

Case # 16AMEND1002

## Short Term Rentals

# Land Development Code Text Amendment



## Planning Commission

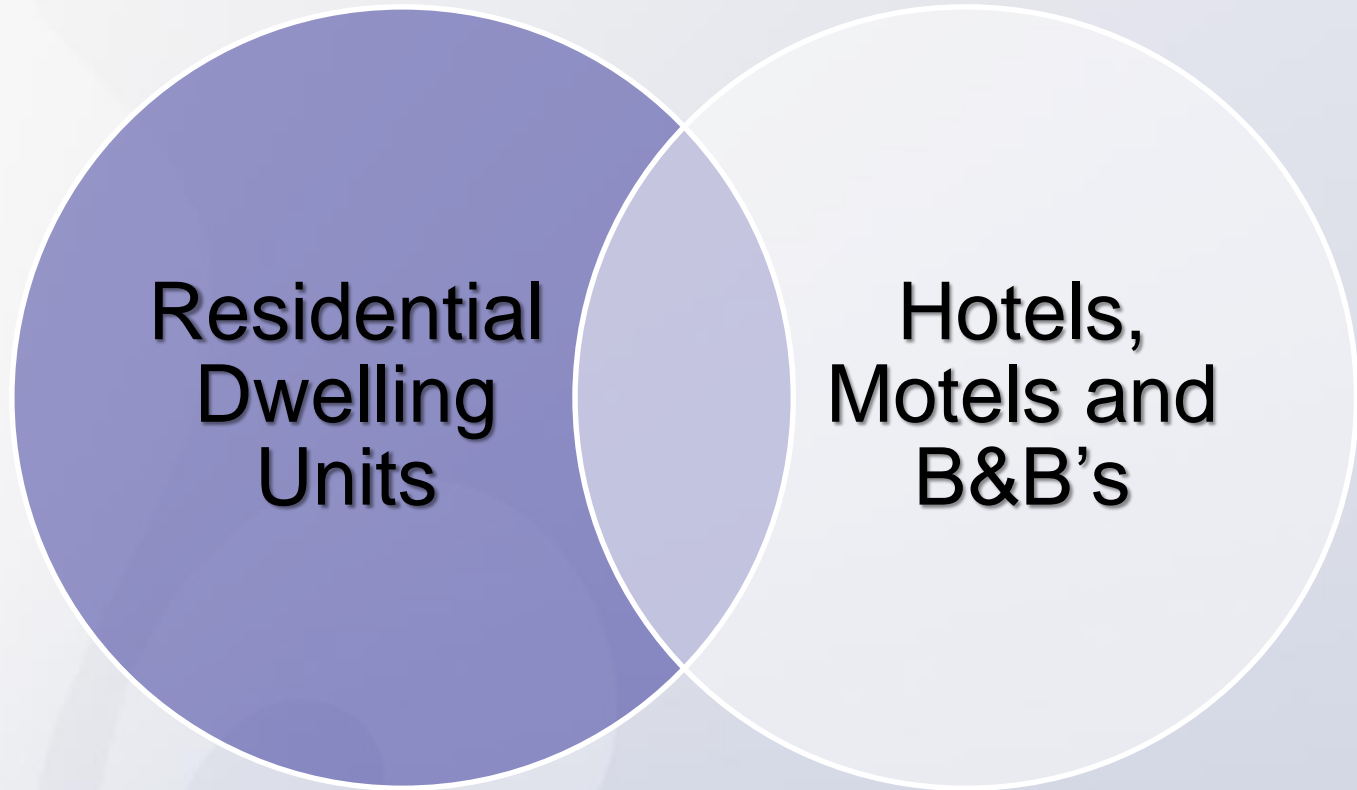
Joseph Haberman, AICP, Planning & Design Manager

April 11, 2016

# Request

- On December 3, 2015, Metro Council passed Resolution #124, 2015 which:
  - Directs the Planning Commission, through its staff at Planning & Design Services, to research short term rentals
  - Recommend LDC amendments that regulate such use to Metro Council to consider

# What Are Short Term Rentals?



A short-term rental is most often defined as a rental of a residential dwelling unit for a period of less than 30 consecutive days.

