

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

Request: ***Hearing of this case will start no earlier than 3:00 p.m.**
Amendments to the Land Development Code Related to
Short Term Rentals
Project Name: Short Term Rental Ordinance Amendments
Location: Louisville Metro
Applicant: Louisville Metro
Jurisdiction: Louisville Metro
Council District: All Council Districts
Case Manager: **Joseph Haberman, AICP, Planning Manager**

NOTE: Commissioners Peterson and Tomes left and did not vote on this case.

01:30:56

NOTE: Chair Jarboe said there is a time limit of 2 hours for testimony.

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:32:43 Mr. Haberman discussed changes since the last public meeting. There are a lot of public comments being submitted to staff. The moratorium is a separate issue and BOZA continues to review cases under the current ordinance.

The following spoke in favor of this request:

Leslie Frye, 943 Burning Springs Circle, Louisville, Ky. 40223
Mary Conrad, 803 Gleneagle Court, Louisville, Ky. 40223
Alexandria Bolton, 117 West Breckinridge Street, Louisville, Ky. 40203
Rose Hall, 1146 South 6h Street, Louisville, Ky. 40203

Summary of testimony of those in favor:

02:25:36 Ms. Frye, a realtor, stated that some fear comes from social media. Property values are not determined by people making noise or how many cars are in

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

the parking lot. It is based on sales in the neighborhood. Published house rules in a short term rental is a plus and people follow them.

02:31:20 Ms. Conrad has 2 short term rentals that are not owner occupied.

Ms. Conrad received some statistics from AirBNB with the following information: Inbound guests to Louisville are over 120,000; 60% short term rental owners are female; earnings average \$4500/year; from April – December 2018 the city of Louisville brought in \$670,000, which could hopefully be used for enforcement; and state earnings \$2.1 million.

02:48:26 Ms. Bolton is a real estate broker, homeowner, investor, flipper and just started a company managing AirBNBs. It's counter-productive with these federal incentives to limit the opportunity for small businesses to grow. The small neighborhoods are really benefitting from the AirBNBs.

Ms. Bolton said she's in favor of option 3.

03:10:20 Ms. Hall stated she operated a short term rental AirBNB for 6 months – a year before knowing about proper registration. Ms. Hall said was refused a conditional use permit (CUP) because her home is multi-family residential.

The following spoke in opposition to this request:

Hannah Gill, 807 Fetter Avenue, Louisville, Ky. 40217
Erin Vachon, 1143 Samuel Street, Louisville, Ky. 40204
Faith Yascone, 1335 South Brook Street, Louisville, Ky. 40208
Luke Neubauer, 115 Waverly Court, Louisville, Ky. 40206
Christina Neubauer, 115 Waverly Court, Louisville, Ky. 40206
Barrett Goff, 3302 Dogwood Drive, Louisville, Ky. 40220

Summary of testimony of those in opposition:

01:35:02 Ms. Gill stated she's been running an AirBNB out of her home for two years and has nothing but positive experiences.

01:36:45 Ms. Vachon stated she's not familiar with the options offered by staff. She lives across the street from a year round short term rental property. There are a lot of parties that disturb the neighborhood. The owners should have to prove that they reside in the home.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

01:49:20 Mr. Haberman, at the request of Chair Jarboe, explained the 3 options from the staff report.

03:23:43 Mr. Neubauer stated that options 1, 2 and 3 don't address the real issue which is enforcement.

03:33:10 Mrs. Neubauer, real estate agent, stated that she witnesses several types of people that use short term rental, some of them being; homeowners that sell their homes quickly; people relocating; and people that want flexibility. A vacant home is not beneficial to a neighborhood.

Mrs. Neubauer stated she's strongly against options 1 and 2. There needs to be more education and enforcement.

03:39:24 Mr. Goff stated he's opposed to options 1 and 2 because he's in the process of getting his non-owner occupant short term rental application approved. The problem is enforcement. There are some technological advancements that can improve the people renting illegally.

