

# CITY OF SOMERVILLE

## ORDINANCE NO. 2019-\_\_\_\_\_

### REGULATING SHORT-TERM RESIDENTIAL RENTALS

Be it ordained by the City Council of the City of Somerville, in session assembled, that Chapter 7 of the Code of Ordinances of the City of Somerville, is hereby amended by inserting the following provisions:

**Sec. \_\_\_\_.** **SHORT-TERM RESIDENTIAL RENTALS**

**1. Purpose**

This Section "Short-Term Rentals" is intended to set forth the registration process through which certain dwelling units within the City of Somerville may be registered as short-term rental units. This registration process is designed to allow for the operation of such rentals for Somerville residents, protect the safety of renters and residents, ensure the primary use of such rentals remains residential, and ensure that the operation of such short-term rentals does not create a safety concern or detriment to the surrounding residential neighborhood.

**2. Definitions**

- a. *Booking Agent*: Any person or entity that facilitates reservations of or collects payment for a Short-Term Rental on behalf of or for an Operator.
- b. *Director*: The Director of the Inspectional Services Department ("ISD") or his or her designee.
- c. *Operator*: A natural person who is the owner, or lessee of the owner of a Residential Unit, that seeks to offer said unit as a Short-Term Rental, whose Primary Residence is the unit being offered as a Short-Term Rental, ~~or whose primary residence is adjacent to the unit being offered for short term rental as defined in the term "owner-adjacent unit" below.~~
- d. *Home Share Unit*: A Residential Unit that is the Operator's Primary Residence, and being offered in its entirety as a Short-Term Rental. Operator is not present in the unit during the term of said rental.

e. *Limited Share Unit.* A Residential Unit that is the Operator's Primary Residence and only a portion of the Unit is being offered as a Short-Term Rental. The Operator shall be present in the unit during the term of said rental.

~~f. *Owner-Adjacent Unit.* The short-term rental of a residential unit, by the Owner of said unit, that is not the primary residence of the Owner, but which is located within the same residential building or on the same lot as the primary residence of the Owner. The rental of an Owner-Adjacent Unit shall be limited to one dwelling unit. The Owner shall be present at their primary residence at the time of said rental.~~

~~g.f.~~ *Primary Residence.* A residential unit in which an Operator resides for at least nine months out of a twelve-month period. Primary residence shall be demonstrated by showing that as of the date of registration of the Short-Term Rental, the Operator has resided in said unit for nine of the past twelve months or that the Operator intends to reside in the Residential Unit for nine of the next twelve months, as demonstrated by at least two of the following: utility bill, voter registration, motor vehicle registration, deed, lease, driver's license or state-issued identification, or proof of residential exemption.

~~h.g.~~ *Residential Unit.* A dwelling unit within a dwelling classified under the Building Code ("Code") as residential use, as those terms are defined in the Code, but excluding: a congregate living complex, elderly housing, group residence, homeless shelter, orphanage, temporary dwelling structure, and transitional housing. This term shall not include a hotel, motel or any other non-residential use.

~~i.h.~~ *Short-Term Rental.* The rental of a Residential Unit for its intended purpose, in exchange for payment as residential accommodations for a duration of thirty (30) consecutive days or fewer. Such a rental may or may not be facilitated through the use of a Booking Agent.

**3. Applicability.** No Residential Unit shall be offered as a Short-Term Rental except in compliance with each of the provisions of this section.

**4. Residential Units Not Subject to Certain Provisions of this Chapter.**

a. *Existing Bed and Breakfasts and Tourist Homes.* A Residential Unit offered as a Short-Term Rental holding a current and valid Certificate of Occupancy as a

Bed and Breakfast or Tourist Home from ISD as of the effective date of this Ordinance, shall be subject to the registration requirements contained herein.

