

ORDINANCE NO. 2021 - 020

ADOPTING CHAPTER 114 OF THE WAYNESVILLE CODIFIED ORDINANCES REGULATING “SHORT-TERM RENTAL OPERATIONS” IN THE VILLAGE OF WAYNESVILLE AND DECLARING AN EMERGENCY

WHEREAS, municipalities across the United States have implemented, or are in the process of implementing, regulations, and standards for short-term rental operations; and

WHEREAS, the State of Ohio and the Village of Waynesville, currently have no regulations on short-term rentals; and

WHEREAS, this Council referred the question of whether the Village should regulate short-term rentals, to the Village Manager and Law Director, to study and report back to Council recommendations concerning the same; and

WHEREAS, Council voted to form a committee to study the pros and cons of Short-Term Rentals, in relation to allowing them or prohibiting them within the Village; and

WHEREAS, this Council reached out to local residents for comments on Short Term Rentals including holding committee meetings for the purpose of both engaging the Village community and soliciting testimony with respect to whether the Village of Waynesville should implement regulations concerning short-term rentals; and

WHEREAS, the Council recommends that the Village regulate the use of Short-Term Rentals to maintain and preserve the distinct character of the Village of Waynesville’s residential, business, and historic neighborhoods while also protecting and ensuring the rights of private property owners; and

WHEREAS, The Council, with approval of this Ordinance by vote, now states that any Short-Term Rentals inside the Village limits, must be Owner occupied to operate. This does not include properties within the Neighborhood Commercial District; and

WHEREAS, properties within the Neighborhood Commercial District must follow all other rules listed in Exhibit A; and

WHEREAS, this Council finds and concludes that adopting this ordinance, “Short-term Rental Operations,” promotes the public health, safety and welfare of the Village and its residents and effectively balances the diverse interests of the Village’s Short-Term Rental owners, renters, property owners, and residential and business communities.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Waynesville, State of Ohio, that:

Section 1. Chapter 114 of the Waynesville Codified Ordinances is hereby adopted regulating short-term rental operations, as set forth more fully in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare and shall be effective immediately upon its adoption. The reason for said declaration of emergency is and for the further reason that it is immediately necessary to adopt regulations for short-term rentals within the Village of Waynesville, so as to immediately begin regulating, in a reasonable and practical manner, a currently unregulated commercial activity that is quickly proliferating throughout the Village and which, if allowed to continue unregulated, threatens the health, safety, welfare, comfort, and peace of the Village.

Adopted this ____ day of _____, 2021.

Attest: _____
Clerk of Council

Mayor

Exhibit A

114.01 Definitions

(a) “Short-Term Rental” means any room or dwelling that is rented wholly or partly for a fee for less than thirty (30) consecutive days by persons other than the owner from which the owner receives monetary compensation, whether such compensation is paid directly by the short-term rental guest or is collected and remitted to the owner by a hosting platform. “Short-Term Rental” does not include a room in any Hotel or Motel, as defined elsewhere in the Codified Ordinances of the Village of Waynesville.

(b) “Short-Term Rental Operation” or “operation of a short-term rental” means the occupancy for a fee of any room or dwelling in a short-term rental by a transient guest.

(c) “Hosting Platform” means a person or entity in whatever form or format that facilitates, through advertising or any other means, a short-term rental booking transaction for accommodations between a short-term rental host and short-term rental guest, including, but not limited to, reservations and/or collection of payment for such accommodations on behalf of the short-term rental host. Examples include, but are not limited to, Airbnb, VRBO, and HomeAway.

(d) “Transient Guests” means persons occupying a room or rooms for sleeping accommodations for less than thirty (30) consecutive days.

(e) “Short-Term Rental Guests” means persons renting temporary lodging from a short-term rental host, or through a hosting platform on behalf of the short-term rental host, for less than thirty (30) consecutive days.

(f) “Guestroom” means a room offered to the public for a fee that contains, at a minimum, provisions for sleeping.

(g) “Primary Residence” means a residence that is the usual place of return for housing as documented by at least two of the following: motor vehicle registration, driver’s license, tax documents, lease copy, or a utility bill.

(h) “Dwelling” means any building or structure which is occupied or intended for occupancy in whole or in part as a home, residence, or sleeping place for one or more persons.