# Forms of Short Term Rentals

In general, short term rentals take 3 forms:

## 1) Hosted home sharing

- There is a primary occupant of the dwelling
- Primary occupants of the residence reside in the dwelling while it is rented guests

## 2) Un-hosted home sharing

- There is a primary occupant of the dwelling
- Primary occupants of the residence vacate the dwelling while it is rented to guests

## 3) Dedicated short term rental

- There is not a primary occupant of the dwelling

# Frequencies of Short Term Rentals

Short-term rentals also vary in rental frequencies:

- Some homes are rented only for special occasions (i.e. the Kentucky Derby)
- Some homes are rented often but not continuously
- Some homes are rented continuously, in some cases up to 365 days in a year

# Popular Online Platforms for Short Term Rentals



# Popular Online Platforms for Short Term Rentals

- On April 11, 2016, in the Louisville area:
  - On airbnb.com, there were 171 rentals available for April 11, 2016; with the rentals available in the following forms:
    - 103 entire home
    - 74 private room
    - 4 shared room
    - Of the 171 rentals available, the average cost was \$362
  - On airbnb.com, there were 300+ rentals available in Louisville (not restricted to staying on April 11, 2016)
  - On homeaway.com, there were 40 rentals available
  - On homeaway.com, there were 246 rentals available in Louisville (not restricted to staying on April 11, 2016)

Dates: 04/11/2016 04/12/2016 1 Guest

Room Type: Entire home/apt Private room Shared room



More Filters Only 14% of homes are left for these dates. Now's a good time to book.

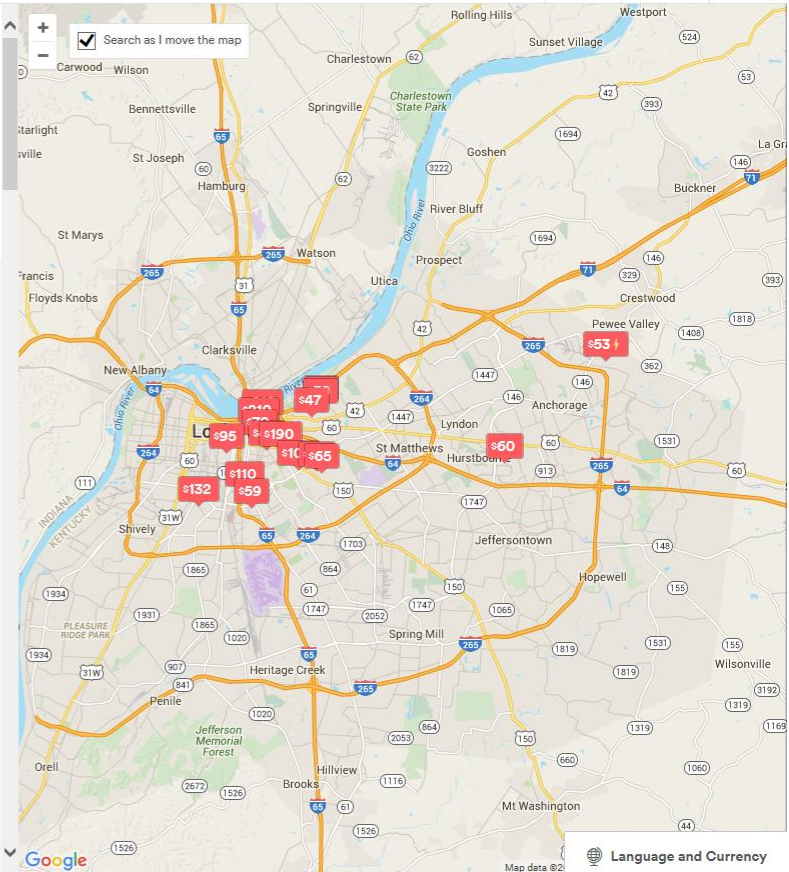
Additional fees apply. Taxes may be added.



\$100 Apartment in The Highlands Entire home/apt - 21 reviews



\$41 Stay with a Ukulele musician! Private room - 102 reviews





# Background

- Beginning in early 2015, Develop Louisville received over 50 complaints regarding unlawful short term use of dwellings (54 cases have been opened to date), most of which were being advertised on online platforms such as Airbnb.com
- Since the first complaint was filed, 5 notices of violations were issued
- In March 2015, the Metro Council adopted Resolution #035-2015; requesting that Louisville Metro Government evaluate whether or not the current laws, and the enforcement thereof, adequately address the unique business practice of short term rentals

# Background (Cont.)

- In December 2015, Metro Council passed Ordinance #217, 2015; amending Metro Code Section 115 to require that hosts register their short term rentals annually with Develop Louisville and remit applicable transient occupancy taxes
  - The effective date of the ordinance was postponed to June 1, 2016 in order to provide time for consistent LDC amendments to be crafted and adopted (thus becoming effective at or around the same time)
- In December 2015, Metro Council passed Resolution #124, 2015; requesting that the Planning Commission, through its staff at Planning & Design Services, research short term rentals and recommend LDC amendments that regulate such use to Metro Council to consider
  - Planning Committee, March 10, 2016 & March 24, 2016

# Ordinance #217, 2015

- Defines short term rental and short term rental host
- Limits use to a single short term rental contract at a time
- Caps occupancy at 2 x the number of bedrooms plus 4
- Restricts the provision of meals by the host
- Requires the dwelling unit to have smoke detectors and a posted evacuation plan
- Prohibits outdoor signage which identifies the short term rental
- Requires that a person, located within 25 miles, be available to respond to and address any maintenance and safety issues
- Requires the host to remit applicable taxes

# LDC Conflict

- The dwellings subject to many of the citations were permitted as dwelling units. Daily and weekly rentals is inconsistent with the definition of *dwelling unit*.

