

# City of Cincinnati

LDM/E

*Handwritten signature/initials in blue ink.*

## An Ordinance No. \_\_\_\_\_

- 2019

**MODIFYING** the provisions of Title VIII, “Business Regulations,” of the Cincinnati Municipal Code, by **ORDAINING** new Chapter 856, “Short Term Rentals”; **MODIFYING** the provisions of Title III, “Financial, Personnel, Procurement and Real Property Procedures,” of the Cincinnati Municipal Code by **ORDAINING** new Chapter 315, “Short Term Rental Excise Tax”; and **MODIFYING** the provisions of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code by **AMENDING** Sections 1501-3, “Class A Civil Offenses,” 1501-7, “Class C Civil Offenses,” 1501-8, “Class C1 Civil Offenses,” and 1501-9, “Class D Civil Offenses,” in order to establish a registration program for the operation of short term rentals.

WHEREAS, advances in technology have enabled residential property owners all over the United States and the rest of the world 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 short term rentals made possible by these changes have given rise to a unique business model, unlike hotels and other forms of lodging, that engages a full range of market participants ranging from homeowners and apartment dwellers to institutional investors and that further can range in character from distinctly residential to distinctly commercial; and

WHEREAS, on one hand, short term rentals offer supplemental income for City residents, including the chance to rent property for short periods of vacancy or while trying to sell, and short term rentals also increase tourism, providing access to the City for people who might not otherwise visit, and showcasing neighborhoods of the City that may not often host tourists; and

WHEREAS, on the other hand, the City has received complaints and heard disputes between neighbors of property owners who list their properties for short term rental, as some renters have committed noise violations or otherwise failed to show civility and respect for the impacted neighborhood and its residents, such that the properties constitute a public nuisance that threaten the health, safety, and welfare of the citizens and residents of the City; and

WHEREAS, in addition, the City seeks to ensure that properties that are being rented out for short periods meet minimum safety and sanitation requirements, including all existing requirements in applicable building codes, zoning codes, housing codes, and fire codes; and

WHEREAS, the City also seeks to raise revenues through taxation of short term rentals to provide funds to be used to preserve and develop affordable housing, the supply of which housing could be substantially reduced by the creation of new short term rental units in the city; and

WHEREAS, Council desires to strike a balance between allowing property owners to use their properties as they see fit, including offering the property for rental for short periods of time,

and also requiring that such property owners remain accountable for their properties and the short term rental activities at the properties; and

WHEREAS, Council also desires to ensure that an outsized short term rental industry in Cincinnati, in light of its population and physical area, does not create a dearth of affordable housing and does not artificially lead to quickly increasing housing rentals City-wide or in particular neighborhoods; now, therefore,

BE IT ORDAINED by Council of the City of Cincinnati, State of Ohio:

Section 1. That Chapter 856, "Short Term Rentals," of Title VIII, "Business Regulations," of the Cincinnati Municipal Code is hereby ordained to read as follows:

**Chapter 856 - SHORT TERM RENTALS**

**Sec. 856-1. - Definitions.**

For the purpose of this chapter the words and phrases defined in this section shall have the meanings respectively ascribed to them, unless a different meaning is clearly indicated by the context.

**Sec. 856-1-H. - Hosting Platform.**

"Hosting Platform" means a person or entity that provides a means through which short term rentals are offered, listed, advertised, solicited, or otherwise held out for rent.

**Sec. 856-1-O. - Operator.**

"Operator" means any person who offers a short term rental or holds a short term rental out to the public for rental by placing advertisements or solicitations with a hosting platform.

**Sec. 856-1-P. - Person.**

"Person" shall mean any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

**Sec. 856-1-R. - Responsible Person.**

"Responsible Person" means:

- (a) A natural person;

- (b) Designated by the operator of a short term rental as having the duty, responsibility, and authority to operate, maintain, and manage the short term rental;
- (c) Whose principal residence or principal place of business is located no greater than fifty miles from the short term rental.

**Sec. 856-1-S. - Short Term Rental.**

“Short Term Rental” means:

- (a) Any residential dwelling unit or part thereof;
- (b) Offered or held out to the public for rent on a hosting website, web or mobile application, or other online platform through which short term rentals are listed, advertised, solicited, or otherwise held out for rent;
- (c) For a duration of occupancy of less than thirty consecutive days.

**Sec. 856-1-T. - Transient Guest.**

“Transient guest” shall mean 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.

**Sec. 856-3. - Applicability.**

- (a) This chapter applies to all short term rentals located in the city of Cincinnati, including those short term rentals operated prior to the effective date of this ordinance, and all operators and hosting platforms conducting business in the city of Cincinnati. This chapter shall have prospective application and shall not impair or modify the terms of any agreement executed or in effect prior to the effective date of this chapter providing for a short term rental to the extent that the parties entering the agreement and the other terms thereof conflict with the provisions of this chapter.
- (b) This chapter shall not apply to any transient use of property otherwise regulated by specific provisions of the Cincinnati Municipal Code. The owners and persons responsible for such property regulated by provisions other than this chapter shall comply with any local tax requirements applicable to those uses of such property and, if a local tax is applicable, then such owners and responsible persons shall not pay or allow a short term rental platform to collect the short term rental excise tax established in Chapter 315 of the Cincinnati Municipal Code. Those uses of property regulated by specific provisions of the Cincinnati Municipal Code outside of this chapter include, but are not limited to, the following uses of property:

- (1) "Congregate Housing" as defined in Section 1401-01-C7;
- (2) "Hotel" as defined in Sections 312-1-H, 855-1-H, 1117-03.2, and 1401-01-H5; or
- (3) "Rooming House" as defined in Sections 855-1-R1, 1117-03.2, and 1401-01-R14.

