plan accompanying such the application, to ~~ascertain~~ determine whether the proposed work and use will conform to the provisions of this Zoning Code. No permit or certificate of occupancy shall be issued unless the proposed work and use conform to the provisions of this Zoning Code.

(e) In all instances where yard and open spaces are required by this Zoning Code, a plot plan drawn to scale shall be submitted with the application and shall clearly indicate the proposed yards, the extent of all proposed encroachments beyond required yard lines and the location of and distances to buildings on adjoining premises. The location of front yard lines and side street yard lines shall be checked and approved by the Commissioner of Engineering and Construction of the ~~Department of Public Service~~ Mayor’s Office of Capital Projects before any permit is issued.

Section 337.02 One-Family Districts

In a One-Family District, the following buildings and uses and their accessory buildings and uses are permitted:

(a) Dwelling houses, each occupied by not more than one (1) family and not more than two (2) roomers or boarders;

(b) Playgrounds, parks;

(c) The extension of existing cemeteries;

(d) Railroad rights-of-way, not including switching, storage or freight yards or industrial sidings;

(e) Agricultural uses, subject to the regulations of Section 337.25 and Section 347.02;

(f) The following buildings and uses, if located not less than fifteen (15) feet from any adjoining premises in a Residence District not used for a similar purpose:

(1) Churches and other places of worship, but not including funeral chapels or mortuary chapels;

(2) Telephone exchanges and static transformer stations, provided there is no public business office or any storage yard or storage building operated in connection therewith;

(3) Bus turn-around and layover areas operated by a public transit agency provided that no buildings other than a passenger shelter and restroom are located at each site, and provided, further, that any layover space accommodates no more than two (2) buses.

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(g) The following buildings and uses, if approved by the Board of Zoning Appeals after public notice and public hearing, and if adequate yard spaces and other safeguards to preserve the character of the neighborhood are provided, and if in the judgment of the Board such buildings and uses are appropriately located and designed and will meet a community need without adversely affecting the neighborhood:

(1) A temporary or permanent use of a building by a nonprofit organization for a dormitory, fraternity or sorority house, for the accommodation of those enrolled in or employed by an educational institution permitted in the District;

(2) Lodging houses;

(3) Fire stations, police stations;

~~(3)~~ (4) The following buildings and uses, if located not less than thirty (30) feet from any adjoining premises in a Residence District not used for a similar purpose, and subject to the review and approval of the Board of Zoning Appeals as stated above:

A. Public libraries or museums, and public or private schools or colleges including accessory laboratories, provided such private schools or colleges are not conducted as a gainful business;

B. Recreation or community center buildings, parish houses and grounds for games and sports, except those of which a chief activity is one customarily carried on primarily for gain;

C. Day nurseries, kindergartens;

D. Hospitals, sanitariums, nursing, rest or convalescent homes, not primarily for contagious diseases nor for the care of drug or liquor patients, nor for the care of the insane or developmentally disabled;

E. Orphanages;

F. Homes for the aged or similar homes;

G. Charitable institutions not for correctional purposes.

~~(4)~~ (5) The following buildings and uses, if located not less than fifty (50) feet from adjoining premises in a Residence District not used for a similar purpose, and subject to the review and approval of the Board of Zoning Appeals as stated above.

A. Municipal recreation buildings;

B. Municipal swimming pools;

~~(5)~~ (6) Crematories in existing cemeteries, provided they are not less than three hundred (300) feet from any boundary that abuts a Residence District, and subject to the review and approval of the Board of Zoning Appeals as stated above.

(h) A residential facility, as defined in Chapter 325 of this Zoning Code, for one (1) to five (5) unrelated persons, provided it is located not less than one thousand (1,000) feet from another residential facility. Residential facilities shall comply with area, height, yard and architectural compatibility requirements of this Zoning Code applicable to residences in One-Family Districts.

Section 337.251 Limited Lodging in Residence Districts; License Required

(a) *Definitions.* As used in this section:

(1) "Accessory use" shall have the same meaning as defined in Section 325.02.

(2) "Booking agent" means any person or entity that facilitates reservations or collects payment for limited lodging accommodations on behalf of or for an owner or primary resident. Merely publishing an advertisement for accommodation in a dwelling unit for limited lodging does not make the publisher a booking agent.

