

# Planning Commission

July 17, 2023



<b>Case No:</b>	23-LDC-0001
<b>Project Name:</b>	Short Term Rental Ordinance Amendments
<b>Location:</b>	Louisville Metro
<b>Applicant:</b>	Louisville Metro
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	All Council Districts
<b>Case Manager:</b>	Joseph Haberman, AICP, Planning Manager

## REQUEST

An amendment to the Land Development Code (LDC) concerning the Short Term Rental (STR) regulations.

## SUMMARY/BACKGROUND

In November 2022, Metro Council passed Resolution #143, 2022 directing Planning & Design Services (PDS) staff and the Planning Commission to review the regulations for STRs and provide recommendations to improve the existing requirements (see Attachment #1).

STRs are different than other transient rental options, such as hotels, motels, and bed and breakfast inns. Often situated in residential areas, they serve as alternatives to these other more traditional lodging arrangements.

In general, STRs take three forms: 1) hosted home sharing, where there is a host who resides in the dwelling with guests; 2) un-hosted home sharing, where there is an occupant of the residence who vacates the dwelling while it is rented to guests; and 3) dedicated rentals, where there is not a primary occupant of the dwelling and it is rented out exclusively to guests. In addition, the frequencies of STRs vary with homes rented only for special occasions (i.e., during the week of Kentucky Derby), homes rented often but not continuously, and homes rented continuously.

From August 1, 2016 to date, STRs have been regulated by way of the Louisville Metro Code of Ordinance (LMCO) and the Louisville Metro LDC. Except for the Cities of St. Matthews and Middletown, the cities with zoning authority have not adopted specific LDC regulations related to STRs. St. Matthews and Middletown have adopted local ordinances to amend their LDCs that differ from that in the Louisville Metro LDC.

*The Existing Louisville Metro LDC:*

- Provides a definition of STR that distinguishes the use from other uses
- Identifies appropriate locations and levels of approval:
  - Special Standards – approved administratively
    - Any STR in a residential zoning district in which the dwelling unit is the host's primary residence (R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, and R-8A)
    - Any STR in a commercial or office residential zoning district (OR, OR-1, OR-2, OR-3, OTF, C-N, C-R, C-1, C-2, C-3, and C-M)
    - Any STR in most special purpose zoning districts (EZ-1, W-1, W-2, PVD, PTD, and PRD)

- Any STR in a PDD that is permitted by the associated plan
- Conditional Use Permit (CUP) – approved at a public hearing by BOZA or Planning Commission:
  - Any STR in a residential zoning district in which the dwelling unit is not the host's primary residence (R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, and R-8A)
  - Any STR in the Old Louisville and Limerick TNZD
  - Any STR in a multi-family condominium building in a residential zoning district
- Not permitted in the M-1, M-2, M-3, PRO, PEC, and W-3 zoning districts
- Provides zoning standards, including but not limited to:
  - Limiting hosts to renting under a single contract at a time (rooms within a dwelling unit cannot be rented to multiple parties at once)
  - Caps occupancy by limiting the number of guests
  - Limits to single and two-family buildings unless the property is non-residentially zoned or the unit is an owner-occupied condominium unit
  - Prohibits hosts from providing food and alcoholic beverages to guests
- Provides penalties for non-compliance with the LDC provisions (the same as those that apply to all violations of the LDC)
- Does not supersede lease agreements, association bylaws, or any other agreements, laws, or regulations that prohibit use of a dwelling or property as a STR

*The Existing LMCO:*

- Requires annual registration of all STRs, regardless of type or frequency
- Limits hosts to renting under a single contract at a time (rooms within a dwelling unit cannot be rented to multiple parties at once)
- Caps occupancy by limiting the number of guests
- Prohibits hosts from providing meals to guests
- Requires smoke/carbon monoxide detectors and other life safety measures
- Requires an emergency contact
- Reinforces the requirements related to the remittal of taxes
- Provides requirements for online platforms
- Provides specific penalties for non-compliance with the LMCO provisions

Additional information regarding the existing STR provisions can be found on Louisville Metro's website: <https://louisvilleky.gov/government/planning-design/short-term-rental-information>.

