

CITY OF LYNN

Notice: Lynn City Council Public Hearing on Tuesday, September 29, 2020 at 5:15PM in the Council Chambers on the following Ordinance: **SHORT-TERM RENTALS**

Section 1:00 Short-Term Residential Rentals.

The purpose of this section is to provide a process through which certain dwelling units may be registered with the City of Lynn for use as Short-Term Rental Units under the stipulations, rules and regulations established in the Ordinance.

Section 2:00 Definitions.

“Booking Agent” shall mean any person or entity that facilitates reservations or collects payment for a Short-Term Rental on behalf of or for an Operator/Owner.

“Code” shall mean the Lynn Zoning Code.

“Commissioner” shall mean the Chief of the Inspectional Services Department or a designee.

“ITD/Information and Technology Department” shall mean the City of Lynn Department of Information and Technology

“ISD” shall mean the City of Lynn Inspectional Services Department.

“Operator” shall mean a natural person who is the owner of the Residential Unit that he or she seeks to offer as a Short-Term Rental. Only one owner may be registered as an Operator on the Short-Term Rental Registry for a Residential Unit, and it shall be unlawful for any other person, even if that person is an owner and meets the qualifications of Primary Resident, to offer a Residential Unit for Short-Term Residential Rental.

“Home Share Unit” shall mean a Residential Unit offered as a Short-Term Rental that is the Operator's Primary Residence. Occupancy shall be limited to five bedrooms or ten guests in a Home Share Unit, whichever is less.

“Ineligible Units List” shall mean a list maintained by the Department of Inspectional Services deemed ineligible for use as Short-Term Rental Units subject to the provisions of this Ordinance.

“Limited Share Unit” shall mean a Residential Unit that is the Operator's Primary Residence, a portion of which is offered as a Short-Term Rental while the Operator is present. Occupancy shall be limited to three bedrooms or six guests in a Limited Share Unit, whichever is less. One bedroom must be reserved for the Operator.

“Owner's Adjacent Unit” shall mean a Residential Unit offered as a Short-Term Rental that is not the Owners Primary Residence but is located within the same dwelling as the Primary Residence of, and is owned by, said Owner; provided that, Owner-Adjacent Units used as Short-Term Rentals shall only be allowed in two-family or three-family dwellings where all units are owned by the same unique owner-occupant who serves as the Operator; provided further that, for the purposes of owner-occupied three-family residential dwellings, in addition to the unit in which they reside and use as a Home Share or Limited Share Unit, an Operator of an Owner-Adjacent Unit may only register and use one Owner-Adjacent Unit as a Short-Term Rental.

“Primary Residence” shall mean the Residential Unit in which the Operator resides for at least nine months out of a twelve-month period. Primary residence is demonstrated by showing that as of the date of registration of the Residential Unit on the Short-Term Rental Registry, the Operator has resided in the Residential 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.

“Registration Number” shall mean a unique identification number generated for a single Residential Unit registered as a Short-Term Rental. Registration Numbers shall be valid for the calendar year during which they are assigned, January 1st through December 31st, and shall be associated with both a single Residential Unit and a single Operator. The Registration Number must be included on any listing or advertisement offering a unit as a Short-Term Rental.

“Residential Unit” shall mean a Residential Unit is a dwelling unit within a dwelling classified as a residential use, as those term are defined in the State Building Code, but excluding: a congregate living complex; elderly housing; a group residence, limited; a homeless shelter; orphanage; temporary dwelling structure; and transitional housing. The term "Residential Unit" shall not include a hotel, motel, executive suite, or other non-residential use.

“Short-Term Rental(s)” shall mean the use of a Residential Unit for residential occupancy by a person or persons for a period of fewer than twenty-eight consecutive calendar days for a fee. A Short-Term Rental may or may not be facilitated through a Booking Agent.

“Short-Term Rental Registry” shall mean the database maintained by ISD, in conjunction with ITD, that includes information on Operators who are permitted to offer their Residential Units as Short-Term Rentals. The Short-Term Rental Registry may be a stand-alone registry or may be incorporated into the electronic database maintained by ISD.

Section 3:00 Short-Term Residential Rentals in the City of Lynn.

No Residential Unit shall be offered as a Short-Term Rental except in compliance with the provisions of this Ordinance.

Section 4:00 Ineligible Residential Units.