The following spoke neither for nor against the request:

Faith Yascone, 1335 South Brook Street, Louisville, Ky. 40208

Glenda Yascone, 1335 South Brook Street, Louisville, Ky. 40208

Glenn Davis, 803 Linden Drive, Louisville, Ky. 40223

Jay Bowman, 2237 Lowell Avenue, Louisville, Ky. 40205

Jonathan Klunk, 1372 South 6th Street, Louisville, Ky. 40208

Joseph Montano, 1120 G. Street NW, Washington DC, 20005

Ashley Brown, 1806 Shady Lane, Louisville, Ky. 40205

Richard Wagner, 1153 South 2nd Street, Louisville, Ky. 40213

Sieglinde Kinne', 1478 South 1st Street, Louisville, Ky. 40208

Carrye Jones, 2601 Ballantrace Circle, Louisville, Ky. 40242

Councilman Bill Hollander, 202 South Peterson Avenue, Louisville, Ky. 40206

Sandra J. Corlett, 4306 Mount Eden Road, Shelbyville, Ky. 40065

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299

Summary of testimony of those neither for nor against:

01:40:27 Ms. Faith Yascone stated most of the issues can occur with short term or permanent residents. The regulations need to operate trying to find solutions, not out of fear.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

01:56:10 Ms. Glenda Yascone said her short term rental is her primary residence. The control is fear-based. All areas should be regulated the same to promote fairness.

01:59:50 Mr. Glenn Davis does not reside at his short term rental property.

Mr. Glenn Davis said he's against options 1 and 2, but in agreement with number 3 with some caveats. Requiring all short term rentals to post permits on web sites is supported (by all sides). The majority of the problems from short term rentals come from unlicensed operators.

02:04:31 Mr. Bowman owns 2 short term rental homes both within 3 miles of his primary residence. The main issue is enforcement, not zoning. Purchasing homes in disrepair and renting out is good for the economy and neighborhoods.

02:09:07 Mr. Klunk lives in an owner occupied duplex and owns and operates a property management company specializing in short term rentals.

Mr. Klunk stated he's opposed to an outright ban on non-owner unoccupied properties in residentially zoned areas. "Neighbors are holding non-owner occupied short term rental properties to a much higher standard."

02:21:40 Chair Jarboe said it's not in the Planning Commission's purview to pick or choose neighborhoods that can/can't have short term rentals.

02:22:00 Mr. Montano, Ky. Government Affairs Manager for Expedia Group, stated he is concerned about a ban or moratorium on whole home vacation rentals. It would have a dangerous impact.

Mr. Montano supports policies that are fair, sensible, and effective and allows the activity of short term rentals to operate legally.

02:35:40 Ms. Ashley Brown owns a short term rental ½ a block from her residence.

Ms. Ashley Brown stated she has invested a lot of money to fix up this home in disrepair as a means of supporting her family. She opposes options 1 and 2 and supports option 3 with better enforcement with the current regulations.

02:39:16 Mr. Wagner lives in his short term rental property but has other locations as well.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

Mr. Wagner said he meets most of his renters and they don't want to use hotels. Issues with neighbors have been worked out. Allow the short term rentals that are legal to continue.

02:43:21 Ms. Kinne' owns 2 short term rental duplexes and resides in one. She supports option 3 with enforcement and higher fees. There needs to be a concise location to find information regarding compliance.

02:50:55 Ms. Jones is a short term rental owner and the host lives on the premises.

Ms. Jones is not on AirBNB or any other on-line platform, but caters to homeowners in transition (by referral). Ms. Jones supports option 3.

02:56:32 Councilman Hollander stated he does not own a short term rental property but represents 30,000 people in district 9. Short term rental issues are real. Also, there is an impact of short term rental in residential districts on affordability and availability of rental housing in the community. There is an affordable housing crisis in the community.

03:03 17 Ms. Corlett owns a non-owner occupied short term rental. Louisville is a tourist destination and Ms. Corlett has hosted a variety of customers.

Ms. Corlett opposes options 1 and 2.

03:15:34 Mr. Porter stated he owns a licensed bed and breakfast and has been in operation for the past 20 years. The B&B has a state license and is inspected by the health department, inspected by fire marshals, always a resident on the premises and requires a commercial zoning or conditional use permit and commercial insurance. Transparency and enforcement are the major problems. If hotels and B&Bs require commercial zoning or a CUP, AirBNBs should have the same requirements because it's a business in their home. AirBNBs should be required to have a marshal inspection and approval and a commercial insurance policy. The CUP process should have more strict conditions of approval, periodic review for complaints and should use their power of revocation for justified complaints. Also, the registration number and/or the address should be listed on any online advertising.