*Legislative History of STR Regulations:*

- March 2015: Metro Council passed a resolution requesting Metro staff to evaluate the current laws (Resolution 035, 2015).
- December 2015: Metro Council passed a resolution requesting that PDS and the Planning Commission research STRs and recommend LDC amendments to regulate the use (Resolution #124, 2015).
- December 2015: Metro Council adopted the initial ordinance regulating STRs in the LMCO to provide host/rental standards, an annual registration requirement, and enforcement penalties (Ordinance #217, 2015, effective June 1, 2016).

- May 2016: Metro Council adopted an ordinance following the consideration of an exemption to the registration requirement and amending the effective date of Ordinance #217, 2015 (Ordinance #070, 2016, effective August 1, 2016).
- June 2016: Metro Council adopted the initial ordinance regulating STRs in the LDC to provide the appropriate locations, approval processes, and land use standards (Ordinance #100, 2016, effective August 1, 2016).
- August 2016: Metro Council adopted an ordinance amending the LDC regulations to correct inadvertent errors concerning the listed zoning districts (Ordinance #144, 2016, effective August 16, 2016).
- November 2016: Metro Council adopted an ordinance amending the LDC regulations concerning STRs in multi-family condominium buildings (Ordinance #201, 2016, effective November 17, 2016).
- July 2018: Middletown adopted an ordinance establishing LDC regulations for STRs in the city (Ordinance #06-14-18-D, effective July 12, 2018).
- October 2018: Metro Council passed a resolution directing PDS and the Planning Commission to review the STR requirements and provide recommendations to improve the existing regulations (Resolution #143, 2018).
- December 2018: Metro Council passed an ordinance imposing a temporary moratorium on STR CUPs in residential zoning districts pending the adoption of revised regulations (O-476-18, effective December 13, 2018).
- April 2019: Metro Council adopted an ordinance amending the LDC and LMCO to improve the effectiveness of the regulations by defining primary residence, introduce a separation requirement for CUPs, adjust the requirements for EZ-1 and multi-family buildings in commercial zoning, require emergency contacts, add platform requirements, strengthen the penalties for non-compliance, and enact several other changes (Ordinance #056, 2019, effective May 8, 2019).
- May 2022: St. Matthews adopted an ordinance establishing LDC regulations for STRs in the city (Ordinance #22-02, effective May 10, 2022).
- November 2022: Metro Council passed a resolution directing PDS and the Planning Commission to review the STR requirements and provide recommendations to improve the existing regulations (Resolution #143, 2022).

### **STAFF ANALYSIS**

The existing requirements are an attempt to balance allowing STRs and protecting residential neighborhoods. For residents, STRs can provide extra income. For visitors, the properties can provide more authentic local experiences and/or affordable alternatives to hotels. On the other hand, if not adequately regulated, STRs can change the character of established residential areas and can impact the affordability and availability of rental housing.

After publishing a draft of potential changes on May 19, 2023, staff initiated a public comment period. As of the date of this report, staff has received and reviewed 252 public comment forms regarding the STR ordinances (with additional comment forms being accepted until the public hearing date). Further, staff has accepted additional public comments not provided via the online form and met with community members and other stakeholders to discuss the regulations. The public comments received up until the publication date of this report are provided in Attachment #2 (excluding comments in which the submitter requested the comment not be part of the official record). Written comments received after the date of this report and

received at least the day before the public hearing will be provided to the Planning Commission separately.

In addition to those submitted by individual citizens, written comments were received from neighborhood associations, organizations, and businesses, including but not limited to Airbnb, the Greater Louisville Association of REALTORS (GLAR), the Citizen Coalition for Land Development Code Reform, the Phoenix Hill Neighborhood Association, and the Clifton Community Council. There are comments in support and opposition to the allowance of STRs, with most of the feedback focusing on the impact of STRs on residential neighborhoods. Many comments support improved regulation and enforcement related to bad actors who violate or circumvent the requirements and/or intent of the ordinances. Several comments provided concern to allowing by right in office residential zoning districts. Many commentors were concerned with how relief to the 600' separation requirement is granted.

The draft amendments attached to this report continue to allow STRs in residential areas but attempt to limit overconcentration and adverse impacts by strengthening the standards and further penalizing those who do not follow the requirements. The recommendations continue to allow STRs in commercial areas without much change, as hotels and other like uses are also permitted and little feedback concerning these areas has been received.

