

ORDINANCE 24 - 23

AN ORDINANCE MODIFYING PART 7 OF THE PORT CLINTON CODIFIED ORDINANCES BY ORDAINING CHAPTER 735, "SHORT-TERM RENTALS" IN ORDER TO ESTABLISH A REGISTRATION PROGRAM AND GUIDELINES FOR THE OPERATION OF SHORT-TERM RENTALS AND DECLARING AN EMERGENCY

WHEREAS, advances in technology have enabled residential property owners to connect with potential renters in need of short term accommodations through the use of short-term rental applications, websites, or other platforms; and

WHEREAS, the City needs to implement a short-term rental registration program with operating guidelines to ensure that short-term rental properties meet minimum safety and sanitation requirements and minimize potential nuisance complaints from adjoining neighbors; and

WHEREAS, the City has "Home Rule Authority" as defined in Section 3 of Article XVIII of the Ohio Constitution that states: Municipalities shall have the authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws; and

WHEREAS, the City would like to establish under its "Home Rule Authority" a short-term rental registration program with operating guidelines to ensure that short-term rental properties meet minimum safety and sanitation requirements and minimize potential nuisance complaints from adjoining neighbors; and

WHEREAS, this Council would like adopt a short-term registration program for the City of Port Clinton.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Port Clinton, State of Ohio:

Section 1. Chapter 735 of the Port Clinton Codified Ordinances is hereby ordained to read as follows:

Chapter 735 - SHORT-TERM RENTALS

735.01 DEFINITIONS.

For purposes of this chapter, the following words and phrases shall have the following meaning ascribed to them respectfully:

(a) "Authorized Representative" Any individual, person, firm, partnership, corporation or company, other than an Owner, acting on behalf of an Owner of a short-term rental property responsible for ensuring compliance with all provisions

of this Chapter and registered as the Owner's Authorized Representative with the City of Port Clinton.

(1) For purposes of this Chapter, actions taken by an Authorized Representative acting on behalf of the Owner shall have the same legal force and effect as if such acts were taken by the Owner.

(2) No Owner shall be absolved of individual liability solely on the basis that acts were taken by an Authorized Representative and not the Owner.

(b) "Application" The submission of all information required herein and payment of the required fees to the City of Port Clinton.

(c) "Bedroom" Any room used for sleeping purposes that contains at least 70 square feet of floor space and shall have at least one window or ventilating sky light facing directly to the outdoors.

(d) "Calls for Service" Any and all calls, including, but not limited to, those to law enforcement, fire department, or emergency assistance of any kind when those calls result in a representative of a law enforcement agency, a fire department, or another emergency assistance service being dispatched or directed to the short-term rental.

(e) "Failure to file Monthly Return Form" Failure to file a monthly return form may be subject to an assessment deemed appropriate by the Treasurer in addition to any other penalties.

(f) "Maximum Occupancy" Short-term rental operators are permitted a maximum occupancy of two (2) guests for a Studio apartment and a maximum occupancy of two (2) guests per bedroom in residential units, larger than a studio apartment, with bedrooms, plus two (2) additional guests. This maximum occupancy shall be identified in the Short-Term Rental Operating Certificate.

(g) "Monthly Return Form" Each operator shall be responsible for filing monthly returns with the Treasurer, even if there are no rents to report, on forms available at www.portclinton.com in accordance with Chapter 171 of the Port Clinton Codified Ordinances. If the Operator has more than one unit, he/she/it shall complete a monthly return for each unit or provide a reconciliation by unit/address which identifies gross rents/tax collected and tax due.

(h) "Monthly Return Form filed by a Third Party" The person responsible for filing a monthly return form on behalf of an Operator, shall file a monthly return form for each Operator to the Treasurer, even if there are no rents to report, on forms available online at www.portclinton.com in accordance with Chapter 171 of the Port Clinton Codified Ordinances.

