

ORDINANCE NO. 5631
ORDINANCE TO ADD ARTICLE VII, CHAPTER 36, SECTION 36-130 OF THE CITY
OF MEMPHIS, CODE OF ORDINANCE TO ESTABLISH RULES AND
REGULATIONS RELATING TO THE OPERATION AND REGULATION OF SHORT
TERM RENTALS IN MEMPHIS

WHEREAS, pursuant to Article 40 Section 353 of the Memphis City Charter the City Council shall have the power to pass, for the government of the City, any ordinance not in conflict with the Constitution or laws of the United States or of the State of Tennessee; and

WHEREAS, the City Council has the power to pass any ordinance regulating the assessment, levy and collection of all City taxes not inconsistent with the provisions of the Constitution and laws of the United States and of the State of Tennessee; and

WHEREAS, the City Council finds that this ordinance is not inconsistent with the provisions of the Constitution and laws of the United States and of the State of Tennessee; and

WHEREAS, the City Council finds that it is in the public's interest to establish rules and regulations relating to the operation of short-term rentals in the City of Memphis to protect the public health, safety, and general welfare of individuals and the community at large; and to implement rationally based, reasonably tailored regulations to protect the integrity of the City's neighborhoods.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that the findings and recitations set out in the preamble to this ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

BE IT FURTHER ORDAINED that the various sections of this ordinance are severable, and that any portion declared unlawful shall not affect the remaining portions.

BE IT FURTHER ORDAINED that this ordinance shall become effective March 1, 2017.

Section 1. SHORT TITLE

This Ordinance shall be known as "Short Term Rental Ordinance".

Section 2. DEFINITIONS AND GENERAL PROVISIONS

The following words and phrases when used in this ordinance shall have the meanings as set out herein:

- 1) "Short Term Rental Property" means a structure or the part of a structure that is used as a home, residence, dwelling, or habitable room and complies with Ordinance No. 4232 governing the minimum conditions of property. Any structure or detached accessory unit rented to the same occupant for more than thirty continuous days, bed and breakfast

establishments, boarding houses, hotels, and motels shall not be considered short term rental property.

- 2) "Short Term Rental Property Owner" means the holder of the title in fee simple. Any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted. It shall also mean any person who, alone or jointly or severally with others:
 - a) Shall have legal title to any dwelling unit with or without accompanying actual possession thereof; or
 - b) Shall have charge, care or control of any dwelling unit as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, assignee of rents, lessee or other person, firm or corporation in control of a building or their duly authorized agents.
- 3) "Hosting platform" means a person or entity that participates in short term rental business by providing a means through which a Short Term Rental Property Owner may offer a short term rental property for transient use. This business service is usually, though not necessarily, provided through an online platform that allows a Short Term Rental Property Owner to advertise through a website or mobile application and provides a means for potential tourist or transient users to arrange transient use and payment, whether the transient pays directly to the Short Term Rental Property Owner or to the hosting platform.
- 4) "Transient" means any natural person, who exercises occupancy or is entitled to occupancy of any short term rental property, lodging or accommodation.
- 5) "Occupancy" means the use or possession, or the right to the use or possession, of any short term rental property, lodging or accommodation.
- 6) "Dwelling" means any building or structure or part thereof, including single, two-family, and multi-family dwellings, used and occupied for human habitation or intended to be so used including any accessory building and appurtenances (right-of-way, i.e. driveway) belonging there or usually enjoyed therewith.

Section 3. ZONING SHORT TERM RENTAL PROPERTY

It is the intent of the Council of the City of Memphis that Short Term Rental Property be regulated by this Short Term Rental Ordinance. As of the effective date of this ordinance, all Short Term Rental Properties shall be subject to the regulations of this ordinance and not those outlined for rooming houses in Section 2.5.2 of the Memphis and Shelby County Unified Development Code.

Section 4. ASSESSMENTS AND PRIVILEGE TAX ON SHORT TERM RENTAL PROPERTIES

- 1) A Hosting Platform, under a voluntary collection agreement with the city, which facilitates a transaction between a Short Term Rental Property Owner and a transient for lodging accommodations, shall be solely responsible and liable for collecting and remitting all occupancy and sale taxes to the city; and a Short Term Rental Property Owner who is not the hosting platform shall not be responsible for collecting and remitting occupancy and sales tax to the city on any transaction for which it has received confirmation that the Hosting Platform has collected the aforementioned taxes and remitted them to the city, pursuant to a voluntary collection agreement; otherwise, Short Term Rental Property Owners shall be liable for the collection and remittance of occupancy and sales taxes, if no such voluntary collection agreement between a hosting platform and the city has been executed.
- 2) The city shall impose an assessment of two dollars (\$2.00) per paid occupied room night on short term rental properties in the city. This assessment shall be dedicated to destination marketing and to provide supplemental funding for marketing programs above and beyond that currently provided, pursuant to Ordinance 5595.
- 3) The city levies a privilege tax upon the privilege of occupancy in a short term rental property of each transient. Such tax shall be in the amount of three and one-half percent (3.5%) of the consideration charged by the Short Term Rental Property Owners. Such tax is a privilege tax upon the transient occupying such short term rental property and is to be collected and enforced by the city as provided, pursuant to Ordinance 5619.

Section 5. REGULATION OF SHORT TERM RENTAL PROPERTY

- 1) All Short Term Rental Property Owners and their Transient guests shall abide by all applicable noise control restrictions of Memphis City Code §22-1 and garbage collection and disposal provisions of Ordinance No. 4840 of the City of Memphis Ordinances.
- 2) The Short Term Rental Property Owner shall meet all applicable requirements of the state and local building and fire safety codes, including, but not limited to, having approved smoke alarms meeting Underwriters Laboratory (UL) 217 standards meeting applicable state law standards installed as follows:
 - a) In all sleeping areas.
 - b) In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.
- 3) The Short Term Rental Property Owner shall meet all applicable requirements of the state and local building and fire safety codes, including, but not limited to, having approved carbon monoxide detectors meeting applicable state law standards installed on every habitable floor.
- 4) The principal renter of a short term rental property unit shall be at least eighteen (18)

years of age.

- 5) The Short Term Rental Property Owner shall not receive any compensation or remuneration to permit occupancy of a short term rental property for a period of less than twenty-four (24) hours.
- 6) The name and telephone number of each Short Term Rental Property Owner or their designee shall be conspicuously posted within the short term rental property unit. A Short Term Rental Property Owner or their designee shall answer calls twenty-four (24) hours a day, seven (7) days a week for the duration of each short term rental period to address problems or complaints associated with the short term rental property.
- 7) It is the intent of the Council of the City of Memphis that all Short Term Rental Property Owners, Hosting Platforms and their designees refrain from discrimination against any person in the terms, conditions, or privileges of the rental of short term rental property because some or all of the Transients are members of classes protected by the Tennessee Human Rights Act.

Section 6. COMPLIANCE

It is the intent of the Council of the City of Memphis that complaints regarding short term rental property be resolved according to existing state law and City of Memphis Ordinances pertaining to public nuisances, vehicles and traffic, health and safety, and public peace, morals, and welfare.

THE FOREGOING ORDINANCE
5631 PASSED
1st Reading 9-20-2016
2nd Reading 10-04-2016
3rd Reading 10-18-2016
Approved [Signature]
Chairman of Council
Date Signed: 1 Nov 2016
Approved [Signature]
Mayor, City of Memphis
Date Signed: 11/2/16

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Snydis
Comptroller