Deliberation

03:44:47 Mr. Whitty stated that anyone operating a legal AirBNB, regardless of this regulation, will be constitutionally protected.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

03:45:47 Commissioner Howard read some potential changes to the ordinances and is in favor of option 2.

03:52:50 Commissioner Carlson asked if increasing the fee covers the cost of additional staff for enforcement? Ms. Liu answered, enforcement is complicating because it also includes technology, resources and research. An increase to \$100 is reasonable and will not deter people from registering.

Commissioner Carlson suggests adding the following: clarify what constitutes a civil complaint that can be used to revoke a conditional use permit; each short term rental has to have at least one functional carbon monoxide detector; every sleeping room has at least one operable emergency rescue opening; the current name and telephone number of the host or the emergency contact be mailed (certified registered) to each first tier adjacent property owner; and any short term rental that's not the primary resident, the host has to have the dwelling unit inspected by a fire prevention inspector or a licensed home inspector.

04:00:56 Commissioner Brown said he doesn't support restricting where these can be located, therefore supporting option 3.

Commissioner Brown said he doesn't agree with the maximum occupancy.

04:07:21 Commissioner Daniels said she agrees with Commissioners Howard and Carlson's suggestions. Locking the rental time to 29 days is not reasonable. Ms. Liu explained that 30 day rental or more is long term rental and allowed.

Commissioner Daniels supports option 2.

04:09:56 Commissioner Robinson agrees with Commissioners Howard and Carlson's amendments. There should be no limiting the investors.

Commissioner Robinson supports option 3.

04:11:34 Commissioner Smith supports option 3.

04:14:11 Chair Jarboe said this is a very complex case. Don't forget the people that are in opposition and being affected negatively (sent letters). In our motion to Metro Council, it should include presenting funds to Planning and Design staff for enforcement.

Chair Jarboe supports option 3.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

04:37:02

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council **APPROVE** the attached amendments to the Louisville Metro Code of Ordinances. The motion was based on the amendments as presented in the 12/6/18 staff report with the following changes:

- Include Commissioner Howard's suggestions introduced at the 1/24/19 meeting to increase the annual registration fee from \$25 to \$100 and to add a requirement to display a copy of the registration in a location near the entry to the short term rental that is visible from the exterior of the building (section 115.517);
- Include Commissioner Carlson's suggestions introduced at the 1/24/19 meeting to add requirements that a short term rental has at least one functional carbon monoxide detector and every sleeping room has at least one operable emergency and rescue opening, that the current name and telephone number of the host and emergency contact be mailed to each first tier adjacent property owner. Any changes of the host or emergency contact shall be re-noticed within 10 days, and that a short term rental that is not the primary residence of the host that the host shall have the dwelling unit inspected by a fire prevention inspector or a home inspector licensed in Kentucky to determine if there are visible fire or life safety issues that need to be addressed prior to occupancy by guests (section 115.520).
- Related to occupancy requirements, omit the changes to Section 115.520(C) as presented in the 12/6/18 staff report and delete the existing provision from the Louisville Metro Code of Ordinances all together.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Robinson, Smith and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes
ABSTAINING: Commissioner Howard

04:47:00

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution based on the staff report and testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and the cities with zoning authority not **AMEND** their Land Development Codes by disallowing short term rentals that are not the primary residences of the hosts in any of the zoning districts in which they are currently permitted in the Louisville Metro version of the Land Development Code (section 4.2.63) was adopted.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Robinson, Smith and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes

04:57:32

On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution based on the staff report and testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and the cities with zoning authority **APPROVE** the attached amendments to the Land Development Code. The motion was based on the amendments as presented in the 12/6/18 staff report with the following changes:

- Include Commissioner Carlson's suggestion introduced at the 1/27/19 meeting to clarify what constitutes a civil complaint that can be used to revoke a conditional use permit or registration (sections 4.2.63 and 4.3.23).
- Include Commissioner Howard's suggestions introduced at the 1/27/19 meeting to add a requirement that the host shall register the short term rental within 60 days of the issuance of the conditional use permit or the permit shall become null and void (section 4.2.63), add a requirement that an active registration for the short term rental shall be maintained (4.2.63), add a process for a case in which the primary residency of the host is in question for the Planning Director to request that the Board of Zoning Adjustment review the registration at a public meeting (4.3.23), and provide the Planning Director with the authority to deny a short term rental registration to any host who has had a registration revoked within one year of application for the new registration (4.3.23).
- Related to occupancy requirements, disregard part of the changes to Sections 4.2.63.C. and 4.3.23.C. by omitting the addition of "with total occupancy not to exceed 10 persons in a dwelling unit regardless of the number of bedrooms".