(i) "Monthly Return Form Exemptions" All claims for exemption from the tax filed by guests with the operator during the reporting period shall be filed with the monthly return/report. The guest shall provide the operator with appropriate paperwork stating the exemption, purpose, and the amount of days staying. The operator or their Authorized Representative shall provide the Treasurer the guest's paperwork stating the exemption at the time the return is filed, the full amount of the tax collected shall be remitted to the Treasurer. Exemptions will not be accepted by the Treasurer without appropriate paperwork stating the exemption.

(j) "Monthly Return Exemption for Long-Term Rentals" All claims for exemption for a short-term rental, operating as a long-term rental for more than 30 days in a calendar year, shall be submitted with the monthly return by providing proof of a Landlord/Tenant report to the Treasurer and to the City of Port Clinton Department of Taxation. Exemptions will not be accepted by the Treasurer without appropriate paperwork showing the property is being used as a long-term rental.

(k) "Nuisance" Refers to actions by someone or something within their control that interferes with the rights of either the public or private citizens outside of their property.

(l) "Operator" Any person who offers a short-term rental out to the public for rent.

(m) "Operating Registration Number" All operators are required to obtain a valid operating registration number that is displayed on their short-term rental operation certificate and posted at the short-term rental unit.

(n) "Parking" There will be no demand for parking beyond that which is normal to a residential area and no unusual or excessive traffic to and from the premises and the number of permitted vehicles shall be identified in the Short-Term Rental Operating Certificate.

(o) "Port Clinton Codified Ordinances" Local rules and regulations for the City are located at portclinton.com.

(p) "Rental Management Company" A person, who for another and for a fee, operates, manages, rents, offers, or attempts to operate, manage, or rent another's short-term rental property.

(q) "Responsible Local Person" The Responsible Local Person shall be designated by the owner and shall be required to be physically present in person at the short-term rental within 60 minutes of any notification by a member or law enforcement or the fire department or emergency assistance of any kind relating to a Call for Service to the short-term rental. The owner may designate more than one Responsible Local Person or may designate a backup if the initial person is unavailable. The failure to provide contact information, failure to keep contact

information current failure to respond in a timely manner to complaints, or the occurrence of repeated complaints may result in the suspension/revocation of license and/or civil or criminal penalties.

(r) "Short-term rental" Any residential unit, or part thereof, offered or held out to the public for rent, for a duration of occupancy of less than thirty (30) consecutive days.

(s) "Short-Term Rental Advisory" The operator shall prominently display an advisory, adjacent to the short-term rental license, summarizing guidelines and restrictions applicable to the short-term rental use, including:

- (1) Contact information for the responsible local person, owner, and authorized representative;
- (2) Contact information for the City of Port Clinton Police Department and Fire Department;
- (3) Location of all means of egress from the short-term rental;
- (4) Instructions on where to go in case of an emergency/natural disaster;
- (5) Location of functional Fire Extinguisher;
- (6) Information on maximum occupancy requirements;
- (7) Applicable noise and use restrictions;
- (8) Location of parking and applicable restrictions;
- (9) Directions that trash shall not be stored within public view, except within the proper containers for the purpose of collection, the trash collection schedule, and hours when trash containers shall be placed/removed from the curb for collection;
- (10) The renter's responsibility not to trespass on private property or to create disturbances; and
- (11) Notification that the renter is responsible for complying with this chapter and that the renter may be cited or fined by the City for violating any provisions of this chapter.

(t) "Signage" Outdoor advertising signs, advertising the short-term rental for rent, shall not be allowed on the site. Signs identifying the short-term rental to guests are permitted so long as there is no advertising language on the signs.

(u) "Smoke Detectors, Carbon Monoxide Detectors, Fire Extinguishers" Every smoke and carbon monoxide detector must function properly with the alarm sounding after pushing the test button. Smoke detectors shall be installed inside bedrooms, in the immediate vicinity of bedrooms, and on each story. Carbon monoxide detectors (if applicable to the unit) shall be within 15 feet of all bedrooms. All short-term rentals shall have the appropriate number of functional fire extinguishers for their unit.