**5. Requirements for the Operation of Short-Term Rentals.**

- a. All Operators of Short-Term Rentals shall register with the ISD prior to Short-Term Rental operation, in accordance with Section \_\_\_\_ below.
- b. A Residential Unit offered as a Short-Term Rental shall comply with all standards and regulations promulgated by the Director.
- c. *Short-Term Rental of a Limited Share Unit.* An Operator may offer a Limited Share Unit as a Short-Term Rental 365 days per year. Rental shall be limited to ten guests, or two guests per bedroom, whichever is fewer. One bedroom in the unit shall be reserved for, and occupied by, the Operator during the entire term of the rental. Said Unit shall be rented to only one party of Short-Term renters at a time, not rented as separate bedrooms to separate parties.
- d. *Short-Term Rental of a Home Share Unit.* Rental shall be limited to ten guests, or two guests per bedroom, whichever is fewer. Rentals shall not exceed in the aggregate, ninety (90) consecutive or nonconsecutive calendar days per year. Such Unit shall be rented to one party of Short-Term renters at a time, not rented as separate bedrooms to separate parties.
- ~~e. *Short-Term Rental of Owner-Adjacent Unit.* An Owner may offer his or her Owner-Adjacent Unit as a Short-Term Rental 365 days per year. Such Unit shall be rented to one party of Short-Term renters at a time, not rented as separate bedrooms to separate parties. Occupancy shall be limited to ten guests, or two guests per bedroom, whichever is fewer.~~
- f.e. *Permission of Owner.* An Operator must certify at the time of registration that he or she has the following permissions to offer his or her Residential Unit as a Short-Term Rental:
  - i. Operator is the owner of the Residential Unit offered as a Short-Term Rental; or,
  - ii. Operator is a tenant of the Residential Unit offered as a Short-Term Rental and has obtained the written consent of the Residential Unit's owner to offer the Residential Unit as a Short-Term Rental, and

offering such a rental complies with all applicable leases and/or condominium documents, bylaws, or other governing documents.

g.f. *Rental Period and Use.* Renting for an hourly rate, or for rental durations of fewer than ten (10) consecutive hours shall not be permitted. Commercial meetings and uses are prohibited in Short-Term Rentals.

h.g. *Local Contact.* When registering, the Operator must provide his or her name and contact information, and, in the event the Operator is not present during the period of said Short-Term Rental, the name and contact information of an individual who is able to respond in person to any issues or emergencies that arise during the Short-Term Rental within two (2) hours of being notified. Contact information must include a telephone number that is active 24 hours per day to tenants, Short-Term Rental occupants, and public safety agencies. This phone number shall be included in the registration of the Short-Term Rental unit at the time of registration.

i.h. *No Outstanding Violations.* The Residential Unit offered as a Short-Term Rental shall not be subject to any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders, or other requirements, laws, or regulations that prohibit the Operator from offering the Residential Unit as a Short-Term Rental. If a violation or other order is issued after the registration of the Short-Term Rental, upon notice of said violation or order the Director shall suspend the Residential Unit's registration until the violation has been cured or otherwise resolved.

j.i. *Compliance and Interaction with Other Laws.* Operators shall comply with all applicable federal, state, and local laws and codes, including but not limited to the Fair Housing Act, G.L. c. 151B and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings.

k.i. *Retention of Records.* The Operator shall retain and make available to ISD, upon written request, records to demonstrate compliance with this section, including but not limited to: records demonstrating the number of months that the Operator has resided or will reside in Residential Unit, if applicable; records showing consent of the owner of the Residential Unit to the Unit's use as a Short-Term Rental, if applicable; and records demonstrating number of days per year that the Residential Unit is offered as a Short-Term Rental.

The Operator shall retain such records for as long as he or she desires to use the Unit as a Short-Term Rental.

l.k. *Liability Insurance.* Short-Term Rental Operators shall maintain liability insurance appropriate to cover the Short-Term Rental use.

m.l. *Notifications.*

- i. The Operator shall include the registration number issued by ISD on any listing offering the Residential Unit as a Short-Term Rental.
- ii. The Operator shall also post a sign on the inside of the Short-Term Rental in a manner to be determined by the ISD, the following information:
  1. instructions for the disposal of waste per the City's recycling and trash programs;
  2. the local noise, trash and parking ordinances of the City;
  3. the certificate of registration for the Short-Term Rental;
  4. contact information for the Operator, or when the Operator is not present, the contact information for a locally available contact designated to respond to all emergencies and problems that may arise during the rental period.