(i) “Owner” means an individual(s), corporation, or partnership that has legal title to and control of a dwelling.

(j) “Short-term rental host” or “host” means the owner of a short-term rental (or the individuals that are leasing the property as their primary residence from the owner, in the Neighborhood Commercial district) and who offers the short-term rental for temporary lodging for less than 30 consecutive days.

114.02 PERMIT REQUIRED.

(a) No person, including, but not limited to, an owner, operator, manager, or employee shall engage in, conduct, or carry on, or permit to be engaged in, conducted, or carried on, in or upon any premises in the Village of Waynesville, the operation of a short-term rental in a calendar year without obtaining a permit in accordance with this ordinance. It shall be prima facie evidence of a short-term rental operation if a short-term rental guest is found to be occupying or using a short-term rental or if a residence has been placed on any hosting platform for short-term rental purposes.

(b) An application for a new short-term rental permit may be submitted at any time to the Village Manager, or his/her designee. If the application is approved and a permit is issued, the short-term rental permit shall take effect on the day of issuance and shall expire on December 31st of the year in which the permit was first issued. The fee for the initial permit shall be prorated in an amount equal to one-twelfth of the annual fee for each full or partial month remaining in the year in which the initial permit is issued.

(c) A permit to operate a short-term rental shall be renewed by the applicant before the end of the year in which the permit was first issued. The deadline for applying for a permit for renewal shall be the first Monday of November of the year in which the permit is set to expire. Failure to renew shall result in expiration of the short-term rental permit on December 31st. If a short-term rental permit is successfully and timely renewed, it shall be in effect for (1) one year, beginning on January 1st and expiring on December 31st of the year it was issued.

(d) Bed and breakfast establishments lawfully operating within the Village, as defined by the Village of Waynesville codes, shall not be subject to the requirements of this ordinance provided that such establishments were in operation prior to the effective date of Ordinance 96-152 and have not ceased operation for more than ninety (90) consecutive days.

114.03 APPLICATION FOR SHORT-TERM RENTAL PERMIT, NEW AND RENEWAL.

(a) An application for a short-term rental permit, and/or renewal of a permit, shall be made to the Village Manager, or his/her designee. A processing fee of \$100.00 is required for each application/permit. Village Council shall have authority to amend the fee amount from time to time to reflect the costs of administering this ordinance.

(b) The application for a permit to operate a short-term rental shall contain the following information:

(1) Name of the applicant, including mailing address, telephone number, and email address. For an owner-occupied short-term rental application, the permanent occupant shall provide sufficient information to demonstrate compliance with the primary residency requirement as outlined in this Chapter.

(2) The names of the legal owner or owners of the property, including mailing address, telephone number, and email address;

(3) Sufficient information to demonstrate compliance with either the permanent occupancy or ownership requirements defined and outlined in this Chapter.

(4) The names of all hosting platforms that are used by the short-term rental host and proof of rental insurance for the unit rental;

(5) The names of all advertising outlets in which the short-term rental host intends to advertise such rental if the short-term rental host is not using a hosting platform;

(6) An affidavit attesting that the short-term rental operation is in compliance with all applicable local, state, and federal laws and regulations concerning the provision of sleeping accommodations to transient guests, including a certification that any short-term rental operation located outside of the Neighborhood Commercial District shall be owner occupied during the term of any short-term rental operations; and

(7) For Short-term rentals within the Neighborhood Commercial District (NC), the contact's name and telephone number for the short-term rental host that may be used 24 hours a day, seven days a week for any issues that may arise related to the short-term rental unit or its transient guests.

(c) The applicant must notify the Village Manager, or his/her designee, of any change in information contained in the permit application within ten (10) days of the change. Failure to do so may result in suspension of permit.

(d) Any change in ownership of the dwelling shall void the current short-term rental permit and shall require submission and approval of a new short-term rental permit application.

(e) A short-term rental shall be assigned an individual registration account number that must be prominently posted with the unit on any hosting platform(s) or in any other advertisement regarding the unit. Said valid registration shall be displayed but removed upon expiration.

(f) If the owner or host is not able to be at the property for more than 24 hours, while it is being used as a short-term rental, the owner or host must have a designated person stay on the premise to carry out their duties. If they do not have a replacement person to carry out the terms of this ordinance, they must cancel any contracts they have for the rental of said unit during their absence.

