

# CITY OF SOMERVILLE

## ORDINANCE NO. 2023-01

### IN CITY COUNCIL: January 26, 2023

Be it ordained by the City Council, in session assembled, that Chapter 7, Article X of the code of ordinances of the City of Somerville is amended as follows by deleting the ~~struckthrough~~ text and adding the underlined text.

#### **Sec. 7-250. – Purpose.**

This article "short-term rentals" is intended to set forth regulations through which certain dwelling units within the City of Somerville may be utilized as short-term rental units. This regulation 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.

#### **Sec. 7-251. – Definitions.**

*Autonomous Unit.* A Residential Unit that is the Operator's Primary Residence and being offered in its entirety as a Short-Term Rental. The operator is not staying in the unit during the term of said rental.

*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.

*Director.* The director of the inspectional services department ("ISD") or his or her designee.

*Operator.* A natural person who is the owner, or lessee of the owner, of a residential unit that seeks to offer said residential unit as a short-term rental.

*Primary residence.* A residential unit in which an operator resides for at least nine months out of a 12-month period. Primary residence shall be demonstrated by showing that as of the date of ~~usage~~ usage applying for registration or renewal as a short-term rental, the operator has resided in said residential unit for nine of the past 12 months or that the operator intends to reside in the residential unit for nine of the next 12 months, in accordance with the proof of primary residence requirements set forth below.

*Proof of primary residence.* A copy of the deed (if owner) or lease (if tenant), driver's license or state issued identification, as well as one other document showing residency at the residential unit for the short-term rental, such as: utility bill, cable bill, or motor vehicle registration.

*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.

*Shared 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 staying in the unit during the term of said rental.

*Short-term rental.* The rental of a residential unit for its intended purpose, in exchange for payment as residential accommodations for a duration of fewer than 28 consecutive days. Such a rental may or may not be facilitated through the use of a booking agent.

### Sec. 7-252. – Applicability.

No residential unit shall be offered as a short-term rental except in compliance with each of the provisions of this article.

### Sec. 7-253. – Requirements for the operation of short-term rentals.

- (a) Registration Requirement. All Short-Term Rentals shall require a certificate of registration from ISD prior to short-term rental operation unless otherwise allowed in this article.
- (b) Operator's primary residence. A residential unit offered as a short-term rental shall be the operator's primary residence.
- (c) One party of renters. A residential unit offered as a short-term rental shall be rented to only one party of short-term renters at a time, not rented as separate bedrooms, beds, or spaces to separate parties.
- (d) Number of short-term renters. A residential unit offered as a short-term rental shall be limited to ten guests, or two guests per guest bedroom, whichever is fewer.
- (e) One listing per booking agent. A residential unit offered as a short-term rental shall not have more than one listing per booking agent associated with it.
- (f) A residential unit offered as a short-term rental shall comply with all standards and regulations promulgated by the director.
- (g) Short-term rental of a ~~Shared~~ shared residential Unit. An operator may offer ~~bedrooms within their residential unit~~ a Shared Unit as a Short-Term Rental 365 days per year. One bedroom in the unit shall be reserved for, and occupied by, the operator during the entire term of the rental.
- (h) Short-term rental of an ~~unoccupied residential unit~~ Autonomous Unit. Short-term rentals shall not exceed in the aggregate, ninety consecutive or nonconsecutive calendar days per year, ~~when the operator is not occupying the residential unit during the entire term of the short term rental for Autonomous Units.~~
- (i) Rental period and use. Renting for an hourly rate, or for rental durations of fewer than ten consecutive hours shall not be permitted. Commercial meetings and uses are prohibited in short-term rentals.
- (j) No outstanding violations. The residential unit offered as a short-term rental shall not have 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 a certificate of registration is issued, upon notice of said violation or order, the Director shall suspend the registration ~~short-term rental use shall be terminated~~ until the violation has been cured or otherwise resolved.
- (k) Three or more violations in a six month period. Should a property receive three or more violations within a six month period under this section, or of any municipal ordinance, state law, or building code, any residential unit within the property shall be ineligible to be used as a Short-Term Rental for a period of six months from the third or subsequent violation. If a certificate of registration has been issued, it shall be suspended for the remainder of its term, or for 6 months, whichever is greater.
- (l) 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.
- (m) 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 residential 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~~ they desires to use the residential unit as a short-term rental.

- (n) Notifications. The operator shall post and maintain a sign on the inside of the short-term rental on the entry level, visible to and reasonably likely to be readily accessed by individuals utilizing the short term rental, with the following information:
- (1) Instructions for the disposal of waste per the city's recycling and trash programs;
  - (2) Information regarding the city's parking regulations, including but not limited to visitor parking passes, street sweeping, and snow emergencies;
  - (3) The local noise ordinances of the city;
  - (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;
  - (5) The Certificate of Registration Issued by ISD.
- (o) Registration Number in Listing. The Operator shall include the registration number issued by ISD on any listing offering the Residential Unit as a Short-Term Rental.
- (p) Link to Listings. An Operator who is issued a certificate of registration shall provide a link to the corresponding Short-Term-Rental listing(s) to ISD.