The following Residential Units are not eligible to be offered as Short-Term Rentals: (i) Residential Units designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under local, state, or federal law; (ii) Residential Units subject to any requirement of local, state, or federal law that prohibits the leasing or subleasing of the unit or use of the unit as a Short-Term Rental; (iii) Residential Units that are located within properties designated as "Problem Properties" or by the City's Problem Properties Task Force, or properties owned by property owners that own any property that is currently designated as a "Problem Property" as defined in City of Lynn Code of Ordinances, (iv) Residential Units that are the subject of 3 or more findings of violations of this section within a six-month period, or 3 or more violations of any municipal ordinance or state law or code relating to excessive noise, improper disposal of trash, disorderly conduct, or other similar conduct within a six-month period.

Section 5:00 Residential Units Not Subject to Certain Provisions of this Chapter.

a. ***Currently Licensed Lodging Houses.*** Residential Unit offered as a Short-Term Rental that is located in a dwelling holding a current and valid Certificate of Occupancy as a lodging house from ISD and a lodging house license from the Lynn Licensing Board as of the effective date of this Ordinance shall be subject to the registration requirements contained herein, but shall not be subject to any other limitations contained in this Ordinance.

b. ***Existing Bed and Breakfasts.*** A Residential Unit offered as a Short-Term Rental that holds a current and valid Certificate of Occupancy as a bed and breakfast from ISD as of the effective date of this Ordinance shall be subject to the registration requirements contained herein, but shall not be subject to the limitations contained in this Ordinance.

c. ***Residential Units Contracted for Hospital Stays.*** The use of a dwelling unit or portion thereof for which a contract exists between the owner of the dwelling unit and a health-care facility or government entity or non-profit organization registered as a charitable organization with the Secretary of the Commonwealth of Massachusetts or classified by the Internal Revenue Service as a public charity or private foundation that provides for the temporary housing in such unit of individuals who are being treated for trauma, injury, or disease, or their family members, shall not be considered a Short-Term Rental.

d. ***Residential Units Used for Furnished Institutional or Business Stays.*** The use of a Residential Unit for which a contract or an agreement exists between the building owner, a corporate housing operator and an institution or business for the temporary housing of employees or individuals affiliated with such institutions or business, where the minimum stay is at least ten days, shall not be considered a Short-Term Rental.

Section 6:00 Requirements for Short-Term Rentals.

An Operator may only offer one (1) whole unit listing at a given time subject to the following provisions:

a. ***Registration.*** Registration pursuant to this Ordinance.

b. ***Short-Term Rental of a Limited Share Unit:*** An Operator may offer his or her Limited Share Unit as a Short-Term Rental for 365 days per year.

c. ***Short-Term Rental of a Home Share Unit:*** An Operator may offer his or her Home Share Unit as a Short-Term Rental for up 365 days per year.

d. ***Short-Term Rental of an Owner-Adjacent Unit:*** An Operator may offer his or her Owner-Adjacent Unit as a Short-Term Rental for 365 consecutive days per year.

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; and (ii) that offering the Residential Unit as a Short-Term Rental complies with applicable condominium documents, bylaws, or other governing documents.

f. ***Local Contact:*** When registering, an Operator must provide his or her name and contact information and in the event the Operator is not present during the 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.

g. ***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 Residential Unit has been listed on the Short-Term Rental Registry, ISD shall suspend the Residential Unit's registration on the Short-Term Rental Registry until the violation has been cured or otherwise resolved.

h. **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, M.G.L. c. 151B and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings. The Residential Unit offered as a Short-Term Rental shall be in compliance with City of Lynn Code of Ordinances and the State sanitary Code and State Building Code. Those Residential Units offered as Short-Term Rentals shall be subject to "An Ordinance Requiring All Rental units in the City of Lynn to be Inspected to Ensure Compliance with the State Building and Sanitary Codes at a Minimum of Every Five Years", including the payment of fees contained therein.

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 number of months that Operator has resided or will reside in Residential Unit; records showing that Operator is the owner of Residential Unit offered as a Short-Term Rental; and records demonstrating number of days per year that Residential Unit is offered as a Short-Term Rental. The Operator shall retain such records for a period of three years from the date the Residential Unit is registered with ISD.

j. **Notifications.**

(i) The Operator shall include the registration number issued by ISD on any listing offering the Residential Unit as a Short-Term Rental and shall post a sign on the inside of the Residential Unit providing information on the location of all fire extinguishers in the unit, and, if applicable, the location of all fire extinguishers, fire exits and pull fire alarms in the dwelling.

(ii) The Booking Agent shall permit an Operator to include the registration number issued by ISD on any listing offering the residential unit as a Short-Term Rental.