The following recommendations were published on May 19, 2023 and continue to be recommended by staff:

- Amend the occupancy requirement from “host” to “owner” for STRs on residentially zoned properties that do not have CUPs. This will prohibit an owner from assigning another party to be a host to avoid the CUP process.
- Strengthen the existing 600' separation requirement by not allowing a waiver if the buffer area is residentially zoned and two or more STRs with CUPs are already within 600'. This will only affect STRs on properties that need CUPs.
- Require an applicant seeking a waiver to the 600' separation requirement to explain how the additional STR will not result in an overconcentration of STRs or negatively impact affordable housing in the area. This will only affect STRs on properties that need CUPs.
- Provide an exemption to the 600' separation requirement if the owner lives on the property, but not in the dwelling unit (a CUP would still be required).
- Restrict a STR to 12 adults if the maximum occupancy allows for 13+ total occupants, which is based on the number of bedrooms. During a CUP review, the occupancy can be further restricted by condition of approval. Relief may also be granted.
- Allow in multi-family buildings in OR-3 and OTF (both districts already allow hotels)
- Clarify that the host of record is the primary party responsible for the STR and cannot pass all responsibilities to another party.
- Requires an owner to live at a residence for at least 6 months before submitting an owner-occupied STR registration application.
- Require an owner-occupied STR registration application to include a Kentucky-issued ID or a residency hearing is required.
- Improve the residency hearing process (process by which the Board of Zoning Adjustment can affirm or reject someone's primary residency when questioned).
- Prohibit a new STR registration on a property if a citation has been issued in the past 12 months for unlawful STR activity.
- Provide technical revisions that better clarify requirements, resolve interpretations, and help staff administer the process more efficiently.

Upon review of the comments draft of potential changes published on May 19, 2023, staff included additional recommended changes:

- Increase the annual STR registration fee to \$250 (currently \$100).
- Introduce an automatic revocation hearing for CUPs after substantiated complaints.
- Add the ability to provide relief to the proposed 12-person cap on adults on a case by case basis.
- Add OR, OR-1, and OR-2 to the zoning districts that require CUPs for non-owner occupied STRs. As the feedback concerning this issue was mostly related to historic and traditional neighborhoods, the proposed change only affects such zoned properties within traditional neighborhood form districts. Existing STRs within these zoning categories may be considered lawfully nonconforming if legally established and not subject to the CUP requirement.
- Address other technical issues noted after further review.

The existing accessory dwelling unit provisions are included in the draft amendments. While staff is not recommending any change to the current requirement of a CUP for a STR in an accessory dwelling unit, some comments suggest relaxing this requirement. The provisions are included so that they can be reviewed by the Planning Commission and Metro Council and amended if desired.

Resolution #143, 2022 requested that staff review the following topics related to the STR regulations and procedures:

1. *Allowing situations where an owner in a primary structure or unit on a given lot may use their other unit (including the other unit in a duplex)/carriage house/ADU as a STR without triggering the “600 foot rule”.*

The draft amendments exempt CUP applications from the 600' separation requirement if the owner lives on the property (see 4.2.63.D.).

2. *Possible incentives for new STR units to be registered and/or penalties for those that do not register, including those who only attempt to come into compliance once cited.*

While the draft amendments do not modify the fines for STR violations, they include a new penalty for those that operate unlawfully - a 12 month ban on acceptance of a STR registration after an owner has been cited (see 115.516.D.). In addition to the draft amendments, administrative policies and procedures can be implemented to address this topic to incentive compliance and improve the enforcement process.

3. *The introduction of automatic revocation hearings triggered by a certain number/types of violations.*

The draft amendments continue to allow the revocation of a CUP after two substantiated complaints or failure to meet a condition of approval. The revocation process of a CUP is prescribed in KRS and any further changes must be consistent with state law. The draft

amendments add a requirement to schedule a revocation hearing for a CUP after an associated registration has been revoked (see 4.2.63.J.).

After two substantiated complaints, the planning director may revoke a registration administratively. A revocation hearing is currently not required. A hearing only takes place if the revocation decision is appealed. Staff suggests strengthening this section by changing “may revoke” to “shall revoke” (see 4.3.23.I. and 115.516).

*4. The efficiency and effectiveness of current policies.*

Several draft amendments are intended to make the ordinance and process more effective. Policies, such as those related to enforcement, can also be implemented to address this topic.

*5. The Planning Commission shall not consider making the CUP requirement in the TNZD less restrictive than is currently in the ordinance.*

The draft amendments do not make the TNZD regulations less restrictive.