**Sec. 856-5. - Registration Requirements.**

- (a) All operators must register their short term rentals with the city pursuant to Section 856-7, "Short Term Rental Registration," prior to their operation. No person shall operate or permit the operation of a short term rental without first registering the short term rental with the city.
- (b) Registration obtained pursuant to this section must be maintained according to the provisions of this chapter during any period of operation as a short term rental.

**Sec. 856-7. - Short Term Rental Registration.**

- (a) All short term rentals shall be registered in the manner prescribed by the city manager or his or her designee, which shall include the payment of a registration fee as necessary to recover the cost and expense of administering the city's short term rental program.
- (b) The registration of a short term rental shall require the following information:
  - (1) A current street mailing address, contact phone number, emergency contact phone number, and email address for the operator and the responsible person designated for the short term rental. The operator of a short term rental shall be the person designated to receive legal notice from the city related to operation of the short term rental.
  - (2) A current list of all hosting platforms through which the short term rental is listed, advertised, solicited, or otherwise held out for rent and those through which it is reasonably anticipated to be listed, advertised, solicited, or otherwise held out for rent.
  - (3) A certification from the operator that the operator is the legal owner or tenant of the short term rental unit with the right and authority to operate the unit as a short term rental.
  - (4) A certification from the operator that, to the best of his, her, or its knowledge, the short term rental is in conformity with:

- (i) Building codes, including, as applicable, the Ohio Building Code, the Residential Code of Ohio, and the Cincinnati Building Code;
  - (ii) Zoning codes, including, as applicable, the Cincinnati Zoning Code and Land Development Code;
  - (iii) Housing codes, including the Cincinnati Housing Code; and
  - (iv) Fire codes, including the Cincinnati Fire Code and the Ohio Fire Code.
- (5) Proof that the operator of the short term rental is current on all existing tax and utility payment liabilities to the city, including payment of the short term rental excise tax.
  - (6) An acknowledgment that the operator understands that the short term rental must at all times maintain compliance with applicable federal, state, and local laws, regulations, ordinances, or other rules or codes governing the operation of the short term rental.
  - (7) An acknowledgment that the operator has read Cincinnati Municipal Code Chapter 914, "Unlawful Discriminatory Practices," including Section 914-5, "Housing Discrimination Prohibited," and Section 914-7, "Public Accommodations Discrimination Prohibited."
- (c) The city manager or his or her designee shall review each registration application and shall issue a registration and a unique registration number to the operator of the short term rental unit upon finding the application satisfies all the requirements of this chapter.
  - (d) The city manager or his or her designee shall notify the applicant of a final determination on an application no later than thirty days following receipt of a complete application submission. All application denials shall be in writing and shall set forth specific reasons for the denial.
  - (e) Each short term rental registration shall be valid for three years from the date of issuance.

**Sec. 856-9. - Standard Conditions of Short Term Rental Registration.**

All short term rentals registered with the city shall be subject to the following standard conditions:

- (a) All information associated with the registration must be updated within seven days of a change in status, including any changes in the contact information for the

operator and the responsible person, and further must be verified no less often than triennially when the registration is renewed.

- (b) All listings, advertisements, or solicitations offering a short term rental for rent shall include its registration number.
- (c) The operator shall prominently display the short term rental registration at the entrance inside the short term rental unit.
- (d) The operator shall prominently display an advisory adjacent to the short term rental registration, which advisory shall be in the form prescribed by the city manager or his or her designee and shall indicate the contact information for the responsible person, the contact information for the police department and fire department that serve the area in which the short term rental is located, the location of all means of egress from the short term rental, and a list activities and behaviors prohibited by city law that tend to be associated with the operation of short term rentals.
- (e) The short term rental shall be maintained and operated in accordance with applicable building codes, zoning codes, housing codes, fire codes, and the provisions of this chapter.
- (f) The operator of the short term rental must remain current on all existing tax liabilities to the city, including payment of the short term rental excise tax.
- (g) Proof of liability insurance for the short term rental unit in an amount that corresponds to the prevailing rate for similar properties being used for a similar purpose as determined by the city manager or his or her designee. Insurance provided by hosting platforms may be used to satisfy this requirement.

**Sec. 856-11. - Short Term Rental Registration Renewal.**

- (a) All operators shall apply to renew their registration no earlier than one hundred eighty days and no later than sixty days before its expiration date. If an operator fails to apply for renewal as provided herein, he, she, or it must apply for a new registration rather than a renewal.
- (b) All short term rental registration renewals shall be made in the manner prescribed by the city manager or his or her designee, which shall include the payment of a renewal fee as necessary to recover the cost and expense of administering the city's short term rental program.
- (c) The city manager or his or her designee shall review each renewal application and shall issue a renewal upon finding compliance with all the conditions of short term rental registration established in Section 856-9 of this chapter as applicable.