(3) "Dwelling unit" shall have the same meaning as defined in Section 325.20.

(4) "Limited lodging" means the accessory use of all or part of a dwelling unit by rental for temporary occupancy for dwelling, sleeping, or lodging. Limited lodging includes the arrangement of such rental by the owner through a booking agent.

(5) ~~"Lodgers"~~ "Lodger" means a person who is a renter of all or part of a dwelling unit and has mere use without actual or exclusive possession of the dwelling unit.

(6) "Owner" means a titled-owner or a tenant/renter of a property who is in possession and control of the dwelling unit and who lives in the dwelling unit more

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than fifty-one percent (51%) of the calendar year. Any tenant or renter of the property must be authorized by the titled-owner of the property to provide limited lodging.

(7) "Primary residence" means the use of a dwelling unit for residential household living purposes ~~of for~~ more than fifty-one percent (51%) of the calendar year by the owner, tenant/renter, or person in possession and control of the dwelling unit.

(8) "Temporary occupancy" means the accommodation of lodgers conducted in a dwelling unit, the primary use of which is for household living, and where the total accommodations of lodgers provided is for fewer than ninety-one (91) days per calendar year but where the provision of lodging to any particular lodger is for no more than thirty (30) consecutive days.

(9) "Licensed premises" means the premises specified in an approved application for a license under this section which premises are owned or in the possession of the licensee and within which the licensee is permitted to provide limited lodging in accordance with this section.

(10) "Commissioner" means the Commissioner of Assessments and Licenses.

(b) *General Provisions.*

(1) Limited lodging is permitted in a Residence District, provided that limited lodging in a particular dwelling unit may be provided for no more than ninety-one (91) days per calendar year; and provided that the owner obtains a license pursuant to division (d) of this section.

(2) Notwithstanding Chapter 365, limited lodging is not required to have a certificate of rental registration provided the dwelling unit remains owner-occupied as a primary residence.

(3) The standards set forth in division (c) of this section are intended to ensure that limited lodging will not be a detriment to the character and livability of the surrounding residential neighborhood.

(c) *Standards.* A dwelling unit may be used for limited lodging subject to compliance with all of the following minimum requirements:

(1) The dwelling unit shall remain as a household living unit with housekeeping facilities in common.

(2) Limited lodging must be accessory and incidental to the use of a dwelling unit for residential household living purposes as a primary residence.

(3) Smoke detectors shall be provided and maintained adjacent to each sleeping area in each dwelling unit as required in Chapter 392.

(4) One or more carbon monoxide detection devices shall be installed and maintained as close to the center of the dwelling unit and within close proximity to the living and sleeping areas of the dwelling unit.

(5) Lodgers shall be notified of the trash and recycle collection days for the property and any applicable rules and regulations pertaining to leaving or storing trash on the exterior of the property. The owner shall provide proper trash and recycling containers for the lodgers.

(6) The owner or primary resident offering the dwelling unit for limited lodging shall provide to any lodger the contact information, including a telephone or cell phone number, of a person with responsibility to take action to resolve any complaints regarding the condition, operation or maintenance of the dwelling unit.

(7) Compliance with all city and state laws, rules, regulations and executive orders. ~~other applicable provisions of the Cleveland Codified Ordinances related to residential dwelling units~~

(d) License Required; Application.

(1) No owner may provide limited lodging in a residence district without first obtaining a license from the Commissioner.

(2) Application for a license required under this section shall be made to the Commissioner on forms supplied by the Commissioner for that purpose. Applicant shall provide the following documentation to establish the city address of the proposed licensed premises and that the premises where the limited lodging will occur is the applicant's primary residence:

A. a valid Ohio driver's license or a valid Ohio state identification card; and

B. at least two (2) of the following:

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i. proof of valid motor vehicle registration;
ii. proof of voter registration;
iii. a utility bill;
iv. any other legal documentation deemed sufficient by the Commissioner which is pertinent to establishing primary residency; and

C. Proof of possession of the dwelling unit, either by valid warranty deed, valid lease, or other verification of the tenant's right to possession of the premises. If the applicant does not own the dwelling unit, the applicant must also provide written, notarized documentation from the property owner allowing the applicant to conduct limited lodging on the proposed licensed premises.