As July 12, 2023, there are 1,285 active registrations (this total is subject to daily change as approvals are granted, renewed, and expire). PDS has received 5,014 STR registration applications since the initial effective date of the STR regulations in 2016. This total includes both new and renewal applications (note: 5,014 applications does not represent 5,014 different properties as many properties were subject to multiple annual renewal applications). In addition, it includes some applications that were submitted in error or could not be approved.

As July 12, 2023, PDS has received approximately 878 STR CUP applications since the initial effective date of the STR regulations in 2016. Of this total, 486 STR CUPs have been acted upon by the BOZA (413 approved and 73 denied). This total does not include applications that were withdrawn or are pending hearing.

This item was reviewed by the Planning Committee on June 27, 2023. The Committee recommended that the item be docketed for public hearing.

### **INTERESTED PARTY COMMENT**

Interested party comments through the publication date of this report are included in Attachment #2.

### **ATTACHMENTS**

Attachment 1: Resolution #143, 2022

Attachment 2: Written Comments as of July 13, 2023

Attachment 3: Approved STR Registrations and Conditional Use Permits per Zoning District

Attachment 4: Map of OR, OR-1, and OR-2 Zoning

## **PROPOSED AMENDMENTS**

*The Planning Commission must make a recommendation to Metro Council and the legislative bodies of cities with zoning authority to approve, approve with modifications, or deny the LDC text amendments. This section shows specific amendments to the Louisville Metro version of the LDC. The cities with zoning authority in Louisville Metro have different versions. If any of the cities consider incorporating the amendments into its LDC, staff will assist the city in preparing specific amendments that reflect the nature of the changes recommended in this report.*

*Amendments to the Louisville Metro Code of Ordinances are also presented in this report. Metro Council requested that the Planning Commission make a recommendation or otherwise provide comments to Metro Council regarding these additional related requirements. The Planning Commission's recommendation is not required by law for changes to Metro Code.*

## LOUISVILLE METRO LAND DEVELOPMENT CODE

*The following changes are staff recommendations and preliminary. They are subject to change upon public input and further review. To be effective, any changes must be approved by Metro Council.*

**Owner** - Any person, group of persons, partnership, corporation, or any other legal entity having legal title to or sufficient proprietary interest to undertake development pursuant to Chapters 1 through 10.

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**Host-Occupied Short Term Rental – See Short Term Rental, Host-Occupied.**

**Owner-Occupied Short Term Rental – See Short Term Rental, Owner-Occupied.**

**Primary Residence (or Principal Residence)** – A primary residence is the main home of an individual. An individual has only one primary residence at a time. If an individual owns and lives in just one dwelling unit, then that ~~property dwelling unit~~ is ~~his or her~~ their primary residence. If an individual owns or lives in more than one dwelling unit, then ~~he or she~~ the individual must apply a “facts and circumstances” test to determine which ~~property dwelling unit~~ is ~~his or her~~ their primary residence. While the most important factor is where ~~he or she~~ the individual spends the most time, other factors are relevant as well. The more of these factors that are true of a home, the more likely that it is a primary residence. Factors include, but are not limited to, the address listed on an individual’s Kentucky-issued driver’s license or identification card, U.S. Postal Service address, Voter Registration Card, federal and state tax returns, driver’s license, state identification card, and/or vehicle registration.

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**Short Term Rental** – A **Dwelling Unit** that is rented, leased or otherwise assigned for a tenancy of less than 30 consecutive days duration, where no meals are served. A Short Term Rental is not a **Bed and Breakfast Inn, Extended Stay Lodging facility, Hotel, Motel**, or any other transient use more specifically defined in this Land Development Code.

**Short Term Rental Host** - Any person who is the owner of record of residential real property, or any person who is a lessee of residential 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** and is responsible for its management.

**Short Term Rental, Host-Occupied – A Short Term Rental in which the Short Term Rental Host has established their Primary Residence within the Short Term Rental. The host may or may not be the Owner.**

**Short Term Rental, Owner-Occupied – A Short Term Rental in which the Owner is also the Short Term Rental Host and has established their Primary Residence within the Short Term Rental. For the purposes of the short term rental requirements, the Dwelling Unit must be owned as real property by the owner declaring residency and cannot be owned by a company, partnership, or corporation in order to qualify as an Owner-Occupied Short Term Rental.**