**Sec. 856-13. - Denial of Application for New or Renewal Registration.**

- (a) The city manager or his or her designee may deny any application for a new or renewal registration if any of the following are true of the application, applicant, owner, operator, or property:
- (1) The applicant failed to provide all required application materials or to pay the application fee.
  - (2) Any registration associated with the operator making the application or for the short term rental that is the subject of the application is currently revoked or suspended as of the date of the application.
  - (3) The applicant, operator, or owner of the short term rental is delinquent in the payment of existing tax and utility payment liabilities to the city, including payment of the short term rental excise tax.
  - (4) The applicant has made a material misrepresentation of fact on the application.
  - (5) The applicant, operator, or owner of the short term rental is shown to have been engaged in the act of prostitution or soliciting for prostitution, or an act that would constitute a violation of the Ohio Revised Code Chapters 2925 or 3719, on the premises of the short term rental in question, or any short term rental in which that individual has any interest in, including but not limited to ownership or operation.
  - (6) The applicant, operator, or owner of the short term rental has failed to make a good faith effort to correct violations of this chapter or has obstructed or interfered with correction of the violations.
  - (7) The short term rental premises is subject to outstanding orders from a City department that have not been corrected.
  - (8) The short term rental premises has been declared a chronic nuisance pursuant to Cincinnati Municipal Code Chapter 765.
- (b) The city manager or his or her designee may deny any application for a new or renewal registration if any of the following are shown to have occurred at the short term rental:
- (1) A pattern of felony drug related activity, as defined in Ohio Revised Code Section 2923.31, exists at the short term rental.

- (2) A pattern of prostitution related activity or evidence of human trafficking, as defined in Ohio Revised Code Section 2923.31, exists at the short term rental.
  - (3) A pattern of criminal gang activity, as defined in Ohio Revised Code Section 2923.41, exists at the short term rental.
  - (4) A documented history of repeated offenses of violence as defined in Ohio Revised Code Section 2901.01, exists at the short term rental.
- (c) Evidence of criminal conduct under subsections (a) and (b) of this section need only be that of *de facto* violation of law; evidence of conviction is not a prerequisite for denial unless specifically indicated.

**Sec. 856-15. - Avoidance of Nuisances.**

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 written citations or notices of violation for one or more of the following behaviors by transient guests of the short term rental in and around the vicinity of the short term rental in any one-year period shall constitute *prima facie* evidence that a short term rental has been operated in a manner that causes a nuisance:

- (a) Incidents constituting a nuisance as defined by Cincinnati Municipal Code Section 761-1-N.
- (b) Incidents of failure to maintain noise standards per Cincinnati Municipal Code Chapter 909, "Community Noise."
- (c) Incidents of exceeding the maximum occupancy levels permitted pursuant to applicable building codes, housing codes, and fire codes.
- (d) Incidents of illegal parking of vehicles.
- (e) Incidents of failure to abide by the requirements of Cincinnati Municipal Code Title XVI, "Neighborhood Quality of Life Uniform Code."
- (f) Incidents of criminal activity, including littering, trespass, intoxication, overdose, vandalism, and lewd and lascivious behavior, including one or more of the criminal activities listed in Section 856-13.

**Sec. 856-17. - Limitations on the Operation of Short Term Rentals.**

- (a) No dwelling unit that receives affordable housing grants or credits from the federal, state, or local governments, or that meets any requirement applicable to the property in which the dwelling unit is located related to such affordable housing grants or credits, shall be registered as a short term rental.



- (b) No building may contain a greater number of short term rental units than set forth below, and no registration may issue to authorize the establishment of a short term rental in a building to the extent it would exceed the maximum number of short term rental units permitted:
  - (1) For buildings containing four or fewer dwelling units, there is no limit on the number of short term rentals that may be operated in the building.
  - (2) For buildings containing five or more dwelling units, four short term rentals plus one additional short term rental for every four dwelling units in excess of four dwelling units is permitted.
- (c) The number of short term rental registrations issued for a building shall be calculated on a first applied, first approved basis.
- (d) The limitations established in this section do not alter existing obligations under the Cincinnati Building Code, Zoning Code, Fire Code, or Health Code and other applicable building, housing, or residential codes.

**Sec. 856-19. - City Short Term Rental Website.**

The city manager or his or her designee is authorized to maintain a website showing all registered short term rentals. The website may be made publicly available and shall make publicly available the email address for the responsible person designated for each unit.

**Sec. 856-21. - Excise Tax.**

All operators of short term rentals shall pay, or shall cause any hosting platform on which their short term rental is rented to pay on their behalf, the short term rental excise tax established in Chapter 315 of the Cincinnati Municipal Code. Hosting platforms shall be independently responsible for ensuring that the short term rental excise tax is withheld and paid.

**Sec. 856-23. - Short Term Rental Hosting Platform Obligations.**

- (a) All hosting platforms through which short term rentals within the city are listed, advertised, solicited, or otherwise held out for rent shall provide the following information to the city manager or his or her designee on a quarterly basis:
  - (1) The total number and location of short term rentals listed on the platform during the applicable reporting period;
  - (2) The total number of nights that each listing on the platform was rented to guests during the applicable reporting period; and

- (3) The total amount of tax collected and remitted by the hosting platform to the city during the applicable reporting period.
- (b) All hosting platforms through which short term rentals within the city are listed, advertised, solicited, or otherwise held out for rent shall provide a field on the platform to allow operators to input short term rental registration numbers.