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Robinson, Smith and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes

ABSTAIN: Commissioner Howard

LOUISVILLE METRO LAND DEVELOPMENT CODE

1.2.2 Definitions

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 is his or her primary residence. If an individual owns or lives in more than one dwelling unit, then he or she must apply a "facts and circumstances" test to determine which property is his or her primary residence. While the most important factor is where he or she 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 U.S. Postal Service address, Voter Registration Card, federal and state tax returns, driver's license, state identification card, and/or vehicle registration.

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.

4.2.63 Short Term Rental of a dwelling unit that is not the primary residence of the host or the short-term rental Short Term Rental of a condominium unit that is the primary residence of the host 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 Short Term Rental of any dwelling unit in a TNZD district

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

A short term rental of dwelling unit that is not the primary residence of the host or the short term rental of a condominium unit that is the primary residence of the host 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 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 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 ~~four~~ two individuals.
- D. The building in which the dwelling unit is located shall be a single-family residence, ~~or duplex,~~ or a condominium ~~unit~~. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. 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.
- E. Food and alcoholic beverages shall not be served or otherwise provided 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 Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated.

- 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 one year period, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, and mechanical codes.
- J. 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 60 days of the issuance of the conditional use permit, the permit shall become null and void.
- K. An active registration for 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.

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 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.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus ~~four~~two individuals.
- 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, ~~or C-3,~~ or EZ-1 and the property meets all of the following criteria: 1. The property is within 200' of a TARC route; 2. The property is within .75 miles of a public park; and 3. The property is within one mile of a National Register District or Local Preservation District. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided 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 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. In order to maintain a registry of short term rentals, the host of the short term rental shall submit a notice of intent to commence a short term rental to the Office of Planning & Design Services in a form prescribed by the Planning Director. This form may be an online form that does not require the host to visit the office.~~
- ~~J. 1~~ I If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a one year period, the Planning Director may revoke the approval. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, and mechanical codes.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

- J. In a case in which a) the primary residency of the host is in question due to conflicting documentation or b) inadequate documentation concerning the primary residency of the host is provided by the host, the Planning Director may request that the Board of Zoning Adjustment review the registration and make a determination related to the residency of the host.
- K. The Planning Director has the authority to deny a short term rental registration to any host who has had a registration revoked within one year of application for the new registration.

LOUISVILLE METRO CODE OF ORDINANCES

§ 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 Develop
Louisville.

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.

HOSTING PLATFORM. An internet based platform that generally allows an owner or tenant to advertise the dwelling unit through a website and provides a means for potential transient users to arrange short term rental and payment through the hosting platform.

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.

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.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

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.

§ 115.517 ANNUAL REGISTRATION; FEE.

- (A) Each annual registration for a short term rental shall be per the procedure prescribed by the Director, ~~and approved by the Louisville Metro Revenue Commission~~ and shall be available for paperless, online registration ~~upon the effective date of this subchapter.~~ The registration form, at a minimum, shall include the following:
- (1) The name, address, phone number, and email address of the ~~Host and of a person~~ an emergency contact residing or located in Jefferson County, Kentucky and/or within 25 miles of the short term rental who shall be responsible for addressing any maintenance or safety concerns and nuisance complaints requiring immediate attention. 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 ~~\$25~~ \$100 shall accompany the annual registration form of a short term rental. The initial registration fee shall be waived.
- (C) A copy of the current annual registration provided by the Department shall be displayed in a location near the entry to the short term rental that is visible from the exterior of the building.

§ 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. TRANSIENT OCCUPANCY TAXES.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

- (A) Pursuant to LMCO Chapter 121, transient room occupancy taxes are to be collected and paid by the Host to the Louisville Metro Revenue Commission Metro Government pursuant to this Code; and
- (B) Pursuant to LMCO Chapter 110, the host may be subject to occupational license taxes to the Metro Government. Transient occupancy taxes are ultimately the responsibility of the host, but the collection and remission of all required taxes pursuant to LMCO Chapters 110 and 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.
- (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 ~~h~~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; 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) At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals; and~~
- ~~(C)(D) 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 and telephone number of the Host and any emergency contact shall be conspicuously posted within the short term rental.
- (E) The current name and telephone number of the Host and any emergency contact shall be mailed via certified US mail return receipt requested, to each first tier adjacent property owner. Any changes of the Host or emergency contact shall be re-noticed within ten (10) calendar days.