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**4.2.63 Short Term Rental of a dwelling unit that is not the primary residence of the ~~host owner~~ or ~~the Short Term Rental of~~ a condominium unit that is the primary residence of the ~~host owner~~ in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district: Short Term Rental of a dwelling unit that is not the primary residence of the owner or a condominium unit that is the primary residence of the owner that is in a OR, OR-1, or OR-2 district and a TN form district; and Short Term Rental of any dwelling unit in a TNZD district**

A short term rental of dwelling unit that is not the primary residence of the ~~host owner~~ or ~~the short term rental of~~ a condominium unit that is the primary residence of the ~~host owner~~ in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district; a short term rental of a dwelling unit that is not the primary residence of the owner or a condominium unit that is the primary residence of the owner that is in a OR, OR-1, or OR-2 district and a TN form district; and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant for 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the ~~licensed~~ registered property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. If the aforementioned occupancy allows for more than 12 individuals, there shall be a maximum of 12 adults. The Board may further restrict the number of individuals.
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. Relief to this provision may be provided by the Board; however the burden is on the applicant to demonstrate that the subject short term rental would not contribute to an overconcentration of short term rentals in the immediate area and/or adversely affect the affordable housing stock in the immediate area. In applications where the entire area encapsulated by the 600 foot buffer is residentially zoned (including TNZD areas mapped Neighborhood General), under no circumstance shall the Board provide relief to this provision in cases in which two or more short term rentals with conditional use permits are already in existence within 600 feet.  
The following exceptions to this separation requirement apply:
  - (1) The separation requirement shall not apply to a property on which the conditional use permit is conditioned that the owner acts as host and maintains their primary residency within another dwelling unit in the same building or on the same parcel of land.
  - (2) The separation requirement shall not apply between two or more short term rentals on a single property being reviewed under the same conditional use permit application. However, if the property is subdivided after the conditional use permit is granted, a new conditional use permit shall be required in order for any new lot(s) to have a short term rental, with the separation requirements applying to that subsequent application.
  - (3) ~~This provision~~ The separation requirement shall not apply to a property in the TNZD district on which the conditional use permit is conditioned that the host shall maintain their primary residency within the dwelling unit ~~which required a conditional use permit even though it is the primary residence of the host.~~
- E. The building in which dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit in a multi-family building, the

condominium unit must be the primary residence of the ~~host~~ owner. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. This evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board wherein all condominium owners were notified that short term rental of the subject condominium would be discussed and a majority of the board members voted in favor of permitting /allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted.

- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity.
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the registration pursuant to section 4.3.23 approval. When the Planning Director revokes an approved registration, staff shall schedule a public hearing for the Board to consider revoking the associated conditional use permit approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31st) day after the initial action by the Director. 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. Criminal complaints include, but are not limited to, reported drug activity, theft, and criminal mischief. The Board may also revoke the conditional use permit for other reasons pursuant to section 11.5A.6.~~approval~~. ~~When the Planning Director revokes an approved registration, staff shall schedule a public hearing for the Board to consider revoking the associated conditional use permit approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31st) day after the initial action by the Director. 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. Criminal complaints include, but are not limited to, reported drug activity, theft, and criminal mischief. The Board may also revoke the conditional use permit for other reasons pursuant to section 11.5A.6.~~
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. In order to commence short term rentals, a new conditional use permit must be granted if required by this Land Development Code.
- L. An active registration of the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code.

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#### 4.3.23 Short Term Rentals

In a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district, a short term rental of dwelling unit that is the primary residence of the ~~host~~ owner is permitted by the Planning Director with special standards set forth in this section. In a OR, OR-1, or OR-2 district and not within a TN form district, any short term rental is permitted by the Planning Director with special standards set forth in this section. In a OR, OR-1, or OR-2 district and within a TN form district, a short term rental of dwelling unit that is the primary residence of the owner is permitted by the Planning Director with special standards set forth in this section. In a ~~OR, OR-1, OR-2,~~ OR-3, OTF, C-N, C-R, C-1, C-2, C-3, C-M, EZ-1, W-1, W-2, PVD, PTD or PRD district, any short term rental is permitted by the Planning Director with special standards set forth in this section.