**Sec. 856-25. - Suspension, Revocation, and Penalties.**

- (a) Failure to comply with the conditions of operating a short term rental established in Section 856-9 of this chapter, existence of any of the grounds for denial of application established in Section 856-13(a) and (b) of this chapter, or allowing a nuisance to exist at the short term rental as described and defined in Section 856-15 of this chapter, may result in the suspension or revocation of a short term rental registration as follows:
  - (1) The city manager may suspend a registration if an operator fails to bring its short term rental into compliance with this chapter within seven days following the issuance of written notice of a violation. An operator may not operate the short term rental associated with the registration or hold it out for rent during a period of suspension.
  - (2) The city manager or his or her designee 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 as necessary to recover the cost and expense of administering the city's short term rental program registry.
  - (3) The city manager 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 days following the issuance of written notice of a violation. An operator may not operate the short term rental associated with the registration or hold it out for rental during a period of revocation.
  - (4) Prior to or following a suspension or revocation, an operator may provide proof to the city manager or his or her designee establishing to the satisfaction of the city manager or his or her designee that the short term rental did not operate in violation of the provisions of this chapter cited as the reason for the suspension or revocation, in which case the registration shall be reinstated without the payment of a reinstatement fee.
  - (5) Except as provided in subsection (a)(4), a registration may not be reinstated for twelve months following its revocation date, and the short term rental associated with a revoked registration may not be operated as a short term rental during the twelve-month waiting period. In addition, no operator

associated with a revoked registration and no natural person with authority to exercise control over the operator or holding an ownership interest or beneficial interest in the operator may apply for a new registration for a short term rental during the same twelve-month period.

- (b) Failure to obtain a short term rental registration prior to holding a short term rental out for rent to the public or operating a short term rental shall constitute a Class C civil offense on the first day, and having once been notified under CMC Section 1501-13, "Notice of Civil Offense and Civil Fine; Procedures," each additional day that the dwelling unit is operated, or held out to the public, as a short term rental shall constitute a separate, subsequent Class D civil offense.
- (c) Operation of a short term rental in violation of the limitations on short term rentals established in Section 856-15 or the limitations on owners and operators of short term rentals established in Section 856-17 of this chapter shall constitute a Class D civil offense and may result in the revocation of the short term rental registration for the applicable properties.
- (d) Failure to provide the active registration number associated with a short term rental on any listing advertising or soliciting the unit shall constitute a Class A civil offense on the first day, and having once been notified under CMC Section 1501-13, "Notice of Civil Offense and Civil Fine; Procedures," each additional day that an operator fails to provide the active registration number associated with the short term rental on any listing through which the unit is held out for rent to the public shall constitute a separate, subsequent Class A civil offense.
- (e) Failure of a hosting platform to comply with Section 856-23, "Short Term Rental Platform Obligations," of this chapter shall constitute a Class C civil offense on the first day, and having once been notified under CMC Section 1501-13, "Notice of Civil Offense and Civil Fine; Procedures," each additional day that the short term rental is operated or held out to the public for rental shall constitute a separate, subsequent Class D civil offense.

#### **Sec. 856-27. - Appeals.**

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 may appeal the decision to the city's office of administrative hearings by filing a notice of appeal with the office no later than thirty days after written notice of the decision is mailed to the person. An appeal shall not operate to stay the suspension or revocation of a short term rental registration.

#### **Sec. 856-29. - 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.

The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

Section 2. That Chapter 315, “Short Term Rental Excise Tax,” of Title III, “Financial, Personnel, Procurement and Real Property Procedures,” of the Cincinnati Municipal Code is hereby ordained to read as follows:

## **CHAPTER 315 - SHORT TERM RENTAL EXCISE TAX**

### **Sec. 315-1. - Definitions.**

For the purpose of this chapter the words and phrases defined in this section shall have the meanings respectively ascribed to them, unless a different meaning is clearly indicated by the context.

### **Sec. 315-1-H. - Hosting Platform.**

“Hosting Platform” means a person or entity that provides a means through which short term rentals are offered, listed, advertised, solicited, or otherwise held out for rent.

### **Sec. 315-1-O. - Operator.**

“Operator” means any person who offers a short term rental or holds a short term rental out to the public for rental by placing advertisements or solicitations with a hosting platform.

### **Sec. 315-1-P. - Person.**

“Person” shall mean any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

### **Sec. 315-1-R. - Rent.**

“Rent” shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever.

### **Sec. 315-1-S. - Short Term Rental.**

“Short Term Rental” means:

- (a) Any residential dwelling unit or part thereof;
- (b) Offered or held out to the public for rent on a hosting website, web or mobile application, or other online platform through which short term rentals are listed, advertised, solicited, or otherwise held out for rent;
- (c) For a duration of occupancy of less than thirty consecutive days.

**Sec. 315-1-T1. - Transient Guest.**

“Transient guest” shall mean 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.

**Sec. 315-1-T2. - Treasurer.**

“Treasurer” shall mean the city treasurer of the city of Cincinnati.

**Sec. 315-3. - Rate of Tax.**

- (a) There is hereby levied an excise tax on the operation of short term rentals subject to registration pursuant to Chapter 856 of the Cincinnati Municipal Code. The tax shall equal seven percent of the gross revenues generated from the operation of a short term rental located in the city. Such tax constitutes a debt owed by the operator of the short term rental to the city, which is extinguished only by payment of the tax to the city.
- (b) Operators of short term rentals shall pay, or shall cause any hosting platform on which their short term rental is rented to pay on their behalf, the short term rental excise tax established in this chapter.
- (c) In lieu of requiring compliance with subsection (b) hereof, the treasurer of the city of Cincinnati may enter into an agreement with a hosting platform to establish a process for the hosting platform to collect and pay the applicable taxes imposed upon operators, solely for transactions consummated between operators and transient guests through the hosting platform.