**6. Short-Term Rental Registration Process; Fees.**

a. *Registration Process.* An Operator who wishes to offer his or her Residential Unit as a Short-Term Rental shall register with ISD, online or in a paper form prescribed by ISD, and shall secure a certificate of registration prior to the operation of the Short-Term Rental.

- i. At the time of registration, Operators shall provide ISD with proof that the Residential Unit ~~Residential Units in the structure or on the lot,~~ is the Operator's Primary Residence.
- ii. Prior to issuing or renewing a certificate of registration, ISD shall conduct an inspection to verify the accuracy of the information contained in the application and confirm that each Residential Unit being offered as a Short-Term Rental meets the following requirements:

1. All building code requirements for occupancy; and
  2. All other requirements as set forth in this Ordinance.
- iii. A registration shall be valid for a term of two years, commencing upon date of issuance of the license, or for such alternative twelve-month period as the Director shall determine.
  - iv. An Operator shall provide information to ISD at the time of registration that includes the following: Operator name, address of Residential Unit, Operator's relationship to the unit, whether the Residential Unit is being offered as a Limited Share, or Home Share, or ~~Owner-Adjacent~~ Short-Term Rental, and other information as may be required by ISD. The Operator shall certify that he or she and the Residential Unit shall comply with the requirements of this ordinance.
  - v. An Operator who successfully registers his or her Residential Unit as a Short-Term Rental shall be issued a registration number.
  - vi. At the time of registration, Operators shall submit the license registration fee as set forth on the applicable registration form.
  - vii. An Operator who is issued a registration number shall provide a link to the corresponding Short-Term-Rental listing(s) to ISD.
- b. *Ineligible Residential Units.* Any residential Units that are the subject of three or more findings of violations of this section, or three or more violations of any municipal ordinance or state law or building code relating to excessive noise, improper disposal of trash, disorderly conduct, within a six-month period at the time of application shall be ineligible for rental. Such Residential Units shall not be issued a Short-Term Rental registration.
  - c. *Re-registration upon Unit Turnover.* A registration shall be tied to both the Residential Unit and the Operator and will not automatically transfer upon the sale or lease of the unit. New Operators are responsible for ensuring that

they re-register with ISD to obtain a new registration number if they wish to continue to rent the Residential Unit as a Short-Term Rental.

- d. Bulk Registration by Booking Agent.* Nothing herein shall prohibit a Booking Agent from entering into an agreement with the City to provide registration services for Short-Term Rental Operators.

## **7. Penalties; Enforcement.**

- a. ~~Any Operator who~~ Whoever violates any provision of this Ordinance may be penalized by a noncriminal disposition as provided for in G.L. c. 40, s. 21D. Each day of violation shall constitute a separate and distinct offense. The penalty for each violation will be as set forth in section 1-11 of this Code. The provisions of this section may also be enforced, if applicable, by the Director seeking an injunction from a court of competent jurisdiction prohibiting the offering of the Short-Term Rental.
- b. Should an Operator receive three or more violations under this section, or of any municipal ordinance, state law, or building code for the use of such short-term rental, the license shall be revoked for the remainder of the license, or for 6 months, whichever is greater.
- c. A violation shall include, but shall not be limited to, an Operator failing to register a Residential Unit as a Short-Term Rental pursuant to the terms of this ordinance, an Operator offering an ineligible unit as a Short-Term Rental, or failing to comply with any notice of violation or other order issued pursuant to this section by the Director.
- d. The Director may enter into agreements with Booking Agents or any other third parties for assistance in enforcing the provisions of this section.

**8. Regulations.**

The Director shall have the authority to promulgate regulations to carry out the provisions of this Ordinance.

**8. Severability.**

If any provision in this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

**9. Effective Date.**

The provisions of this Section \_\_\_\_ “Short-Term Rentals” shall take effect on \_\_\_\_\_. Beginning on \_\_\_\_\_, or on an earlier date as may be determined by the Director, the City may receive applications for registration, conduct inspections, and issue registrations for short-term rentals to operators who apply before the date of the enactment.

APPROVED:

President  
Somerville City Council