#### **Sec. 7-254. – Registration.**

- (a) Applying for registration and renewals. An Operator shall file an application for registration or registration renewal with ISD online on a form prescribed by ISD. The registration process will be administered by ISD, and subject to change as determined by ISD.
- (b) Required Information. At the time of application Operators shall provide information to ISD that includes the following:
- (1) Address of Residential Unit to be offered as a Short-Term Rental;
  - (2) Operator and owner name and contact information;
  - (3) Whether the Residential Unit is being offered as a Shared Unit, or a Autonomous Unit;
  - (4) 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; and
  - (5) Other information as may be required by ISD.
- (c) Required Documentation. At the time of application, Operators shall provide ISD with the following documentation:
- (1) Proof of Primary Residence at the Residential Unit to be offered as a Short-Term Rental;
  - (2) Completed and signed owner approval, if the owner is not the Operator, as well as acceptance of responsibility documentation on forms as provided by ISD;
  - (3) Certificate of Registration with the Massachusetts Department of Revenue for the Operator and residential unit to be used as a Short-Term Rental;
  - (4) Proof of sufficient insurance; and
  - (5) Other documentation as may be required by ISD.
- (d) Fee. At the time of application for registration or renewal, Operators shall submit the applicable fee of \$250.00 as set forth by the Council.
- (e) Pre-Certificate Inspection and Verification. Prior to issuing or renewing a certificate of registration, ISD shall conduct an inspection and verify the accuracy of the information contained in the application and confirm that each Residential Unit being offered as a Short-Term Rental meets this Article and minimum safety requirements.
- (f) Certificate of Registration. A certificate of registration shall be issued or renewed to an Operator for a Residential Unit being offered as a Short-Term Rental that meets all requirements of this Article. Certificates shall bear a registration number.

(g) Term of Certificate.

- (1) Expiration. A certificate shall expire the following March 31st of when it is issued, unless it is renewed during the renewal period.
- (2) Renewal Period. Operators may apply for renewals of their existing valid certificates starting on the February 1st prior to its March 31st expiration. Certificates that are issued renewals during this period will expire the subsequent March 31st.
- (3) End of Lease. If an Operator is a lessee of the owner, and the Operator's lease for the Residential Unit has an end date before the expiration of the certificate of registration, the Operator shall submit new Proof of Primary Residence to ISD before the end date listed on the lease. Should the Operator fail to do so, the certificate of registration shall be deemed invalid as of the applicable lease end date.
- (4) Transferability. A certificate of registration shall be tied to the eligibility of the Residential Unit, the owner, and the Operator and shall not automatically transfer or remain valid upon the sale or lease of the unit or building.

(h) Link to Listings. An Operator who is issued a certificate of registration shall provide a link to the corresponding Short-Term-Rental listing(s) to ISD.

(i) Certification Requirement for lawfully existing short-term rentals at passage of registration requirement. Operators offering a Short-Term Rental that was lawfully operating in conformance with this article at time of passage of the registration requirements shall apply for a certificate of registration within 90 days and obtain a certificate within 180 days of the registration effective date. Such lawful Short-Term Rentals are allowed to continue operation during the interim period prior to certification, provided their application is not denied or are found to be otherwise in violation of this Article. All other Short-Term Rentals shall require a certificate of registration from ISD prior to operation.

(j) Registration Effective Date. The registration provisions of this article shall take effect on April 1st, 2023.

**Sec. 7-255. – Registry.**

ISD shall maintain a registry of Short-Term Rentals that are issued a certificate of registration. The registry shall be publicly accessible on the City's website. The registry shall include the address of the Residential Unit, the registration number, and the type of Short-Term Rental.

**Sec. 7-~~254~~256. – Penalties; enforcement.**

- (a) No person or entity may offer a residential unit as a short term rental in violation of this article. No booking agent may accept a fee for booking a residential unit which is in violation of this ordinance, provided that the city has first notified the booking agent of such violation of the residential unit. All violations of this section may be penalized by a noncriminal disposition as provided for in G.L. c. 40, § 21D. All violations of this section are subject to penalty in accordance with section 1-11 of the Somerville Code of Ordinances. Each day on which a violation exists shall be deemed a separate and distinct offense. 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. The provisions of this section may also be enforced according to Massachusetts Session Laws Acts of 2008 Chapter 106. Nothing herein shall be construed to preclude the city from seeking any additional penalties or taking any additional enforcement action as allowed for by law.
- (b) The director may enter into agreements with booking agents or any other third parties for assistance in enforcing the provisions of this article.

**Sec. 7-~~255~~257. – Regulations.**

The director shall have the authority to promulgate regulations to carry out the provisions of this article.

**Sec. 7-~~256~~258. – 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.

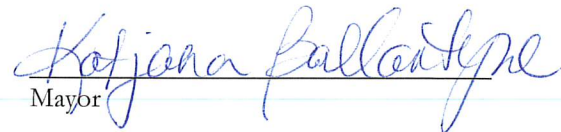
**Sec. 7-~~257~~259. – Effective date.**

The provisions of this Article X "Short-Term Rentals" shall take effect on January 1, 2020.

Approved:

 KW  
President

Approved:

  
Mayor