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant for 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the ~~licensed~~ registered property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. If the aforementioned occupancy allows for more than 12 individuals, there shall be a maximum of 12 adults unless more adults are permitted by the planning director (not to exceed to the maximum number of occupants).
- D. The building in which the dwelling unit is located shall be a single-family residence or duplex unless the dwelling unit is located on property zoned C-R, C-N, C-1, C-2, C-3, OR-3, OTF, or EZ-1. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Planning Director. ~~The amount and location of parking shall be based on the land uses and density of the immediate vicinity.~~ In the event that a complaint is filed concerning the lack of adequate parking, the Planning Director may require that the host submit a parking study to Planning & Design Services. If the parking study concludes that there is inadequate parking available to the host and guests, the host shall either a) increase the amount of parking to be sufficient or b) discontinue the short term rental use.
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period related to the short term rental or condition of the property or building on which it is located, the Planning Director ~~may~~ shall revoke the registration. When the Planning Director revokes a registration under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31st) day after the initial action by the Director. 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. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.
- J. In ~~a case~~ s in which ~~a)~~ the required primary residency of ~~the a~~ host is in question due to: a) conflicting documentation or information; or b) inadequate documentation supporting a claim to concerning the primary residency of the host is provided by the host; and/or c) questionable circumstances, the Planning Director may request that the Board of Zoning Adjustment review ~~the a pending application or approved~~ registration and make a

determination related to the residency of the host. The Board shall act following a public hearing. Public comment by the host and any interested party shall be permitted. During a residency hearing, in addition to considering the documentation provided in the application, the Board may consider the circumstances surrounding the application as well as testimony in determining if the host spends most of their time at the property.

- K. In a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and a OR, OR-1, and OR-2 district within a TN form district, the short term rental shall be the owner's primary residence unless a conditional use permit allows otherwise. The owner shall have resided in the dwelling unit for at least six months prior to application. Each annual registration application shall include a) a Kentucky-issued driver's license or identification card showing the host resides at the address and b) at least one of the following other documents showing that the host resides at the address: Voter Registration Card, federal tax return, Kentucky tax return, and/or vehicle registration. If the aforementioned documentation cannot be provided, then a residency hearing shall be required pursuant to section. J.
- L. Unless a conditional use permit has been granted allowing otherwise, the owner shall act as the primary host and be responsible for performing all responsibilities of the host. While co-hosts, property managers, and emergency contacts may assist with management, the owner shall be the primary contact for all concerns, including those by Metro Government, neighbors, and guests.

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#### **4.3.27 Accessory Dwelling Unit (ADU)**

Accessory dwelling units may be permitted in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts that permit residential use in accordance with the following standards:

- A. One ADU, either attached or detached is permitted per single family dwelling per lot.
- B. Maximum ADU Size: 800 square feet or 30 percent of the gross floor area of the principal structure, whichever is greater.
- C. Location Requirements:
  - 1. For an attached ADU, the yard or setback requirements of the principal structure shall be met. The attached ADU shall be located either to the side or behind the principal structure.
  - 2. For a detached ADU, the yard or setback requirements of an accessory structure shall be met. The detached ADU shall be located either to the side or behind the principal structure.
- D. ADU Access:
  - 1. For an attached ADU, an exterior staircase used to access a second story or higher ADU shall not be located on the front façade of the structure.
  - 2. For a detached ADU, the exterior pedestrian entrance to the ADU shall be located facing the principal structure or side yard.
- E. Maximum Height:
  - 1. For an attached ADU, the maximum height shall not exceed the height of the principal structure.
  - 2. For a detached ADU, the maximum height shall not exceed the maximum height permitted for an accessory structure in accordance with Chapter 5 of the LDC. The maximum height shall not exceed the height of the principal structure.
- F. ADUs approved under this provision shall not be used as a short term rental.
- G. Any property that has been subject to a zoning, property maintenance, or building code violation(s) in the 12 months prior to application shall be reviewed and approved by the

directors of Planning & Design Services and Codes & Regulations, or their designees. Any violations shall be resolved prior to approval.

- H. Off-street parking shall meet the requirements of Chapter 9 of ~~the~~ this LDC.
- I. ADUs that include new construction that results in habitable floor area (for example, additions to principal structures or new accessory structures) shall not be allowed on any areas of lots that contain environmental constraints (LDC Section 4.6.2.A)
- J. The owner of the property shall reside within either the principal or the accessory dwelling unit.
- K. To avoid any confusion, since there is no language to the contrary, this section does not override any deed restriction or homeowners' association declarations restricting accessory dwelling units.

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## LOUISVILLE METRO CODE OF ORDINANCES

### SHORT TERM RENTALS

#### § 115.515 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DIRECTOR.** The Director of the Louisville Metro Department of Planning and Design Services.