(iii) The Operator shall, within thirty days of approved registration, provide notice to abutters of a Residential Unit that the Residential Unit has been registered as a Short-Term Residential Rental. For the purposes of this section, an abutter shall be defined as any residential dwelling located within 300 feet of said Residential Unit.

Section 7:00 Short-Term Rental Registration Process; Certifications; Fee.

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, to be listed on the Short-Term Rental Registry. A registration shall be valid for a one-year term, from January 1 through December 31 of each year. An Operator shall provide information to be listed on the Registry, including: Operator name, address of Residential Unit, Operator's relationship to the unit, whether Residential Unit is being offered as a Limited Share, Home Share or Owner Adjacent Unit, and other information as required by ISD. The Operator shall also certify that he or she and the Residential Unit comply with the requirements of this section. An Operator who successfully registers his or her Residential Unit as a Short-Term Rental shall be issued a registration number.

Upon submission, and on an on-going basis as necessary, registration information shall be compared to information managed and maintained by City departments, including, but not limited to ITD, in order to efficiently and effectively verify compliance with the provisions of this Ordinance. ISD shall make submissions to the Short-Term Rental Registry, or data contained within such submissions, available electronically within thirty (30) days.

b. **Fees.** Units shall be annually recorded in the Short-Term Rental Registry pursuant to the following:

(i) The annual registration fee for Limited Share Units shall be twenty-five dollars (\$25.00).

(ii) The annual registration fee for Home Share Units shall be two-hundred dollars (\$200.00).

(iii) The annual registration fee for Owner-Adjacent Units shall be two-hundred dollars (\$200.00).

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 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 list the Residential Unit on the Short-Term Rental Registry.

d. **Amending Registration Upon Change in Primary Residence.** If an Operator offering a registered Residential Unit ceases to be a Primary Resident of the unit, the Operator shall immediately notify ISD to remove the unit from the Short-Term Rental Registry.

e. **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.

Section 8:00 **Room Occupancy Excise.**

A Residential Unit subject to the provisions of this ordinance that is also subject to the Room Occupancy Excise under M.G.L. c. 64G or any other excise or surcharge pertaining to Short-Term Rentals or transient occupancy shall comply with the provisions of said statutes. Notwithstanding any provision or requirement to the contrary, an Operator may use a Booking Agent for the purposes of collecting and remitting the applicable room occupancy excise to the Commonwealth, and said Booking Agent shall enter into an agreement with the City for the collection and remittance of such tax. If an Operator does not use a Booking Agent to collect payment for a Short-Term Rental, the Operator shall be responsible for collecting and remitting the applicable room occupancy excise tax to the Commonwealth.

Section 9:00 **Complaint Process; Violations.**

a. ***Complaint.*** A complaint alleging that a Residential Unit is in violation of this section or any applicable law, code or regulation may be filed with ISD. The complaint must contain the Residential Unit's address, unit number, date and nature of alleged violation(s), and name and contact information of complainant.

b. ***Review of Complaint.*** Within thirty (30) days after receipt of a complaint, the Commissioner or a designee shall investigate the complaint and shall determine whether there may be a violation. If the alleged violation is under the jurisdiction of another city or state or federal agency, the Commissioner shall refer the complaint to such agency for further action. Upon a finding of a potential violation, the Commissioner or designee shall serve notice of the violation upon the Operator of the Residential Unit at issue, if such unit is listed on the Short-Term Rental Registry, and upon the owner or resident agent of record of the Residential Unit at issue, if such unit is not listed on the Short-Term Rental Registry. The Commissioner shall keep records of all complaints received and determinations made.

c. ***Right to Hearing.*** A person upon whom a notice of violation has been served may request a hearing from ISD by filing a written petition requesting a hearing on the matter with ISD within fourteen (14) days after the day the notice of violation was served. Upon receipt of a petition for hearing, the Municipal Hearing Officer shall notify the complainant of the place, date and time of the hearing. The hearing shall occur no later than two (2) weeks after the date ISD receives the petition for hearing. The time period in which violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held and the Municipal Hearing Officer has issued a decision.

d. ***Decision.*** Within seven days after the conclusion of the hearing, the Municipal Hearing Officer shall sustain, modify, or withdraw the notice of violation and shall inform the person upon whom a notice of violation has been served, in writing, of its decision and the reasons therefor. If the Municipal Hearing Officer sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.

If a written petition for a hearing is not filed with ISD within fourteen (14) days after the notice of violation has been served, or if, after a hearing, the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute a separate violation.

e. ***Judicial appeals.*** Any person aggrieved by a final decision of Municipal Hearing Officer with respect to a notice of violation or any other order issued under this section may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the Commonwealth.