**Sec. 315-5. - Exemptions.**

- (a) The treasurer may grant an exemption from the tax imposed under this chapter upon a demonstration that the transaction giving rise to tax liability is not within the taxing power of the city under the constitution or laws of the State of Ohio or the United States.

- (b) No exemption claimed under subsection (a) hereof shall be granted except upon a claim therefor made upon the occurrence of the transaction giving rise to tax liability and under penalty of perjury upon a form prescribed by the treasurer.

**Sec. 315-7. - Records Showing Rent and Excise Tax.**

The tax to be collected shall be accounted for as an excise tax on the gross revenues from operation of the short term rental at the rate established in Section 315-3 of this chapter. The operator of a short term rental shall be responsible for keeping records showing the gross revenues received in connection with the operation of the short term rental, so that the rate of tax can be properly accounted for, as detailed in Section 315-11 of this chapter. Each operator, or alternatively, each hosting platform that an operator causes to collect and pay the excise tax on its behalf, shall hold in trust for account of the city a portion of the gross revenues received from the operation of a short term rental as is sufficient to discharge the tax liability established under Section 315-3 of this chapter until payment thereof is made to the treasurer.

**Sec. 315-9. - Registration.**

- (a) *Operator of short term rental.* Prior to commencing business, each operator of a short term rental shall register with the city as required under Cincinnati Municipal Code Section 865-5.
- (b) *Hosting platform.* Prior to commencing business, each hosting platform facilitating the renting of short term rentals in the city shall register with the treasurer, providing any information requested by the treasurer that is necessary to establish a system of payment of the tax established in this chapter from the hosting platform to the city.

**Sec. 315-11. - Reporting and Remitting.**

- (a) Each hosting platform shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the treasurer, make a return to the treasurer, on forms provided, of the gross revenues received and the amount of tax due for the operation of all of the short term rentals in the city rented through the hosting platform for that calendar quarter or shorter reporting period if applicable.
- (b) If the treasurer of the city of Cincinnati enters into an agreement with a hosting platform pursuant to Section 315-3(c) of this chapter, such agreement may govern the process for reporting and remitting of tax due for the operation of short term rentals rented through that hosting platform.
- (c) At the time the return is filed, the full amount of the tax held in trust on behalf of the operators shall be remitted to the treasurer, if it has not previously been remitted.

- (d) The treasurer may establish shorter reporting periods for an operator if determined necessary in order to ensure collection of the tax and may require further information in the return if such information is pertinent to the collection of the tax.
- (e) Returns and payments are due no less than ninety days following cessation of a short term rental's operation for any reason.
- (f) All returns and payments submitted by a hosting platform shall be treated as confidential by the treasurer and shall not be released except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the state of Ohio, the county of Hamilton, or the city of Cincinnati for official use only.

**Sec. 315-13. - Treasurer's Authority.**

- (a) The treasurer is empowered to adopt, promulgate, and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the provisions of this chapter, including, but not limited to, provisions relating to transactions and record keeping. Rules and regulations shall be effective upon publication in the *City Bulletin* or at a later date specified by the treasurer.
- (b) The treasurer is empowered to issue rulings on the application of the provisions of this chapter and the rules and regulations promulgated hereunder upon request from an operator or hosting platform. The rulings shall be at the discretion of the treasurer and binding only with respect to the person requesting the ruling. The treasurer may condition the consideration of a request for a ruling upon payment of an administrative fee to offset the administrative costs associated with consideration of the request.
- (c) The treasurer is empowered to conduct investigations relating to any matter pertaining to the administration and enforcement of the provisions of this chapter.
- (d) The treasurer is empowered to subpoena the production of books, papers, records, and other information and the attendance of all persons before him or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge pertinent to any inquiry of any tax paid, charged, collected, or received or required to have been charged, collected, or received. The treasurer is empowered to subpoena the appearance of any person appearing before him or her under oath, concerning any transaction which was or should have been reported for any purpose under this chapter or any activity or occurrence tending to affect the tax levied under this chapter. All costs of production shall be borne by the respondent.
- (e) Each subpoena issued pursuant to subsection (d) hereof shall indicate that any person receiving the subpoena may exercise his, her, or its right to have the subpoena reviewed by a court of competent jurisdiction before complying with the subpoena.

- (f) No authority granted to the treasurer by any other provision of this chapter shall be limited by virtue of not being included in this section.
- (g) Upon good cause, the treasurer may waive penalties otherwise owing under this chapter for an operator's failure to pay amounts due.

