

Ordinance No. 462-2020

By Council Members Brancatelli and McCormack

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by amending Section 337.251, as amended by Ordinance No. 1444-16, passed January 23, 2017, related to 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 Section 337.251, as amended by Ordinance No. 1444-16, passed January 23, 2017, to read as follows:

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 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 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 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.

(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.

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(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 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 and regulations, 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 of Assessments and Licenses (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:

i. proof of valid motor vehicle registration;

ii. proof of voter registration;

iii. Federal or state tax returns or other financial documentation;

iv. a utility bill;

v. any other legal documentation deemed sufficient by the Commissioner which is pertinent to establishing primary residency;

and

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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 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) Upon approval, applicant shall pay a license fee of \$25.00 to the Commissioner. 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. In evaluating an application for an initial license or a license renewal, along with verifying the required documentation, the Commissioner shall consider 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 or regulations, including, but not limited to the Zoning Code, and 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, and the Board's decision shall be final.

(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 or regulations. 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, and the Board's decision shall be final.

(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 five hundred dollars (\$500) per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

(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 five hundred dollars (\$500) per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

(3) 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.

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

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Section 2. That Section 337.251, as amended by Ordinance No. 1444-16, passed January 23, 2017, is 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
06-03-2020

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READ FIRST TIME on JUNE 3, 2020 **REPORTS**
and referred to **DIRECTORS** of City Planning Commission, Finance , Law;
COMMITTEES on Development Planning and Sustainability, Finance

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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Published in the City Record _____

REPORT after Second Reading

PASSAGE RECOMMENDED BY
COMMITTEE ON
DEVELOPMENT, PLANNING AND
SUSTAINABILITY

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE

FILED WITH COMMITTEE