(v) "Transient Guest" A person or persons who enters into a contractual arrangement with the operator of a short-term rental whereby the person or

persons pays rent to the operator, or to a person designated by the operator to receive rent, in exchange for occupancy of the short-term rental.

(w) “Transient Occupancy Tax” Defined in Chapter 171 of the City of Port Clinton Codified Ordinances for Transient Occupancy Tax Regulations.

735.02 APPLICABILITY OF THE SHORT-TERM RENTAL REGISTRATION SYSTEM

This chapter applies to any residential unit, or part thereof, offered or held out to the public for rent, for a duration of occupancy of less than thirty (30) consecutive days in the City of Port Clinton.

735.03 DISCLAIMER OF CITY LIABILITY.

(a) The City of Port Clinton expressly finds and requires that responsibility for compliance with the provisions of this chapter rest with license applicants and their agents and that no action, inaction, or omission of the City or any of its agents or employees shall serve to assume or shift responsibility for compliance with the provisions of this chapter to any other party, including the City.

(b) Issuance of a Short-Term Rental Operating Certificate pursuant to this chapter does not constitute the creation of a duty by the City to indemnify the owner for any wrongful acts against the public, or to guarantee the quality of goods, services, or expertise of the owner of a short-term rental.

(c) The issuance of a Short-Term Rental Operating Certificate does not shift responsibility from the owner to the City for proper training, conduct, or equipment of the owner, his agents, employees, or representatives.

735.04 REGISTRATION REQUIREMENTS.

(a) All operators shall register their short-term rentals with the City by March 1, 2024.

(b) No person shall operate or permit the operation of a short-term rental without first registering the short-term rental with the City Treasurer and the City Department of Taxation.

(c) Registration shall be maintained according to the provisions of this Chapter during any period of operation as a short-term rental.

(d) All operators/short-term rentals shall be in full compliance at all times with the City of Port Clinton Codified Ordinances.

(e) The registration fee to obtain a new Short-Term Rental Operating Certificate is Three Hundred Dollars (\$300.00).

(f) The registration fee to renew a Short-Term Rental Operating Certificate is One Hundred Dollars (\$100.00).

(g) All applicants shall file a short-term rental registration application with all of the required information and pay the registration fee. All applications shall be submitted to the Treasurer.

(h) No certificate shall be issued until the application has been fully completed and all applicable ordinances have been fully complied with. Once compliance is obtained a certificate shall be issued to the applicant by the Treasurer.

(i) The Treasurer may submit all applications to the appropriate city department for their endorsements as to compliance by the applicant with all city regulations which they have a duty of enforcing.

(j) The filing of an application, or the renewal thereof, or the payment of any application fee or renewal fee, shall not authorize a person to engage in a short-term rental until such certificate has been granted or renewed.

(k) Each Short-Term Rental Operating Certificate shall expire on December 31st of each calendar year.

735.05 SHORT-TERM RENTAL REGISTRATION APPLICATION

(a) A short-term rental applicant may submit an application for a new Short-Term Rental Operating Certificate at any time to the Treasurer. If the application is approved and a new Short-Term Rental Operating Certificate is issued, the certificate shall take effect on the date of issuance and shall expire on December 31st of that calendar year.

(b) A renewal application shall be submitted to the Treasurer prior to its expiration date of December 31st of that calendar year. Applicants are encouraged to submit their applications for renewal 30 days prior to expiration to ensure enough time for processing.

(c) The short-term rental registration application shall include the following information:

(1) Operator Information. The full legal name, current street mailing address, contact phone number, emergency contact phone number, and email address for the operator, and in cases where a business entity or trust is the operator, the individual who has responsibility to oversee the operation of the property including the mailing address, contact phone number, emergency contact phone number, and email address of such individual.