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

(F) For a short term rental that is not the primary residence of the Host, the Host shall have the dwelling unit inspected by a fire prevention inspector or a home inspector licensed in Kentucky to determine if there are visible fire or life safety issues that need to be addressed prior to occupancy by guests.

§ 115.521 ADVERTISING ON A HOSTING PLATFORM.

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).

§ 115.521 115.522 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.

§ 115.999 PENALTY.

(N)

- (1) Any person who violates any provision of §§ 115.515 through 115.520 shall receive a notice of violation as a warning for a first offense will be subject to a civil penalty of \$50 as imposed by a Zoning Enforcement Officer . A second offense will be subject to a civil penalty of not less than \$100 and no more than \$500 \$250 as imposed by the Director a Zoning Enforcement Officer. A third offense will be subject to a civil penalty of not less than \$500 and no more than \$1,000 as imposed by the Director a Zoning Enforcement Officer. Any additional offense beyond the third offense will be subject to a civil penalty of \$750 as imposed by a Zoning Enforcement Officer. Each day that a violation continues after 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 \$50 as imposed by a Zoning Enforcement Officer. Each day that a violation continues after notice has been served shall be deemed a separate offense. Any person

PLANNING COMMISSION MINUTES
January 24, 2019

PUBLIC HEARING

CASE NO. 18AMEND1002

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

~~(2)~~(3) In addition to the penalties provided herein, the Director is authorized to pursue remedial civil actions for violations of §§ 115.515 through 115.520 by civil complaint or petition for injunctive relief, declaration of rights or other appropriate proceedings filed in the Jefferson County, Kentucky Circuit Court.

05:00:45

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council to consider a funding source for operating expenses for short term rental enforcement.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Smith and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes
ABSTAIN: Commissioner Robinson

PLANNING COMMISSION MINUTES
December 6, 2018

PUBLIC HEARING

CASE NO. 18AMEND1002

***NOTE: Commissioner Carlson left the meeting at 3:00 p.m. and was not present for this case.**

Request: Amendments to the Land Development Code related to Short Term Rentals
Project Name: Short Term Rental Ordinance Amendments
Location: Louisville Metro
Applicant: Louisville Metro
Jurisdiction: Louisville Metro
Council District: All Council Districts

Case Manager: Joseph Haberman, AICP, Planning Manager

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:08:27 Joseph Haberman presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:35:32 Commissioner Brown asked Mr. Haberman if any CUP's (short-term rentals) had been revoked due to multiple citations. Mr. Haberman said yes, but did not have an exact number.

The following had comments in support; in opposition; and neither for nor against:

Jonathan Klunk, 1372 South 6th Street, Louisville, KY 40208

Joseph Hummel, 1931 Alfresco Place, Louisville, KY 40205

Thomas Klausing, 2314 Saratoga Drive, Louisville, KY 40205

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

**PLANNING COMMISSION MINUTES
December 6, 2018**

PUBLIC HEARING

CASE NO. 18AMEND1002

Thomas J. Luber, 2324 Saratoga Drive, Louisville, KY 40205

Robert Johnston, 432 Second Street, Louisville, KY 40202

Sieglinde Kinne, 1478 South 1st Street, Louisville, KY 40208

Jay Bowman, 2237 Lowell Avenue, Louisville, KY 40205

Erik George, 425 East Oak Street, Louisville, KY 40203

Myrna Parsley, 323 West St. Catherine Street, Louisville, KY 40203

Heather Yaron, 4225 Calgary Way, Louisville, KY 40241

Mary Conrad, 803 Gleneagle Court, Louisville, KY 40223

Luke Skeen, 1223 Valley Drive, Louisville, KY 40213

Gant Hill, 6403 Innisbrook Drive, Louisville, KY 40057

Eric Feller, 5707 Rhodes Way, Louisville, KY 40222

Luke Neubauer, 115 Waverly Court, Louisville, KY 40206

Jenny Johnston, 1205 Everett Avenue, Louisville, KY 40204

Deirdre Seim, 937 Cherokee Road, Louisville, KY 40204

Cliff Ashburner, 101 South 5th Street Suite 2500, Louisville, KY 40202

Debra Harlan, 1734 Chichester, Louisville, KY 40205

Arthur Cestaro, 1936 Ivanhoe Court, Louisville, KY 40205

Jim Schorch, 1503 East Breckinridge Street, Louisville, KY 40204

Michael Stevens, 1610 Forest Hills Drive, Louisville, KY 40205

Summary of testimony

PLANNING COMMISSION MINUTES
December 6, 2018

PUBLIC HEARING

CASE NO. 18AMEND1002

02:38:04 Jonathan Klunk said he is the owner/operator of a short-term rental management company. He said he is in favor of the EZ-1 zoning and having the emergency contact in Jefferson County; he is opposed to eliminating the initial registration fee. He discussed the enforcement process and said that it is the illegal operators that are giving the whole industry a "bad name". He is opposed to capping the number of renters to ten; he said this is an arbitrary number and is inappropriate for many properties, especially those zoned "Commercial". He suggested looking at the amount of available parking (especially off-street) as a means to determine the maximum capacity of a site.

02:43:03 Mr. Klunk is opposed to a proposal to ban short-term rentals and/or non-owner occupied properties in residential areas (see recording for detailed presentation.) However, he is in favor of looking at density measures.

02:48:54 Robert Johnston was called but was not present.

02:48:59 Joseph Hummel said he opposes short-term rentals in residential areas. He said the Kentucky Supreme Court has made an opinion that these short-term rentals are non-owner-occupied hotels. He said LLC's are opening up these hotels with no security or management on-premises. Issues are "arbitrated" by nearby residents who call the police. Businesses are not appropriate in the middle of neighborhoods.

02:53:02 Thomas Klausing said he is opposed to having these businesses in the neighborhood. He said it would be all right if the properties are owner-occupied, but many of these are owned by companies and third-party operators. He said these short-term rentals are hotels.

02:55:34 Steve Porter stated that he owns a bed and breakfast and is an Airbnb host. However, he also referenced the Kentucky Supreme Court opinion which states that a short-term rental is defined as a hotel and reiterated that these businesses are not appropriate in the middle of single-family neighborhoods. He said most short-term rental operators in Jefferson County have not registered. He said he likes the proposal being made today which makes the host responsible for paying the taxes, and not Airbnb. He discussed deed restrictions in various neighborhoods which prohibit these unregistered short-term rentals, and said lack of enforcement is a problem. He expressed concerns about structures complying with the fire codes (particularly ingress/egress),

03:03:27 Thomas J. Luber, a Highlands resident, said he is in support of Option 1 but is not sure about Option 2. He expressed concerns about how a "Single-Family District" could apply in the Highlands, since there are multi-family dwellings alongside single-family homes (duplexes and condominiums that were developed in the 1920's.)

PLANNING COMMISSION MINUTES
December 6, 2018

PUBLIC HEARING

CASE NO. 18AMEND1002

He also discussed the proposed definition of “owner/host” and “primary residents”. He said he wants the host to live in the home in a residential neighborhood 90% of the time. He discussed “snowbirds” who live in the home for half of the year and vacate it the other half, leaving the property to be managed by someone else. He said the current regulations do nothing to protect the neighbors.

03:07:28 Sieglinde Kinne stated that she is an Airbnb host. She explained that single-family homes were “out of reach” in the Old Louisville neighborhood, and long-term renting had its own set of problems. Short-term renting has provided extra income, allowed her to be more selective about guests/tenants, and provided the ability to pay off her mortgage. She said she has been able to purchase an additional property next to her.

03:10:15 Commissioner Howard asked Mr. Klunk what he thought about non-owner-occupied short-term rentals in the middle of a residential block. She said she was asking because of the negative impacts that have been brought forward at public hearings about these rentals. Mr. Klunk said his company has not received any complaint from any neighbor in the four years they have been in business, except for guest parking issues. These complaints are “easily remedied.” Commissioner Howard asked Mr. Klunk what he would think about having STR’s on corner lots, instead of lots in the middle of a block. He said that on-street parking can be an issue in urban neighborhoods.

03:14:32 Commissioner Jarboe asked Mr. Hummel to clarify some aspects of his testimony.