Either a single room or two or more connected rooms used exclusively as a single unit and intended for occupancy for no less than 30 consecutive days or more by one family, and providing complete, independent living facilities (which at a minimum includes permanent provisions for living, sleeping, eating, cooking and sanitation which are accessed independently). This term does not include hotel or motel rooms, extended stay lodging facilities, boarding and lodging rooms, nursing home rooms, or assisted living units.

# Currently Allowed Transient Uses (as defined in the LDC)

- *Bed and Breakfast Inn* - The use of a residential structure as a small inn which provides no more than 9 guest rooms for hire to short term guests in which the only meal served to guests is breakfast, unless the bed and breakfast inn has an additional food service license which allows other meals to be served. The innkeeper resides on the premises or property immediately adjacent to it during periods of occupancy, and the facility has a permit from the KY Cabinet for Health Services to operate as a Bed and Breakfast Inn.
- *Hotel* - A building used for temporary fee-based occupancy of a room or suite of rooms and which contains no fewer than 6 such separate rooms or suites and which has a registration desk.

# Some Major US Cities That Have Address Short Term Rentals

## Allow:

- Aspen, CO
- Austin, TX
- Boulder, CO
- Chicago, IL
- Grand Rapids, MI
- Houston, TX
- Los Angeles, CA
- Nashville, TN
- Portland, OR
- Seattle, WA
- Washington, DC

## Prohibit:

- Asheville, NC\*
- Boston, MA
- Boulder, CO
- Burlington, VT\*
- Key West, FL\*
- New York City, NY\*
- Portland, ME\*
- Raleigh, NC

\* Prohibition based on similar 30 day rule

**Louisville (Proposed) Short Term Rental Ordinance Comparative Table**

City	Zoning	Use Category	Approval Requirement	Taxes Required	Liability Insurance Required	Maximum Number of Rentals in a Multi-Family Structure	Maximum Number of Rentals in an Area	Maximum Number of Bedrooms for Guest Rentals	Principal Unit Shared by Resident and Guest Allowed	Accessory Unit w/ Resident on Premises (but in Principal Unit) Allowed	Principal Unit w/ Resident Not on Premises Allowed	Maximum Number of Residents + Guests	Food Provided By Owner Allowed	Alcohol Provided by Owner Allowed	Neighbor Notification Required	Guest Log Book Required	Pre-Inspection Required	License/Registration Required	Renewal Required
San Francisco, CA	All zones	Short-Term Residential Rental	Registry application	Yes	Yes - Not less than \$500,000	No	No	No	Yes	Yes	Yes - However the resident must occupy the unit at least 275 days of the calendar year	No	Not specified	Not specified	No	No	No	Yes	Yes - 2 years
Portland, OR (1 to 2 bedrooms)	All zones	Accessory short-term rental	Permit application	Yes	No	Yes - 3+ unit structures limited to 1 unit or 25% of the total # of units, whichever is greater	No	Yes - 2 bedrooms	Yes	Yes	Yes - However the resident must occupy the unit at least 270 days of the calendar year	Yes - Total may not exceed the number allowed for a household	Yes	Yes	Yes	Yes	No	Unknown	Yes - 2 years
Portland, OR (3 to 5 bedrooms)	All zones	Accessory short-term rental	Conditional use permit application	Yes	No	Yes - 3+ unit structures limited to 1 unit or 25% of the total # of units, whichever is greater	No	Yes - 5 bedrooms	Yes	Yes	Yes - However the resident must occupy the unit at least 270 days of the calendar year	No - However may be limited by conditional use permit	Yes	Yes	Yes	Yes	No	Unknown	No
Nashville, TN	All zones	Short-term rental property	Permit application	Yes	Yes - Not less than \$1,000,000	No	Yes - But no more than 3% of single-family and two-family units in a given census tract	Yes - 4 sleeping rooms	Yes	Yes	Yes	Yes - X the # of sleeping rooms + 4	No	Not specified	Yes	No	No	Unknown	Yes - 1 year
Aspen, CO	Most Residential and Commercial Zones	Vacation Rental	Permit application	Yes	No	No	No	No	No	Yes	Yes	No	Not specified	Not specified	Only if located within an established HOA	No	No	Yes	Yes - 1 Year
Austin, TX	Most Residential Zones and CBD, some commercial	Short-term Rental	License Application	Yes	Yes	Yes - No more than 25% of units	Yes - Limited by Census Tract if not owner occupied	No	Yes	Yes	Yes - However, a single-family residence must include owner occupation. Allowed in multi-family structures subject to other requirements.	No	Not specified	Not specified	Renters in same property only	No	No	Yes	Yes - 1 Year
Boulder, CO	Most zones, but only allowed at primary residence	Short-term Rental	License Application	Yes	No	Yes - 1, and must be owner occupied	No	No	Yes	Yes	Yes - However a residence must be the primary residence of the owner.	Yes - Up to 3 persons or a family plus 2 unrelated persons in lower density zones; up to 4 persons or a family plus 2 unrelated in higher density	Not specified	Not specified	No	No	No	Yes	Not specified
Louisville - Proposed	All zones except M-1, M-2, M-3, EZ-1, PRO, PEC & W-3	Short-term rental property that is the residence of the host	Permitted with special standards	Yes	No	No	No	No	Yes	Yes	Yes - (However the dwelling must be the primary residence of the host)	Yes - 2 X the # of sleeping rooms + 4	No	No	No	No	No	Yes	Yes - 1 year
Louisville - Proposed	All zones except M-1, M-2, M-3, EZ-1, PRO, PEC & W-3	Short-term rental property that is not the residence of the host	Permitted with special standards in commercial and office districts/ Conditional Use Permit in residential districts	Yes	No	No	No	No	Yes	Yes	Yes	Yes - 2 X the # of sleeping rooms + 4	No	No	Yes for those that require CLUP	No	No	Yes	Yes - 1 year