(2) Authorized Representative information. The full legal name, current street mailing address, contact phone number, emergency contact phone number, and email address for the individual, person, firm, partnership, corporation or company, other than an Owner, acting on behalf of an Owner of a short-term rental property responsible for ensuring compliance with all provisions of this Chapter and registered as the Owner's Authorized Representative with the City of Port Clinton.

(3) Responsible Local Person Information. The full legal name, current street mailing address, contact phone number, emergency contact phone number, and email address for the Owner or Authorized Representative who resides within 60 minutes of the short-term rental and who will be available 24 hours a day, seven days a week to respond as necessary to notifications of complaints regarding the condition, operation, or conduct of occupants of the short-term rental and taking remedial action as necessary to resolve such complaints.

(4) A basic site plan identifying the number of sleeping rooms and beds for the maximum occupancy allowed for overnight occupants.

(5) Photos and location of the following fully functional life safety equipment at the short-term rental that is installed to manufacturer specifications:

(i) Functional smoke detectors installed inside bedrooms, outside bedrooms, in the immediate vicinity of bedrooms, and on each story of a residential unit; and

(ii) Functional carbon monoxide detector installed within 15 feet of all bedrooms on each story of a residential unit (if applicable to your rental), and

(iii) Functional fire extinguisher(s).

(6) The operator shall provide to the City and up-to-date certificate of insurance documenting that the residential unit is insured as a short-term rental and providing coverage of not less than three hundred thousand dollars (\$300,000.00) and issued in accordance with Chapter 3902 of the Ohio Revised Code.

(7) The operator shall provide the City an acknowledgment that he/she/it understands that the short-term rental shall be in full compliance at all times with the City of Port Clinton Codified Ordinances and all of the provisions of this Chapter.

(d) The Treasurer, or his/her designee, shall review each registration application and shall issue a short-term rental operating certificate to the operator of the short-term rental upon finding the application satisfies all the requirements of this chapter.

735.06 SHORT-TERM RENTAL OPERATING REQUIREMENTS.

All short-term rentals registered with the City shall be subject to the following operating requirements:

(a) No person shall operate or advertise any short-term rental within the City of Port Clinton without first having procured a Short-Term Rental Operating Certificate and registration number issued by the City.

(b) The operator shall prominently display the Short-Term Rental Operating Certificate with the registration number and advisory notice to guests at the entrance inside of the short-term rental unit.

(c) The number of overnight occupants permitted in a short-term rental unit shall not exceed two occupants per sleeping room plus two additional occupants. This maximum occupancy shall be identified in the operating certificate.

(d) Each short-term rental shall have the following fully functional life safety equipment on the premises and installed to manufacturer specifications:

- (1) Functional smoke detectors, and
- (2) Functional carbon monoxide detectors (if applicable), and
- (3) Functional fire extinguisher(s).

(e) The Operator shall update the Treasurer, within seven (7) days of a change in status, all information associated with the registration, including any changes in the contact information for the operator, the responsible local person, and the rental management company.

(f) The Operator shall maintain the short-term rental in accordance with the City of Port Clinton Codified Ordinances and all of the provisions of this chapter.

(g) The Operator shall remain current on all existing income tax filing; transient occupancy tax filing; income tax, transient occupancy tax, and utility payment liabilities to the City. Any tax/utility bill that is not paid by the due date is considered delinquent.

(h) Short-Term Rental Operating Certificates are NOT transferable to a new owner upon sale of a property. The new owner shall apply for and receive a new certificate any time prior to commencing business in the City of Port Clinton.

735.07 SHORT-TERM RENTAL REGISTRATION RENEWAL.

(a) All operators shall renew their registration prior to January 1st of each calendar year. If an operator fails to renew their registration as provided herein, he/she/it must apply for a new short-term rental operating certificate rather than a renewal certificate.

(b) All short-term rental renewals shall be made in the manner prescribed by the Treasurer, or his/her designee, which shall include completion of the renewal application and payment of a renewal fee.

(c) All contact information for the Operator, the Responsible Local Person, and the Rental Management Company, shall be verified no less often than annually when the registration is renewed.

