

ORDINANCE NO. 2022-18

CITY OF BELLA VISTA, ARKANSAS

REGULATING SHORT-TERM RENTALS, TO PROVIDE FOR THE REQUIREMENT OF A PERMIT TO OPERATE A SHORT-TERM RENTAL, TO PROVIDE A PROCESS FOR REVOCATION OF A SHORT-TERM RENTAL PERMIT, TO PROVIDE SAFETY AND ON-SITE SEPTIC INSPECTION REQUIREMENTS FOR SHORT-TERM RENTALS, TO PROVIDE OCCUPANCY LIMITS FOR SHORT-TERM RENTALS, PROVIDING PENALTIES FOR VIOLATIONS, AND FOR OTHER PURPOSES

WHEREAS, it is estimated that there are approximately 460-480 short-term rental units in Bella Vista; and

WHEREAS, Bella Vista does not have specific rules for short-term rentals which have been operating in Bella Vista since its early inception; and

WHEREAS, it is recognized by the City Council that in order to protect the health, safety and welfare of citizens, visitors, and the general community, as well as to protect the residential environment and property values, rules be set forth regulating the management, occupancy, and behavior conducted on short-term rental properties; and

WHEREAS, high occupancies in short-term rentals create a substantial risk to health and safety, create a substantial risk of septic failure for properties using on-site septic systems for wastewater, and have a high potential to create neighborhood nuisances; and

WHEREAS, it is the obligation of the owners or operators of these properties to pay all applicable state and local sales taxes, including City advertising and promotion sales taxes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: Definition. *Short-term rental* means a residential dwelling unit, portion of a dwelling unit, or bedroom within a dwelling unit, leased or rented to guests for a period of less than thirty (30) consecutive days. For purposes of this Ordinance, the term *short-term rental* shall not include properties or units subject to time-share arrangements or properties in commercial zones served by sanitary sewer.

SECTION 2: Permit required. A short-term rental shall not be operated except upon issuance of a permit by the City in accordance with the requirements of this Ordinance. Said permit shall be effective for a period of one (1) year from the date of issuance and is non-transferable. The permit shall be displayed in a clearly visible location in the short-term rental.

SECTION 3: Application requirements for permit. An application for the issuance of a short-term rental permit shall be on a form approved by the Mayor or the Mayor's designee. The application shall require the applicant to provide the following information:

- (a) the name, address, telephone number, and email address of the property owner, and, if different from the property owner, the name, address, telephone number, and email address of a person who shall serve as a local point of contact who shall reside within fifty (50) miles of the short-term rental property;
- (b) for properties served by on-site septic systems for wastewater, a copy of a report from a licensed septic installer or inspector certifying that the on-site septic system on the property is operational within the requirements of the Arkansas Department of Health;
- (c) proof that the applicant has met the requirements of the Advertising and Promotion Commission for collection of local A&P taxes;
- (d) a copy of an insurance declarations page with applicable rider showing liability insurance for the proposed short-term rental property; and
- (e) payment of an initial application fee of \$150.00 and a renewal application fee of \$100.00 for a short-term rental that is not owner occupied, or an application fee of \$50.00 and a renewal application fee of \$0.00 for a short-term rental that is owner occupied. Said application fees may be such other amount as may be set from time-to-time by resolution of the City Council.

SECTION 4: Conditions precedent to issuance of a permit. Upon receipt of an application fulfilling the requirements of Section 3 of this Ordinance, and prior to permit issuance:

- (a) The City shall conduct a safety inspection of the proposed short-term rental property for compliance with this Ordinance and with safety requirements established by the Mayor, or the Mayor's designee, which shall take into account all applicable building, fire-safety, and electrical codes. Safety inspection criteria shall be publicly available. No permit shall be issued until such time as the proposed short-term rental property passes said inspection. The requirement for a safety inspection shall only apply upon the initial application for a short-term rental permit, and shall not be required for any renewal application. No safety inspection shall be required on any proposed short-term rental property if a certificate of occupancy was issued by the City for the subject property within five (5) years prior to the date of application for a short-term rental permit.
- (b) The short-term rental shall have posted within the structure, in a clearly visible location, the contact information, to include a telephone number and address, for the property owner and the local point of contact for the short-term rental, a copy of the City noise ordinance requirements, a copy of the City parking ordinance requirements, and a notice to all persons that guests, local points of contact, or property owners may be cited and fined for violations of applicable city ordinances; and
- (c) The short-term rental shall have a minimum of two (2) off-street parking spaces available on site.
- (d) Notwithstanding any requirement of this Ordinance to the contrary, properties owned by a citizen of the City of Bella Vista for which a building permit has been issued shall, prior to the issuance of a certificate of occupancy, be granted an initial short-term rental permit as provided herein upon application. Said permit shall be counted toward the