For Louisville:

**Addressed in passed Metro Code Ordinance 217-2015**

# Recommended Definitions

- In order to regulate, short term rental must be defined
  - *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 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
- Both the above definitions are consistent with those approved by Ordinance #217, 2015
- Other definitions, including *dwelling unit*, will be modified to reflect the establishment of the new use



# Recommended Permitted Locations

- **C-N, C-R, C-1, C-2, C-3, C-M, W-1, W-2, PVD, PTD & PRD:**
  - Permitted with special standards
- **R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 & R-8A:**
  - If residence of the host, permitted with special standards
  - If not the residence of the host, may only be permitted with a CUP
- **TNZD:**
  - Regardless of residency of host, may only be permitted with a CUP
- **M-1, M-2, M-3, EZ-1, PRO, PEC & W-3:**
  - Prohibited

# Recommended Requirements

- The maximum stay for a guest shall be 29 consecutive days (30 consecutive days or more is not considered a short term rental)
- *The dwelling unit shall be limited to a single short term rental contract at a time*
- *At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals*
- The dwelling unit shall be a single-family residence or duplex
- *Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest*
- *Outdoor signage which identifies the short term rental is prohibited*
- The dwelling unit shall have an appropriate amount of off-street parking available for guests
- The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances

# Some of the Remaining Issues To Be Resolved

- How to address existing short term rentals that would be deemed nonconforming by adoption of the proposed amendment
- The amount of parking considered to be adequate
- Whether or not neighbors should be notified of a non-CUP short term rental application and if so, how should they be notified

# Potential Findings for Text Amendment

- WHEREAS, the Planning Commission finds that the subject short term rental amendments to the LDC comply with the applicable guidelines and policies of Cornerstone 2020.
- WHEREAS, the Planning Commission finds that the subject short term rental amendments to the LDC comply with Guideline 3, Compatibility, of Cornerstone 2020. The amendments allow a property owner to lease his or her residence on a short term basis provided that, in some cases, a Conditional Use Permit is approved after public notice and a public hearing. In addition, the amendments require that the impacts of the rental on surrounding properties be minimized and residential character be preserved.
- WHEREAS, the Planning Commission finds that the subject short term rental amendments to the LDC comply with Goal D1, Business Climate, which recommends creating and sustaining a climate which stimulates business and economic growth in Jefferson County. This Goal has an objective to expand the Louisville area's hospitality and tourism industry. Short term rentals offer another lodging alternative to the vacationing public and provide extra income to hosts.
- WHEREAS, the Planning Commission further finds that the subject short term rental amendments to the LDC comply with Goal D2, Quality of Life, which recommends enhancing and maintaining the quality of life in Jefferson County. This Goal has objectives to affirm and protect the economic value of neighborhoods and natural resources and to develop a regional strategy for cultural, leisure, and recreational activities to ensure a high quality of life for residents, businesses, and visitors. The regulation of short term rentals preserves quality of life of residences while contributing to tourism by providing more authentic local experiences and/or affordable alternatives to hotels.

# Conclusion

Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Planning Commission must **RECOMMEND** to Metro Council that the LDC text amendments, as described in the staff report and presentation at the public hearing, be **APPROVED, APPROVED WITH MODIFICATIONS** or **DENIED**