

ORDINANCE 2023-01

AN ORDINANCE PROVIDING REQUIREMENTS FOR THE OPERATION OF SHORT-TERM RENTALS WITHIN MARSHALL COUNTY

WHEREAS, the purpose of this Ordinance is to promulgate rules, regulations, and licensing for certain standards, requirements, and safety measures to ensure the health and safety of Marshall County residents, property Owners and those persons visiting Marshall County, while ensuring that all lawfully owed taxes are remitted to the relevant taxing agencies;

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF MARSHALL COUNTY, KENTUCKY AS FOLLOWS:

SECTION ONE

1. Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where context clearly indicates a different meaning:

DIRECTOR means the Director of the Marshall County Tourist Commission d.b.a. Kentucky Lake Convention & Visitors Bureau.

HOST means any person who is the owner of record of real property, or any person who is a lessee of real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short term rental.

HOSTING PLATFORM means a person or entity that provides a means through which a Host may offer a dwelling unit, or portion thereof, for short-term rental use. The term hosting platform includes online travel companies that offer dwelling units, or portions thereof, for short-term rental use. Most platforms are internet based and allow a Host to advertise a dwelling unit as a short-term rental through a website or mobile app.

SHORT-TERM RENTAL means a dwelling or dwelling unit that is rented, leased or otherwise assigned for a tenancy of less than thirty (30) consecutive days' duration, where no meals are served. One structure may contain multiple units that are rented, leased, or otherwise assigned for a tenancy of less than thirty (30) consecutive days' duration, where no meals are served; each separate unit shall be considered an individual short-term rental. Prior to January 1, 2023, short-term rentals include a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Effective January 1, 2023, short-term rentals include a suite, room, rooms, cabins, lodgings, campsites, or other accommodations charged by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which accommodations are regularly furnished to transients for consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations.

SHORT-TERM RENTAL ADVERTISEMENT means any method of soliciting use of a dwelling unit or portion thereof as a short-term rental.

TRANSIENT USER means a person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of less than thirty (30) consecutive days' duration.

2. Annual registration required.

No person, firm, or corporation shall own or operate a short-term rental on any premises within Marshall County unless the short-term rental has been registered annually with the Marshall County Treasurer.

- (A) The Director and/or Marshall County Treasurer may refuse to issue or renew the registration of a short-term rental until all outstanding taxes, penalties, liens, fees, etc., associated with violations of this or any other applicable Marshall County Ordinances that have been assessed against the property owner, business and/or Host are paid in full, including Occupational Taxes.
- (B) The Director and/or Marshall County Treasurer may deny or refuse to renew the registration of any Host for violating or failing to comply with any applicable provision of this or any other applicable Marshall County Ordinances.
- (C) If the property is subject to two (2) or more substantiated civil complaints or the Host is found to have twice violated or failed to comply with any applicable provision of this or any other applicable Marshall County Ordinances with respect to a given property within a 12-month period, the Director and/or Marshall County Treasurer may revoke the registration. When a registration is revoked pursuant to this subsection, the owner and Host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Marshall County Fiscal Court. If no appeal is requested, the revocation shall become final on the thirty-first (31st) day after the initial action by the Director and/or Marshall County Treasurer. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing and mechanical codes.
- (D) When any owner or Host has a short-term rental registration revoked, they shall be ineligible to receive any new short-term rental registrations for a period of one (1) calendar year.

3. Annual registration; no fee.

- (A) Each annual registration for a short-term rental shall be per the procedure established by the Director. The registration form, at a minimum, shall include the following:
 - (1) The name, address, phone number and email address of the Host and an emergency contact, residing or located in Marshall County, Kentucky and/or within twenty-five (25) miles of the short-term rental, who shall be responsible for addressing any maintenance, safety concerns or nuisance complaints. The

Host shall provide the emergency contact's information to Transient Users upon arriving at the short-term rental;

(2) Proof of registration and good standing with the Marshall County Tourist Commission.

(3) The location of the short-term rental; and

(B) A registration shall expire one (1) year from the date it is issued and shall be renewed annually as established by the Director.

(C) A change in Host or ownership of a short-term rental shall invalidate any existing registration. The new Host or property owner must apply for a registration in his/her/its name.

(D) The Host is subject to all applicable local taxes, including occupational license taxes to the Marshall County Fiscal Court.