(d) The Treasurer, or his/her designee, shall review each renewal application and shall issue a renewal upon finding compliance with all the conditions of this Chapter.

735.08 DENIAL OF APPLICATION FOR NEW OR RENEWAL REGISTRATION

(a) The Treasurer may deny any application if any of the following are found in the application, applicant, owner, operator, or property:

- (1) Operator failed to provide all required application materials and/or failed to pay the required registration/renewal fee.
- (2) Operator attempted to renew a revoked or suspended registration.
- (3) Operator is delinquent in the filing of transient occupancy tax returns; income tax returns; and payment of income tax, transient occupancy tax, or utility payment liabilities to the City.
- (4) Operator made a material misrepresentation of fact on the application.
- (5) Operator failed to correct violations at the short-term rental or has interfered with correction of the violations at the short-term rental.
- (6) The short-term rental premises has been declared a chronic nuisance.

735.09 AVOIDANCE OF NUISANCES.

(a) No short-term rental may be operated within the City so as to cause a nuisance. For the purposes of this section, three or more violations including, but

not limited to, one or more of the following nuisance behaviors, in any one-year calendar period from January 1st through December 31st, shall establish a rebuttable presumption that a short-term rental has been operated in a manner that causes a nuisance:

- (1) Failure to maintain reasonable noise levels for the time of day.
- (2) Exceed the maximum number of overnight occupants per rental.
- (3) Exceed the demand for parking beyond that which is normal to the residential area and no unusual or excessive traffic to and from the premises.
- (4) Incidents of nuisance activity and/or criminal activity.
- (5) Failure to comply with the City's trash collection requirements.
- (6) Failure to comply with the City of Port Clinton Codified Ordinances.

735.10 SHORT-TERM RENTAL TRANSIENT OCCUPANCY TAX.

(a) All Operators are subject to taxation in accordance with Chapter 171 of the City of Port Clinton's Codified Ordinances.

(b) For the purpose of providing revenue with which to meet the needs of the City for general operating expenses, there is levied an excise tax of three percent (3%) on all rents received by a short-term rental.

(c) This tax constitutes a debt owed by the transient guest to the City which is extinguished only by payment to the operator as trustee for the City. The transient guest shall pay the tax to the operator at the time the rent is paid.

(d) All operators shall pay the excise tax in accordance with Chapter 171 of the Port Clinton Codified Ordinances.

(e) Hosting platforms shall be independently responsible for ensuring that the excise tax is withheld and paid.

(f) Each operator liable for the collection and payment to the City of any tax imposed by Chapter 171 of the Port Clinton Codified Ordinances, shall keep and preserve, for a period of three years, all records that may be necessary to determine the amount of tax that the operator may have been liable for the collection and payment to the City, which records the Treasurer shall have the right to inspect at all reasonable times.

(g) Each operator shall be responsible for making monthly returns to the Treasurer, even if there are no rents to report, on forms available online at www.portclinton.com of the total rents charged and received, and the amount of

tax collected for transient occupancies in accordance with Chapter 171 of the Port Clinton Codified Ordinances.

(h) All claims for exemption from the tax filed by occupants with the operator during the reporting period shall be filed with the monthly return/report. The guest shall provide the operator with appropriate paperwork stating the exemption. The operator shall provide the Treasurer the guest's paperwork stating the exemption at the time the return is filed, the full amount of the tax collected shall be remitted to the Treasurer.

(i) All claims for exemption for a short-term rental, operating as a long term rental for more than 30 days in a calendar year, shall be submitted with the monthly return by providing proof of a lease or other long term rental arrangement.

(j) No person shall fail or refuse to register as required in this chapter or fail to furnish any return required to be made, fail to furnish or refuse to furnish a supplemental return or other data required by the Treasurer, or render a false or fraudulent return or claim and whoever violates any provision of this section is guilty of a first degree misdemeanor and shall be fined not more than \$500.00, imprisoned for a period of not more than six months, or both.