**Sec. 315-15. - Failure to Collect and Report Tax, Determination of Tax by City Treasurer.**

- (a) If an operator fails to directly pay or cause a hosting platform to collect or withhold the tax prescribed by this chapter or to make within the time provided any report and remittance of the tax or any portion thereof, the treasurer shall proceed in such manner deemed best to obtain facts and information on which to base the estimate of the tax due. Upon procuring facts and information upon which to base the assessment of any tax imposed by this chapter and payable by, or on behalf of, an operator, the operator who has failed or refused to collect the same or to make a report and remittance, the treasurer shall proceed to determine and assess against the operator the tax, interest, and penalties provided for by this chapter. The treasurer shall give a notice of the amounts assessed by serving it personally on the operator or by depositing it in the United States mail, postage prepaid, and addressed to the operator at its last known place of address.
- (b) An operator may within ten days after the serving or mailing of notice of amounts due make application in writing to the treasurer for a hearing on the amount assessed. If the operator does not apply for a hearing within the time prescribed, the amounts assessed by the treasurer shall become final and conclusive and immediately due and payable. If an application for a hearing is made, the treasurer shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why the amount assessed should not be fixed. At the hearing, the operator may appear and offer evidence why the amount assessed should not be so fixed. After the hearing, the treasurer shall determine the proper amount to be assessed and shall give written notice of the decision to the operator in the manner prescribed herein. The amount assessed shall be payable after fifteen days unless an appeal is taken as provided in Section 315-19 of this chapter.

**Sec. 315-17. - Penalties and Interest.**

- (a) *Delinquency.* Any operator who fails to remit any tax imposed by this chapter or cause a hosting platform to collect and remit such tax in the manner required and within the time required shall pay a penalty equal to ten percent of the amount of the tax, in addition to the tax.
- (b) *Fraud.* If the treasurer determines that the non-payment of any remittance due under this ordinance is due to fraud, a penalty equal to twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsection (a) hereof.



- (c) *Interest.* In addition to the previous penalties imposed, any operator or hosting platform who fails to remit any tax imposed by this chapter in the manner required shall pay interest at the rate of one percent per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (d) *Penalties During Pendency of Hearing or Appeal.* No penalty provided under the terms of this chapter shall be imposed during the pendency of any hearing provided for in Section 315-15 of this chapter nor during the pendency of any appeal to the city manager provided for in Section 315-19 of this chapter.
- (e) *Abatement of Interest and Penalty.* In cases where a return has been filed in good faith and an assessment has been paid within the time prescribed by the treasurer, the treasurer may abate any charge of penalty or interest or both.

**Sec. 315-19. - Appeal.**

Any operator or hosting platform aggrieved by a decision of the treasurer assessing liability for taxes, interest, or penalties accruing under this chapter may appeal to the city manager by filing a notice of appeal with the city manager within fifteen days of the serving or mailing of the determination of tax due. The city manager or his or her designee shall fix a time and place for hearing such appeal and shall give notice in writing to the person at his, her, or its last known place of address. The findings of the city manager or his or her designee shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

**Sec. 315-21. - Records.**

It shall be the duty of every person liable for the collection and payment to the city of the tax imposed by this ordinance to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of tax for which the person may be liable, which records the treasurer shall have the right to inspect at all reasonable times.

**Sec. 315-23. - Refunds.**

- (a) Whenever the amount of any tax, interest, or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsection (b) hereof provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the treasurer within three years of the date of payment. The claim shall be on forms furnished by the treasurer.
- (b) No refund shall be paid under the provisions of this section unless the claimant establishes a right thereto by written records showing entitlement thereto.

**Sec. 315-25. - Actions to Collect.**

Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount.

**Sec. 315-27. - Use of Revenue.**

All revenue from the short term rental excise tax levied pursuant to this chapter shall be deposited into special revenue Fund 439, "Affordable Housing Trust Fund," to be used for the preservation and development of affordable housing in the city.

**Sec. 315-29. - 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. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

**Sec. 315-99. - Violations; Misdemeanor; Penalties.**

- (a) No person shall violate any provision of this chapter.
- (b) No person shall fail or refuse to register as required in this chapter or to furnish any return required to be made, fail to refuse to furnish a supplemental return or other data required by the treasurer, or render a false or fraudulent return or claim.
- (c) No person required by this chapter to make, render, sign, or verify any report or claim shall make a false or fraudulent report or claim with the intent to defeat or evade the determination of any amount due.
- (d) Failure to comply with the provisions of this chapter shall constitute a Class C1 civil offense as defined by Section 1501-8(a) of the Cincinnati Municipal Code.
- (e) In the alternative to subsection (d) hereof, whoever violates any of the provisions set forth above is guilty of a first degree misdemeanor and shall be fined not more than \$500, imprisoned for a period of not more than six months, or both.

Section 3. That existing Sections 1501-3, "Class A Civil Offenses," 1501-7, "Class C Civil Offenses," 1501-8, "Class C1 Civil Offenses," and 1501-9, "Class D Civil Offenses," of Title XV,

“Code Compliance and Hearings,” of the Cincinnati Municipal Code are hereby amended to read as follows:

**Sec. 1501-3. - Class A Civil Offenses.**

A person who violates a standard of conduct set forth in a section or chapter of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class A Civil Offense. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine specified in § 1501-99 for the first violation of a Class B Civil Offense.

a.	§ 511-1	Advertising on Vehicles.
b.	§ 511-33	Front Yard Parking.
c.	§ 514-11	Parking Restrictions.
d.	§ 604-17	Unapproved Bird, Fowl or Animal Feeding.
e.	§ 701-19	Order to Muzzle Dogs.
f.	§ 701-27	Loud Dog.
g.	§ 701-30	Dog Excrement Removal.
h.	§ 721-63	Gutter Crossings.
i.	§ 721-65	Obstructing Gutters.
j.	§ 721-93	Temporary Driveway Permits.
k.	§ 723-5	Encumbering Sidewalks.
l.	§ 723-9	Regulations for Wholesale Produce Areas.
m.	§ 723-11	Retail Sidewalk Display.
n.	§ 723-12	Free Standing Business or Identification Signs (Sandwich Boards) on Sidewalk.
o.	§ 723-13	Temporary Encumbrances.
p.	§ 723-17	U.S. Mail Boxes.
q.	§ 723-23	Ground and Debris on Street or Sidewalk.
r.	§ 723-29	Sprinkling Roadways in Congested District.
s.	§ 723-31	Sprinkling Before Sweeping.
t.	§ 723-37	Unloading Heavy Material on Streets or Sidewalks.
u.	§ 723-39	Inscribing Names or Advertising Matter on Sidewalks Unlawful.
v.	§ 723-57	Removal of Snow.