4. Compliance with federal, state and local laws and regulations.

Each separate short-term rental shall, at all times, maintain compliance with any currently applicable laws and regulations of the federal, state, or local governments, as may be amended from time to time, including but not limited to, laws or regulations regarding nondiscrimination, zoning, building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, mechanical and other applicable laws.

5. Transient room taxes to be remitted to the Marshall County Treasurer.

Pursuant to Ordinance No. 2023-02, transient room taxes are to be collected and paid by the Host to the Marshall County Treasurer. Transient room taxes are ultimately the responsibility of the Host, but the collection and remission of all required taxes may be enforced against a Hosting Platform under the KRS Chapter 91A as effective January 1, 2023, and under Ordinance No. 2023-02. All Hosts and Hosting Platforms have a joint and several duty to ensure that all transient room taxes are paid as required by this Ordinance, Ordinance No. 2023-02, and KRS Chapter 91A.

6. Duties of a Host.

It shall be the duty of a Host under this Article to ensure that:

(A) There shall be no more than one (1) contract per short-term rental at a time;

(B) There shall be no signage on the premises of the short-term rental advertising or identifying the short-term rental in residential zoning districts;

(C) The name, telephone number and email address of the emergency contact, as identified in the annual registration, shall be conspicuously posted within the short-term rental; and

(D) Any Host using a Hosting Platform shall include the valid, Marshall County Treasurer-issued, registration number for the short-term rental in the Short-Term Rental Advertisement.

7. Advertising on a hosting platform.

- (A) Short-term rentals registered in accordance with this ordinance may be advertised for short-term stays of less than thirty (30) days on a Hosting Platform. A Host and/or property owner that advertises an unregistered short-term rental on a Hosting Platform is subject to enforcement as stated in herein.
- (B) The Director and/or Marshall County Treasurer may request that a Hosting Platform remove any listing or Short-Term Rental Advertisement from the platform where the registration number associated with a short-term rental listing is invalid, expired or has been revoked. The Director and/or Marshall County Treasurer shall identify the listing(s) to be removed by the listing URL and displayed registration number (whether valid or invalid) and state the reason for removal. The Hosting Platform shall remove the listing within ten (10) business days of notification by the Director and/or Marshall County Treasurer.
- (C) The Director and/or Marshall County Treasurer may request that a Hosting Platform provide the following information on a monthly basis:
 - (1) The total number of short-term rentals in Marshall County that were listed on the platform during the applicable reporting period; and
 - (2) The total number of nights all short-term rental units were rented through the platform during the applicable reporting period.

When requested, these reports shall be due on the last day of each month and shall include information from the preceding month (example: on June 30, the May report shall be due).

8. Compliance timeline.

All parties subject to the provisions of this ordinance shall achieve compliance within ninety (90) days of its passage and publication.

9. Enforcement and penalties.

In addition to any other penalties and interest set forth herein, any person, business, corporation, firm or other entity subject to the transient room tax who fails or refuses to file the required return and/or pay the tax due thereunder shall be subject to the following enforcement remedies:

- (A) Any entity becoming more than thirty (30) days delinquent may be subject to civil action for the enforcement of this Ordinance and collection of the transient room tax imposed herein.
- (B) A lien is granted unto the MCTC and/or the Marshall County Fiscal Court upon all property, real or personal, of any person, business, corporation, firm or other entity subject to the transient room tax to secure the unpaid tax receipts due from said entity. The lien shall be perfected by filing a Notice of Tax Due and Statement of Lien in the Marshall County Court Clerk's Office, describing the property on which the lien is asserted.
- (C) Intentional failure to file the required return and/or pay the tax due thereunder shall

be subject criminal penalties of a fine of up to \$500.00 for each month's failure to comply with this Ordinance.

(D) Waiver of penalties and interest may be granted in the same manner and under the same procedures as provided in Ordinance No. 2023-02.

SECTION TWO

If any section, subsection, paragraph, sentence, clause, phrase, or a portion of this ordinance is declared illegal or unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions hereof.

SECTION THREE

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, including Ordinance 2019-07.

Passed and Effective this the 17th day of January, 2023.

FIRST READING: January 3, 2023

SECOND READING: January 17, 2023

APPROVED:


Kevin Spraggs, Marshall County Judge/Executive

ATTEST:


Cory Daniel, Marshall Fiscal Court Clerk