735.11 SUSPENSION, REVOCATION, AND PENALTIES.

(a) Failure to comply with the conditions of operating a short-term rental as established in this chapter, failure to comply with the City of Port Clinton Codified Ordinances, the existence of any of the grounds for denial of application established in this chapter, or allowing a nuisance to exist at the short-term rental as described and defined in this chapter, may result in the suspension or revocation of a short-term rental registration.

(b) The Treasurer may suspend a registration if an operator fails to bring the short-term rental into compliance with this chapter within fifteen (15) days following the issuance of written notice of a violation. Any delinquent tax/utility bills shall be paid within fifteen (15) days following the issuance of a written notice of a violation to bring the short-term rental into compliance with this chapter.

(c) The Treasurer shall reinstate a suspended registration once the operator restores its short-term rental to compliance with the provisions of this chapter and pays a reinstatement fee of One Hundred Dollars (\$100.00).

(d) The Treasurer may revoke a registration if an operator fails to bring its short-term rental into compliance with the conditions established in this chapter within thirty (30) days following the issuance of written notice of a violation.

(e) An operator may provide proof to the Treasurer that the short-term rental/operator did not operate in violation of the provisions of this chapter, in which case the registration shall be reinstated without the payment of the reinstatement fee.

(f) Prior to or following a suspension or revocation, an operator may provide a plan to the Treasurer to achieve substantial compliance with a provision of this chapter when achieving strict compliance with the provision would impose practical difficulties. If the Treasurer decides the plan is viable, the execution of the plan shall constitute compliance with the provision at issue.

735.12 HEARING AND APPEALS.

(a) Any person who has a bona fide controversy with the application or enforcement of this chapter and who has been adversely affected by the decision of the Treasurer, may appeal the decision to the Board of Review by filing a Notice of Appeal with the Treasurer no later than thirty (30) days after written notice of the decision is mailed to the person by regular mail at their last known mailing address. An appeal shall not stay the suspension or revocation of a short-term rental registration.

(b) Any operator aggrieved by any decision of the Treasurer with respect to the amount of the tax, interest and penalties, if any, may appeal to the Board of Review by filing a notice of appeal with the Treasurer within fifteen (15) days of the serving or mailing of the determination of the tax due.

(c) Any operator may appeal to the Board of Review, consisting of a chairman, a secretary, and two other individuals each to be appointed by the Mayor and approved by Council. The Board of Review shall fix a time and place for hearing such appeal and shall give notice in writing by regular mail to the person at his, her, or its last known mailing address. The findings of the Board of Review shall be served on the appellant in the manner prescribed above for service of notice of hearing. The findings of the Board of Review shall be final and any amount found to be due shall be immediately due and payable upon the service of notice.

735.13 SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter or any part thereof.

735.14 VIOLATIONS, MISDEMEANOR PENALTIES.

(a) No person shall violate any provision of this chapter.

(b) Whoever violates any provision of this chapter is guilty of a first degree misdemeanor and shall be fined not more than \$500.00, imprisoned for a period of not more than six months, or both. Each day such violation exists shall constitute a separate and distinct offense. Multiple violations that occur during a single guest stay may be heard in a single action.

(c) The imposition of any penalty as provided for in this chapter shall not preclude the Law Director from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent the unlawful use of property, require repair or maintenance, restrain, correct, or abate a violation, prevent the occupancy of a Residential Premises, revoke a Short-Term Rental Certificate, or to require compliance with the provisions of this chapter or other applicable laws, ordinances, rules, or regulations.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were passed in an open meeting or this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the City, and for further reason that the City needs to be pass this Ordinance immediately upon its passage so all current short-term rental owners can be timely notified of the new requirements enumerated in this Ordinance prior to the registration date of March 1, 2024; wherefore, this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Passed: _____, 2023

President of Council

Attest: _____
Clerk of Council

Approved: _____, 2023

Mayor