114.04 SHORT-TERM RENTAL HOST REQUIREMENTS.

(a) A short-term rental host shall be the owner or host of the dwelling. The short-term rental owner or host must provide: one (1) form of proof of identity, and two (2) pieces of evidence that the dwelling is the owner's or host's primary residence or two (2) pieces of evidence that the host is the owner or lessee of the dwelling.

(1) One (1) short-term rental permit per property may be issued.

(2) The short-term rental host must provide written notice to the short-term rental guest of:

(A) The short-term rental host shall provide proper trash and recycling containers for the short-term rental guest(s).

(B) The owner or host must post inside the dwelling what is and what is not allowed to occur on the premises by the guests while renting.

(3) Smoke detectors shall be provided and maintained adjacent to each sleeping area in each dwelling unit;

(4) One or more carbon monoxide detection devices shall be installed and maintained as close to the center of the dwelling unit and within close proximity to the living and sleeping areas of the dwelling unit;

(5) Occupancy shall be determined by how many beds are available per room with the maximum allowed of 3 (three) beds and 6 (six) adults.

(6) Compliance with all other applicable provisions of the Village of Waynesville Codified Ordinances related to residential housing;

(7) All short-term rental owners shall obtain liability insurance for the short-term rental. Each short-term rental shall always maintain the following insurance coverage meeting all of the following requirements: A general liability insurance policy or certificate that shall provide the following minimum coverage:

(A) Liability coverage of not less than five hundred thousand dollars (\$500,000). Such policy or certificate must be issued by an insurance company that is admitted doing business in the State of Ohio or by an eligible surplus lines company or risk retention group;

(B) The policy or certificate shall provide notice of cancellation of insurance to the Village Manager at least ten (10) days prior to cancellation; and

(C) Any cancellation of insurance required by this section shall result in an automatic revocation of the respective short-term rental permit.

(b) Records required. Short-term rental hosts that offer short-term rentals shall retain and, upon request, make available to the Village Manager, or his/her designee, official records to demonstrate compliance with this ordinance, including, but not limited to, primary residency, the dates and duration of each stay in the short-term rental, the maximum occupancy permitted at the short-term rental, and the maximum number of motor vehicles permitted at the short-term rental. A short-term rental host that provides rooms for short-term rental use shall retain records for a period of at least four (4) years.

(c) Signage: Owner must apply for a permit for a sign unless no sign is desired. No signs permitted in Residential Districts.

(d) Nothing in this ordinance shall be construed as permitting any person to obtain a permit or offer a short-term rental, where prohibited by any other provision of law.

(8) The maximum number of motor vehicles that will be permitted to park at the short-term rental shall be 1 (one) vehicle per bedroom rented.

114.05 GROUNDS FOR DENIAL.

(a) The Village Manager, or his/her designee, shall issue a new permit upon application, or grant the renewal of an existing permit, except as provided in divisions (b) and (c) of this section.

(b) The Village Manager, or his/her designee, shall deny any application for a new permit, or renewal of permit, if any of the following are shown to have occurred at the short-term rental property:

(1) The applicant makes a material misrepresentation of fact on the application for a short-term rental permit;

(2) The applicant or any owner of the short-term rental has been convicted of violating any terms specified in this ordinance.

(3) Any owner, applicant, operator, or manager of the short-term rental is shown to have been convicted of the act of prostitution or soliciting for prostitution, or an act that would constitute a violation of the Ohio R.C. Chapters 2925 (Drug Offenses) or 3719 (Controlled Substances), in or on the premises of the dwelling of the short-term rental in question, or any short-term rental in which the owner has any interest in, including, but not limited to, ownership, licensure, or management.

(4) The property taxes of the short-term rental owner are in arrears with the Warren County Auditor's Office.

(5) The short-term rental owner is not in good standing with the Village of Waynesville Income Tax Division.

(6) The short-term rental has a documented history of repeated conduct that endangers neighborhood safety or of conditions interfering with the use and enjoyment of property within its vicinity.

(c) Evidence of conduct under division (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.