w.	§ 723-59	Ice on Sidewalks.
x.	§ 723-65	Displaying House Numbers.
y.	§ 723-69	Removing House Numbers.
z.	§ 723-79	Fire Kettle Permit.
aa.	§ 729-7	Setting Out Containers.
bb.	§ 729-15	Containers to be Removed from Collection Points.
cc.	§ 729-37	Street Waste Receptacles.
dd.	§ 729-87(a)	Recyclable Materials - Taking Recyclables.
ee.	§ 729-87(b)	Recyclable Materials - Destruction of Container.
ff.	§ 729-87(c)	Recyclable Materials - Relocation of Container.
gg.	§ 729-87(d)	Recyclable Materials - Failure to Remove Container from Collection Point.
hh.	§ 729-88	Yard Waste Materials.
ii.	§ 729-89(c)	Disposal of Unacceptable Waste.
jj.	§ 911-17	Posting Bills on Streets.
kk.	§ 1123-11(b)	Vacant Foreclosed Property Registration - Failure to maintain accurate information.
ll.	§ 1123-11(c)	Vacant Foreclosed Property Registration - Failure to maintain the property in accordance with the maintenance provisions.
mm.	§ 701-2(B)(1)	Leash Required; Responsibility for Injury ( <i>Leash</i> ).
nn.	§ 856-25(d)	<u>Failure to Provide Registration Number on a Listing Advertising a Short Term Rental.</u>

**Sec. 1501-7. - Class C Civil Offenses.**

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class C Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with § 1501-15 that the violation has been corrected. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, the amount of which fine is specified in § 1501-99 and is not subject to reduction for correction of the violation.

- (a) Class C Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 514-15	Violation and Revocation	Class D
(2)	§ 602-1	Permitting Unclean Habitations	Class D
(3)	§ 602-7	Vacation of Unsanitary Premises	Class D
(4)	§ 604-5	All Improved Premises to be Rat-Proofed	Class D
(5)	§ 606-3	Vaccination of Dogs	Class D
(6)	Chapter 743	Urban Forestry	Class D
(7)	§ 747-3	Limited Franchise Permit Required	Class D
(8)	§ 869-7	Wrecking License Required	Class D
(9)	§ 1201-1	Cincinnati Fire Prevention Code	Class C
(10)	§ 1201-57	Permits	Class C
(11)	Chapter 1203	Motor Equipment in Places of Assembly	Class C
(12)	Chapter 1207	Drills	Class C
(13)	§ 1209-3	Hazardous Existing Electrical Wiring and Equipment	Class C
(14)	Chapter 1211	Fire Extinguishers	Class C
(15)	§ 1219-11	Flameproof Decorations	Class C
(16)	§ 1219-25	Chimneys and Fireplaces	Class C
(17)	§ 1219-31	Air Conditioning	Class C
(18)	§ 1219-35	Residential Storage	Class C
(19)	§ 1219-43	Fire Escapes	Class C
(20)	§ 1219-57	Restrictions on Parking Motor Vehicles	Class C
(21)	§ 1219-61	Shaftways	Class C
(22)	§ 1219-63	Inspection, Safety Provisions	Class C
(23)	§ 1219-65	Location of Exits	Class C
(24)	§ 1219-67	Interior Stairway Doors	Class C
(25)	Chapter 1227	Storage, General Requirements	Class C
(26)	§ 1229-3	Water Flow Requirements	Class C
(27)	§ 1229-9	Private Fire Hydrants	Class C
(28)	§§ 723-5, 723-19	Structures in the Public Right-of-Way	Class D

(29)	§§ 723-44, 723-50	Mobile Food Vending	Class C
(30)	§ 723-24	Bike Share Stations	Class C

(b) Class C Civil Offense With Civil Fines Not Subject to 50% Reduction to Correction for Violation:

			Civil Fine for Subsequent Offense
(1)	Chapter 404	Electricity	Class D
(2)	Chapter 405	Telegraph and Telephone	Class D
(3)	Chapter 414	Valet Parking	Class D
(4)	§ 506-63	Driving on Sidewalk Area	Class D
(5)	§ 506-64	Driving on New Pavement	Class D
(6)	§ 718-23	Unlawful Private Use of Streets	Class D
(7)	§ 721-71	Permits for Sidewalk Construction	Class D
(8)	§ 721-81	Sidewalk Construction Without Permit Unlawful	Class D
(9)	§ 729-73	Discharging Noisome Substances	Class D
(10)	§ 729-83	Refrigerators, Abandoning	Class C
(11)	§ 729-89(d)	Improper Disposal of Construction Debris or Hazardous Waste	Class D
(12)	§ 1215-3	Safe Practices	Class C
(13)	§ 1219-17	Misuse of Fire Protection Equipment	Class C
(14)	§ 1231-9	Tampering with Fire Hydrants	Class C
(15)	§ 1231-13	Unlicensed Use of Fire Hydrants Prohibited	Class C
(16)	§ 701-2(B)(2)	Leash Required; Responsibility for Injury ( <i>Menacing Fashion</i> )	Class C
(17)	§ 701-2(B)(3)	Leash Required; Responsibility for Injury ( <i>Injury</i> )	Class C
(18)	§ 856-25(b)	<u>Failure to Obtain a Short Term Rental Registration</u>	<u>Class D</u>
(19)	§ 856-25(e)	<u>Failure of Short Term Rental Hosting Platform to Comply with Obligations</u>	<u>Class D</u>