(3) Any advertisement of a dwelling unit offered for limited lodging, including any advertisement with a booking agent, shall have the license number clearly displayed on the face of the advertisement.

(4) Every owner shall provide proof of fire, hazard and liability insurance with coverage limits suitable to the Commissioner.

(5) Every license application shall be accompanied by a fee of \$50.00. Every license issued shall be given a license number. Licenses issued under this section shall be valid for one (1) year from the date of issuance. Licenses issued under this section are not transferrable from one person to another or from one premises to another.

(6) Approval Standards. The Commissioner shall transmit the application for an initial license or a license renewal, along with the required documentation, to the Department of Building and Housing and the Division of Police for verification and approval. Consideration shall be made as to whether the owner has violated, does not meet, or has failed to comply with, any of the terms and conditions of the license, or any city or state laws, rules, regulations or executive orders, including, but not limited to the Zoning Code, as well as any evidence regarding nuisances or illegal activity concerning the owner or the subject property and, in particular, any recorded violations. The Commissioner may deny a license on consideration of such evidence. If the Commissioner denies a license, the applicant may appeal the Commissioner's action to the Board of Zoning Appeals, in writing within ten (10) days from the date of the Commissioner's action. The Board may sustain, disapprove or modify the Commissioner's action.

(7) Revocation. The Commissioner may revoke a license if the applicant makes any false statement in connection with the application, or if the premises covered by the license is no longer in compliance with the requirements of this section or any applicable provisions of this Code, or if the licensee has failed to comply with any city or state laws, rules, regulations or executive orders. If the Commissioner revokes a license, the licensee may appeal the Commissioner's action to the Board of Zoning Appeals, in writing within ten (10) days from the date of the Commissioner's action. The Board may sustain, disapprove or modify the Commissioner's action.

(e) Civil Penalties.

(1) Failure to obtain a license. Any person who offers limited lodging without a valid license in violation of this section shall be fined one hundred and fifty dollars (\$150) for the first offense and five hundred dollars (\$500) for a second and any subsequent offense.

(2) Offering limited lodging in violation of this section. Any person, with a valid license, who otherwise offers limited lodging in violation of this section, including the standards set forth in division (c) of this section, shall be fined one hundred and fifty dollars (\$150) for the first offense and five hundred dollars (\$500) for a second and any subsequent offense.

(3) Advertising without a license. Any booking agent that advertises a dwelling unit without clearly displaying the valid license number on the face of the advertisement in violation of division (d)(3) of this section shall be fined \$150 per violation. Each day an advertisement appears without displaying a valid license number shall constitute a separate violation.

(4) Fines charged under this section shall be in addition to, and not in lieu of, any other penalties that may be charged under these Codified Ordinances, including but not limited to Chapter 193.

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(5) Appeals. Any person charged with a violation of this section may appeal in writing to the Commissioner within ten (10) days from the date of the notice of violation. The Commissioner shall have jurisdiction to affirm, reverse, or modify the decision and shall do so within thirty (30) days of the date of the appeal. A person aggrieved by a final decision of the Commissioner may further appeal to the Board of Zoning Appeals within thirty (30) days after the Commissioner's decision.

(f) Enforcement. The Commissioner or designee has the authority to charge the civil penalties under this section.

Section 2. That Sections 215.01, 215.04, 215.06 and 215.07, as amended by Ordinance No. 511-76, passed June 14, 1976, Section 215.03, as amended by Ordinance No. 2393-02, passed February 3, 2003, Section 325.51, as amended by Ordinance No. 1105-57, passed April 14, 1958, Section 325.72, as amended by Ordinance No. 845-62, passed April 27, 1964, Section 327.02, as amended by Ordinance No. 1551-50, passed June 25, 1951, Section 337.02, as amended by Ordinance 586-16, passed July 13, 2016, and Section 337.251, as amended by Ordinance No. 1444-16, passed January 23, 2017, are hereby repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected 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 from and after the earliest period allowed by law.

AB;KPM:rns
2-3-2021