Section 10:00 **Penalties.**

a. ***Offering an Ineligible Unit as a Short-Term Rental.*** Any person who offers a unit as a Short-Term Rental, or any Booking Agent who accepts a fee for booking a unit as a Short-Term Rental, where such unit is not an eligible Residential Unit, shall be fined three hundred dollars (\$300) per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. The Commissioner or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the offering of the unit as a Short-Term Rental.

b. ***Failure to Register.*** Any person who offers an eligible Residential Unit as a Short-Term Rental without registering with ISD, or any person who offers an eligible Residential Unit as a Short-Term Rental while the unit's registration on the Short-Term Rental Registry is suspended, shall be fined one hundred dollars (\$100) per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

c. ***Failure to Comply with Notice of Violation.*** Any person who fails to comply with any notice of violation or other order issued pursuant to this section by the Commissioner or a designee for a violation of any provision of this section shall be fined one hundred dollars (\$100) per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate offense.

Section 11:00 Enforcement.

a. ***Enforcement by City.*** The provisions of this section may be enforced in accordance with the noncriminal disposition process of M.G.L. c. 40, s. 21 D, and, if applicable, by seeking to restrain a violation by injunction. The provisions of this section may also be enforced according to M.G.L. Chapter 40U as accepted by the City of Lynn.

b. ***Enforcement by Booking Agent.*** The Commissioner shall enter into agreements with Booking Agents for assistance in enforcing the provisions of this section, including but not limited to an agreement whereby the Booking Agent agrees to remove a listing from its platform for exceeding the maximum number of days a Residential Unit may be offered as a Short-Term Rental, whereby the Booking Agent agrees to remove a listing from its platform that is deemed ineligible for use as a Short-Term Rental under the provisions of this Ordinance, and whereby the Booking Agent agrees to prohibit a host from listing any listing without a valid registration number from the City.

Any Booking Agent that fails to enter into such agreements to actively prevent, remove or de-list any ineligible listings shall be prohibited from conducting business in the City.

Section 12:00 Data Sharing.

A Booking Agent shall provide to the City, on a monthly basis, an electronic report, in a format determined by the City, in consultation with ISD and ITD, of the listings maintained, authorized, facilitated or advertised by the Booking Agent within the City of Lynn for the applicable reporting period. The report shall include a breakdown of where the listings are located, whether the listing is for a room or a whole unit, and shall include the number of nights each unit was reported as occupied during the applicable reporting period.

Section 13:00 Regulations.

The Commissioner, in consultation with ITD, may promulgate regulations to carry out the provisions of this Ordinance.

Section 14:00 Reporting Requirements.

In an effort to evaluate the effectiveness of the registration requirements delineated herein, the Commissioner of ISD in consultation with ITD, shall annually prepare a report detailing the activities of the Short-Term Rental Registry. Said report shall be filed with the Office of the City Clerk no later than June 30th of each calendar year, beginning June 30th, 2021. The Clerk shall forward the report to the Mayor and shall docket the report and include the docket on the agenda of the next occurring meeting of the Lynn City Council. The report shall estimate the impact of this Ordinance on the number of units removed from the long-term housing stock, the number of evictions caused by such conversions from long-term housing to short-term rentals, the increase in home prices and rents in the relevant categories of owner occupied two-family and three-family homes, the differential between annual short-term rental revenue and annual long-term rental revenue in an owner-adjacent unit, and future projections of these impacts. Said report shall, to the extent practicable, disaggregate information by neighborhood and any other relevant categories. The City Assessor's Office shall assist in the preparation of this report.

Section 13:00 Effective Date/Sunset Provision.

a. ***Effective date.*** The provisions of this section shall take effect on January 1, 2021.

b. ***Sunset Period for Existing Units Contracted for Short-Term Rentals.*** Residential Units with executed leases for Short-Term Rentals as of October 1, 2020 and that are not on the Ineligible Units List defined above may continue to operate until the completion of the lease term or until April 1, 2021, whichever date is first.

Section 14:00 Severability.

If any provision of this Ordinance is held invalid or unenforceable by any court, such a holding does not invalidate or render unenforceable any other provision of the chapter, and the rest of the chapter shall remain in full force and effect.

This meeting is closed to the public but will be televised live on the Lynn Community Television (LCTV) and also streamed on LCTV Facebook page. The public is welcome to call in "live" any questions or concerns at 781-586-6783 or 781-586-6773.

PER ORDER:

Janet Rowe, City Clerk