114.06 REVOCATION AND SUSPENSION OF SHORT-TERM RENTAL PERMIT.

(a) The Village Manager, or his/her designee, may revoke and/or suspend a short-term rental permit if it is determined that the activities set forth above are determined to have occurred at the short-term rental; or a short-term rental unit is listed on a hosting platform or advertised elsewhere without the registration number as required under application section (e) or is perpetuating conditions interfering with use and enjoyment of properties within its vicinity; or is delinquent in filing or payment with the Village of Waynesville Income Tax Division; or is engaging in conduct in violation of this ordinance. Conditions interfering with use and enjoyment of properties within the vicinity of a short-term rental include, but are not limited to:

(1) The occurrence of any of the activities set forth in the Village's Codified Ordinances relating to noise disturbance, nuisance, drug offenses, or disorderly conduct;

(2) Occupancy by a number of short-term rental users exceeding either (1) the maximum number included in the application for the short-term rental permit or (2) the maximum occupancy permitted pursuant to this ordinance;

(3) Parking of a number of motor vehicles exceeding either (1) the maximum number included in the application for the short-term rental permit or (2) the maximum number of motor vehicles permitted at any short-term rental pursuant to this ordinance;

(4) Uninvited entry of short-term rental occupants upon private property within five hundred (500) feet of the short-term rental;

(5) The owner or host must maintain the property, following the rules and regulations listed in Chapter 154, Property Maintenance.

(b) A violation of any of the conditions in this ordinance shall result in progressive enforcement as follows, but not subject to be in this order, depending on severity of violation.

(1) Upon the first violation, the short-term rental owner shall be given a written warning of the violation (s) made.

(2) Upon the second violation, the permit for the short-term rental shall be terminated and the short-term rental owner prohibited from re-applying for a new permit for six (6) months from the date of termination.

(3) Upon the third violation, the permit for the short-term rental shall be terminated and the short-term rental owner prohibited from re-applying for a new permit for one (1) year from the date of termination.

114.07 APPLICABILITY OF RELATED TAXES

Notwithstanding anything to the contrary or in conflict, the Short-Term Rental Owner shall be subject to and responsible to pay the taxes imposed pursuant to Section 36.21 and Section 38.23 of the Waynesville Codified Ordinances.

114.08 APPEAL OF DENIAL OR REVOCATION OF PERMIT.

In the event an applicant has been denied a permit, or if a permit has been revoked or suspended, the party affected shall have the right to appeal to the Village Council from such denial, revocation, or suspension within ten (10) business days. Notice of appeal shall be filed with the Village Manager's office on a form created by the Village Manager for such purpose, and the Village Manager shall set the date and time of the appeal hearing. The burden of proof in such an appeal shall be upon the appellant to show that the denial or revocation was arbitrary or unreasonable.

114.09 TRANSFER OF SHORT-TERM RENTAL PERMIT PROHIBITED.

(a) No permit under this ordinance shall be transferable to another short-term rental operation.

(b) No permit under this ordinance shall be transferable to another individual, corporation, firm, partnership, association, organization, or other group acting as a unit.

114.10 DISCRIMINATION PROHIBITED.

(a) A short-term rental host shall not:

(1) Decline a short-term rental guest based on race, sex, color, religion, ancestry, national origin, age, disability, familial status, or military status;

(2) Impose any different terms or conditions based on race, sex, color, religion, ancestry, national origin, age, disability, familial status, or military status;

(3) Post any listing or make any statement that discourages or indicates a preference for or against any short-term rental guest on account of race, sex, color, religion, ancestry, national origin, age, disability, familial status, or military status.

114.11 RULES AND REGULATIONS.

The Village Manager may promulgate and enforce reasonable rules and regulations to carry out the intent of this ordinance.

114.12 SHORT-TERM RENTAL PERMIT DISPLAY.

The short-term rental host shall maintain the short-term rental permit and prominently display it in the dwelling.

114.13 SEVERABILITY.

In the event any section or provision of this ordinance shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

114.14 SHORT-TERM RENTAL PENALTY.

Whoever violates any provision of this ordinance shall be guilty of an unclassified misdemeanor and shall be fined not more than five hundred dollars (\$500.00). Upon subsequent convictions, the penalty shall be an unclassified misdemeanor, but the guilty party shall be fined not more than one thousand dollars (\$1,000.00), in addition to any other penalties as imposed by this ordinance.