**Sec. 1501-8. - Class C1 Civil Offenses.**

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in Section 1501-99 for a Class C1 Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with Section 1501-15 that the violation has been corrected. Except that, for occupied property that is in violation of Section 731-3(a), the otherwise applicable civil fine is reduced by 100% if the owner charged shows in accordance with Section 1501-15 that the violation has been corrected and that the owner has not previously received notice of a violation under Section 731-3 at the occupied property. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, the amount of which fine is specified in Section 1501-99 and is not subject to reduction for correction of the violation.

**(a) Class C1 Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:**

			Civil Fine for Subsequent Offense
(1)	§ 714-11	Duty to Keep Sidewalks Free of Litter	Class D
(2)	§ 714-35	Litter on Occupied or Unoccupied Private Property	Class C1
(3)	§ 714-37	Owner or Person in Control to Maintain Premises Free of Litter	Class C1
(4)	§ 714-39	Litter on Vacant Lots	Class C1
(5)	§ 731-3	Height Restrictions on Unoccupied Private Property (grass and weed control)	Class C1
(6)	<u>Chapter 315</u>	<u>Short Term Rental Excise Tax</u>	<u>Class C1</u>

**(b) Class C1 Civil Offenses With Civil Fines Subject to 100% Reduction for Correction of Violation:**

			Civil Fine for Subsequent Offense
(1)	§ 731-3	Height Restrictions on Occupied Private Property (grass and weed control; reduction for first-time offenders only)	Class C1

**(c) Class C1 Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation:**

			Civil Fine for Subsequent Offense
(1)	§ 714-15	Truck and Vehicle Loads Causing Litter or Scattering Debris	Class D

**Sec. 1501-9. - Class D Civil Offenses.**

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class D Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with § 1501-15 that the violation has been corrected. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, which fine is specified in § 1501-99 and is not subject to reduction for correction of the violation.

(a) Class D Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 720-13	Private Facilities	Class E
(2)	§ 720-45	Notice of Violations	Class E
(3)	§ 720-69	Notice to Correct Drainage	Class E
(4)	Chapter 855	Rooming Houses	Class D
(5)	Chapter 895	Outdoor Advertising Signs	Class D
(6)	Chapter 1101	Administration, Cincinnati Building Code	Class E
(7)	Chapter 1106	General and Specialty Contractors	Class E
(8)	Chapter 1107	Elevator and Conveyer Equipment	Class E
(9)	Chapter 1117	Housing Code	Class E
(10)	Chapter 1119	Building Hazard Abatement Code	Class E
(11)	Chapter 1127	General Inspection Programs Code	Class E
(12)	Title XIV	Zoning Code	Class E
(13)	§ 1201-21	Maintenance	Class D
(14)	§ 1201-33	Evacuation	Class D



(15)	§ 1201-35	Spills and Leaks	Class D
(16)	Chapter 1235	Detectors, Early Fire Warning Systems	Class D
(17)	§ 1123-11(a)	Vacant Foreclosed Property Registration - Failure to register a vacant, foreclosed property.	Class E

(b) Class D Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 718-25	Secret Street Uses	Class E
(2)	§ 721-59	Taking Material from Streets	Class E
(3)	§ 729-71(c)(2)	Personal Property Left Abandoned on Streets and Sidewalks - 4 or more items	Class D
(4)	§ 761-14	Eviction or Retaliation by Landlord	Class E
(5)	Chapter 891	Home Improvement	Class E
(6)	§ 1201-47	Failure to Comply with Orders	Class D
(7)	§ 1219-21	Causing Fire Through Negligence	Class D
(8)	Chapter 1251	Fire Starting Apparatus	Class D
(9)	§ 759-4	Use of a Motor Vehicle to Facilitate a Drug Related Crime	Class D
(10)	Chapter 722	Management and Control of the Use of the City Right-of-Way	Class E
(11)	Chapter 730	Commercial Waste Franchises	
(12)	<u>§ 856-25(c)</u>	<u>Violation of Limitations on Operators or Operation of Short Term Rentals</u>	<u>Class D</u>

Section 4. That existing Sections 1501-3, “Class A Civil Offenses,” 1501-7, “Class C Civil Offenses,” 1501-8, “Class C1 Civil Offenses,” and 1501-9, “Class D Civil Offenses,” of the Cincinnati Municipal Code are hereby repealed.

Section 5. That the proper City officials are hereby authorized to take all actions necessary and proper to prepare for implementation of the registration procedures established in this

ordinance, and they are further authorized to take all actions necessary and proper to implement the registration procedures once they become effective.

Section 6. That Sections 1, 2, 3, and 4 of this ordinance shall take effect and be in force from and after July 1, 2019.

Section 7. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2019

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

\_\_\_\_\_  
New language underscored.