**HOST.** 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 and is responsible for its management.

**HOSTING PLATFORM.** 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. 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.** A dwelling unit that is rented, leased or otherwise assigned for a tenancy of less than 30 consecutive days duration, where no meals are served. This term does not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns or boarding and lodging house rooms.

**SHORT TERM RENTAL ADVERTISEMENT.** Any method of soliciting use of a dwelling unit or portion thereof as a short term rental.

**TRANSIENT USER.** 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 30 consecutive days duration.

#### § 115.516 ANNUAL REGISTRATION REQUIRED.

No person, firm, or corporation shall own or operate a short term rental on any premises within Jefferson County unless the short term rental has been registered annually with the Louisville Metro Department of Develop Louisville.

- (A) The Director may refuse to issue or renew the registration of a short term rental until all outstanding penalties associated with violations of §§ 115.515 through 115.521 that have been assessed against the property owner and/or Host are paid in full.



- (B) The Director may refuse to issue or renew the registration of a short term rental until all outstanding fines and liens that have been assessed by Louisville Metro Government against the subject property are paid in full.
- (C) The Director may deny or refuse to renew the registration of any Host for violating or failing to comply with any applicable provision of §§ 115.515 through 115.521.
- (D) (1) A new registration for a property shall not be issued if a citation for a violation(s) of §§ 115.515 through 115.521 had been issued in the prior 12 months. When the Planning Director denies a registration under this section, the owner and Host may request a waiver. The Board of Zoning Adjustment shall approve or deny the waiver following a public hearing.  
(2) An active registration shall be revoked by the Planning Director if ~~if~~ the property is subject to two or more substantiated civil and/or criminal complaints or the Host is found to have twice violated or failed to comply with any applicable provision of §§ 115.515 through 115.521 with respect to a given property within a 12 month period, ~~the Planning Director may revoke the registration.~~ When the Planning Director revokes a registration under this section, the owner and Host shall be notified of the revocation and shall have 30 days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first day after the initial action by the Director. 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. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.
- (E) 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 calendar year.

#### **§ 115.517 ANNUAL REGISTRATION; FEE.**

- (A) Each annual registration for a short term rental shall be per the procedure prescribed 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 Jefferson County, Kentucky and/or within 25 miles of the short term rental that shall be responsible for addressing any maintenance, safety concerns, or nuisance complaints. The Host shall provide the emergency contact's information to Transient Users prior to commencing their stays; and
  - (2) The location of the short term rental.
- (B) A nonrefundable fee of ~~\$100~~ \$250 shall accompany the annual registration form of a short term rental.
- (C) A registration shall expire one year from the date it is issued and shall be renewed annually. A renewal application shall be not accepted until 30 days prior to the expiration date of the current registration. A renewed registration shall be effective for one year and commence the day after the previous registration expired. Renewal applications submitted after the expiration date shall not be accepted and shall be reviewed and acted upon as new applications. Short term rentals are prohibited under an expired registration.
- (D) A change in Host, and/or ownership, ~~or tenancy~~ of a dwelling unit used as short term rental invalidates any existing registration. The new Host, and/or property owner, ~~and/or tenant~~ must apply for a new registration in their name.
- (D) Any change in required primary residency of a dwelling unit used as a short term rental invalidates any existing registration.
- (E) An application, whether it be for a new or renewal registration, shall be reviewed under the current provisions of §§ 115.515 through 115.522.

## **§ 115.518 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS.**

Each separate short term rental shall be in 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 on nondiscrimination, zoning, building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, mechanical, and other applicable laws.

## **§ 115.519 REGISTRATION WITH THE LOUISVILLE METRO REVENUE COMMISSION.**

- (A) Pursuant to LMCO Chapter 121, transient room taxes are to be collected and paid by the Host to the Louisville Metro Revenue Commission. Transient occupancy taxes are ultimately the responsibility of the host, but the collection and remission of all required taxes pursuant to LMCO Chapter 121 may be paid by a hosting platform on behalf of Host if the short term rental is created through a hosting platform that has an agreement with the Metro Government for collection and payment of such taxes to the Metro Revenue Commission; ~~and.~~
- (B) Pursuant to LMCO Chapter 110, the Host is subject to occupational license taxes to the Louisville Metro Government.
- (C) The Host shall register with the Louisville Metro Revenue Commission to ensure compliance with all applicable local taxes including the transient room tax and occupational license tax.