maximum permits to be issued as provided in Section 7 of this Ordinance. Any such property shall comply with all other applicable requirements, including the payment of an application fee. The granting of a short-term rental permit pursuant to this subsection shall not be deemed to permit occupancy of a structure prior to the issuance of a certificate of occupancy, nor shall it be deemed to supersede or abrogate any requirements of the Arkansas Fire Prevention Code with regard to construction.

SECTION 5: Occupancy limits and restrictions.

- (a) At no time shall short-term rentals have, or be offered for rent as having, an occupancy greater than three (3) guests per bedroom for short-term rentals served by on-site septic systems for wastewater, or three (3) guests per bedroom plus an additional two (2) guests for short-term rentals served by sanitary sewer for wastewater. The number of bedrooms shall be determined in the same manner as provided in the Arkansas Fire Prevention Code and, if applicable, the Arkansas Department of Health on-site septic permit for the property, whichever is less.
- (b) A short-term rental shall be used for purposes of overnight guest accommodation and shall not be offered for rent exclusively for, or used exclusively for, receptions, parties, weddings, or other wedding-related parties, corporate meetings, or similar activities.
- (c) On-street parking for short-term rentals is prohibited.

SECTION 6: Violations.

- (a) Any person operating a short-term rental in violation of this Ordinance shall, for a first offense, be fined not less than \$250 nor more than \$500. For a second offense, a violator shall be fined an amount not less than \$500 nor more than \$1,000. For a third or subsequent offense, in addition to a fine of not less than \$1,000 nor more than the maximum fine allowed by state law, any short-term rental permit issued pursuant to this Ordinance shall be revoked by the court. For purposes of this Ordinance, a “person operating a short-term rental” shall be the owner, the short-term rental permit applicant, or the local point of contact required by Section 3(a).
- (b) The City shall have authority to seek legal and equitable relief from any court of competent jurisdiction for violations of the provisions of this Ordinance.
- (c) No applicant for property subject to a short-term rental permit revocation shall be granted another short-term rental permit for a period of twelve (12) months from the date of any short-term rental permit revocation.

SECTION 7: Maximum number of active permits to be issued.

- (a) The maximum number of active short-term rental permits shall not exceed six hundred (600). Said maximum number shall not include short-term rental permits for owner-occupied units, which shall not be subject to a maximum number of permits issued.
- (b) Any application received pursuant to the provisions of this Ordinance after the City has issued six hundred (600) active short-term rental permits (not including owner-occupied short-term rental units) shall be denied. At such point as active permits expire, or are revoked, a number of permits equal to the number of permits which have expired or been revoked may be issued. At no point shall more than six hundred (600)

short-term rental permits be active in the City (not including owner-occupied short-term rental units).

- (c) The order in which short-term rental permits are granted shall be based on the order in which complete applications are submitted.

SECTION 8: Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 9: Effective dates for permit requirement. NOT TO BE CODIFIED. To provide a reasonable opportunity for applications and inspections required by the Ordinance to be accomplished, the requirement to operate a short-term rental pursuant to a permit shall apply one hundred twenty (120) days after the effective date of this Ordinance. Notwithstanding any provision of this Ordinance to the contrary, short-term rental permits issued within the first one hundred twenty (120) days of the applicability of this Ordinance shall be effective for eighteen (18) months from the date of issuance. Furthermore, during the initial thirty (30) days in which permit applications are accepted, only applications for permits from citizens of the City of Bella Vista shall be accepted.

Motion to approve by Wilms, second by Fowler. Ayes: Flynn, Wozniak, Wilms, Fowler. Nays: Snow and Bourke.

ADOPTED THIS 18TH DAY OF DECEMBER, 2022.

APPROVED:

Peter Christie, Mayor

Attest:

Wayne Jertson, City Clerk

Requested by: Council Member Doug Fowler (with consensus amendment, Fowler amendment and Flynn amendment, and additional Wozniak and Flynn amendments)

Prepared by: Jason B. Kelley, Staff Attorney

THIS PUBLICATION WAS PAID FOR BY THE CITY OF BELLA VISTA, OFFICE OF THE CITY CLERK. THE AMOUNT PAID FOR THE PUBLICATION WAS _____.