## **§ 115.520 DUTIES OF A HOST.**

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

- (A) The short term rental meets the smoke detector requirements set forth in LMCO § 94.02; has at least one functional carbon monoxide detector installed in an appropriate location as set forth in Kentucky Residential Code; has at least one properly maintained and charged fire extinguisher on each habitable floor; every sleeping room shall have at least one operable emergency and rescue opening as set forth in the Kentucky Residential Code; and that a clearly marked evacuation plan is posted on the premises; ~~;~~
- (B) There shall be no more than one contract per short term rental at a time; ~~;~~
- (C) There is no signage on the premises of the short term rental advertising or identifying the short term rental in residential zoning districts.
- (D) The name, email, and telephone number of the Host and any emergency contact shall be conspicuously posted within the short term rental. This contact information will be made available to any interested party, including neighbors.
- (E) Any Host using a Hosting Platform shall include the valid, Louisville Metro-issued registration number for the short term rental in the Short Term Rental Advertisement.
- (F) The Host is responsible for the activity of Transient Users (guests). The Host shall immediately address any problems associated with the short term rental when it is occupied by a Transient User (guest) regardless of the time of day. If the Host is not available, he or she may delegate this responsibility to an Emergency Contact.

## **§ 115.521 ADVERTISING ON A HOSTING PLATFORM.**

- (A) Short term rentals registered in accordance with § 115.517 may be advertised for short term stays of less than 30 days on a Hosting Platform. A Host and/or property owner that advertises an un-registered short term rental on a Hosting Platform is subject to enforcement as stated in §§ 115.522 and 115.999(N)(2).

- (B) The Director 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 must 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 business days of notification by the Director.
- (C) The Director may request that a Hosting Platform provide the following information to the Louisville Metro Department of Develop Louisville on a monthly basis:
- (1) The total number of short term rentals in Louisville Metro 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.
- These reports shall be due at the end of each month to include information from the preceding month.
- (D) Pursuant to KRS 65.8821, the Code Enforcement Board shall have the authority to subpoena information from any Hosting Platform. Any such subpoena shall:
- (1) Be submitted in writing by the Code Enforcement Board attesting that Louisville Metro Government has a reasonable belief based on evidence that a short term rental may be in violation of §§ 115.515 through 115.521;
  - (2) Be served on the platform via its registered agent;
  - (3) Be related to a specific investigation by Louisville Metro Government relating to a short term rental that is identified in the subpoena; and
  - (4) Identify the alleged violations of §§ 115.515 through 115.521.
- The platform shall notify their user/Host of the information requested in the subpoena within ten business days of receiving the subpoena and produce records within 21 days of providing notice to the user/Host, except to the extent that the user/Host has sought relief in a court of competent jurisdiction.

## **§ 115.522 ENFORCEMENT.**

In addition to the penalties provided in § 115.999(N), the Director is authorized to enforce the provisions of this subchapter through declaratory, injunctive and other civil actions filed in any court of competent jurisdiction.

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## **§ 115.999 PENALTY.**

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- (N)
- (1) Any person who violates any provision of §§ 115.515 through 115.520 will be subject to a civil penalty of \$125 as imposed by an Enforcement Officer. A second offense will be subject to a civil penalty of \$250 as imposed by an Enforcement Officer. A third offense will be subject to a civil penalty of \$500 as imposed by an Enforcement Officer. Any additional offense beyond the third offense will be subject to a civil penalty of \$1,000 as imposed by an Enforcement Officer. Each day that a violation continues after separate notice has been served shall be deemed a separate offense. Any person who receives a citation for violating §§ 115.515 through 115.520 may appeal the violation to the Code Enforcement Board.
  - (2) Any person who violates any provision of § 115.521 related to advertising on a Hosting Platform shall receive a notice of violation as a warning for a first offense. Any additional offense will be subject to a civil penalty of \$125 as imposed by an Enforcement Officer. Each day that a violation continues after separate notice has been served shall be deemed



a separate offense. Any person who receives a citation for violating § 115.521 may appeal the violation to the Code Enforcement Board.

- (3) In addition to the penalties provided herein, the Director is authorized to pursue remedial civil actions for violations of §§ 115.515 through 115.521 by civil complaint or petition for injunctive relief, declaration of rights or other appropriate proceedings filed in the Jefferson County, Kentucky Circuit Court.