03:16:59 Jay Bowman stated that he is a local real estate investor, a resident of the Highlands, and the mayor of a small neighborhood in the Highlands. He believes most of the opposition is caused by fear of the unknown and change. He does not feel that a few STR’s on a block will change the fabric of a neighborhood, and that enforcement is very important. He does not see an issue with owner-occupied STR’s; non-owner-occupied STR’s could be problematic if not handled right. He pointed out that many Louisville residents do not live in their properties, but live close by.

03:21:51 Erik George said running a small business out of a house in a residential neighborhood “happens all the time.” He understands the argument about potentially loud guests. He said he has “gone about this the right way” and that this is a good investment for him, the neighborhood, and Louisville Metro, since he is paying taxes on his properties. He said he is strongly in favor of inspections and enforcement of regulations, and increasing the registration fees. He said he is opposed to a ban, or halting any applications that have already been submitted.

PLANNING COMMISSION MINUTES
December 6, 2018

PUBLIC HEARING

CASE NO. 18AMEND1002

03:25:23 Myrna Parsley described her experiences as an out-of-town owner of short-term rental properties. She said she would support having STR's in her neighborhood if her deed restrictions did not prohibit them.

03:31:27 Heather Yaron was called but was not present.

03:31:49 Mary Conrad said short-term rentals are not a real estate industry, but a part of the hospitality industry. She described her experience about getting her two properties registered and approved for short-term rental use (Airbnb.) She said that doing short-term rentals allowed her to afford upkeep and improvements on both properties. She discussed parking. She said the Airbnb company has collected and remitted over \$670,000 to Louisville Metro, plus remitting 2.1 million in home-sharing tax revenue to the State of Kentucky.

03:38:28 Luke Skeen is a short-term rental owner/operator who said he supports appropriate regulation. He said he does not agree with either Option being presented today and said neither is appropriate.

03:42:05 Gant Hill said he is a real estate broker, investor, and a "superhost". He stated that parties "have never happened" in any of his properties and that all of the opposition being heard is based on fear. He said he has never a bad stay like that. He said the Airbnb houses he oversees are "pristine" and look better than other houses on the block. He said he opposed to a ban, and believes that regulations must be enforced. He said that some areas where there are warehouses and industry, where there aren't a lot of hotel rooms, Airbnb's can be closer to these businesses than hotels.

03:45:31 Eric Feller was called but was not present.

03:45:39 Luke Neubauer said taking away Airbnb's would lessen opportunity for entrepreneurship in Louisville, and explained why that is important. He said he has put in applications for two properties. He said if an Airbnb is properly managed, there are no loud parties or disruption/s. He said good management and enforcement are critical. He said he was not satisfied with either Option being presented today.

03:50:21 Jenny Johnston said she is also a real estate investor and owns a few multi-family properties in the Highlands and Old Louisville. She said she fully supports non-owner-occupied CUP's for rentals operating in commercial districts and/or commercial streets (like Bardstown Road.) She supports owner-occupied occasional rentals (like for Derby). However, she is opposed to non-owner-occupied rentals in residential neighborhoods. She said these businesses do not belong on residential streets, and this is happening in her neighborhood. She said she supports a ban on non-owner-occupied rentals in residential neighborhoods.

PLANNING COMMISSION MINUTES
December 6, 2018

PUBLIC HEARING

CASE NO. 18AMEND1002

03:53:16 Deirdre Seim stated that she is co-chair of the Short Term Rental Committee of the Cherokee Triangle. She said the Committee submitted a list of suggestions for enforcement, and none of them were included in the staff report. She said the Committee is in favor of increasing the permit fee to \$100, which could nearly fund an enforcement officer for short-term rentals. She said nearly 75% of the houses listed on Airbnb are unregistered. She said the Committee also wanted to require STR owners to post their permit number (registration number) on all of their online advertising to facilitate easy enforcement by the City. On her own behalf, she said limiting the number of guests to ten is an arbitrary number and is not suitable for large homes or homes located near Commercial uses.

03:58:09 Cliff Ashburner, representing Ms. Seim, said the greatest concern is the proposed ten-person cap. This cap would not apply to a previously-permitted short-term rental that is approved for more than ten. He requested that currently permitted non-conforming rights be honored in the same way that the land use regulation does.

04:00:02 Debra Harlan said there is a pending Airbnb application next door to her. She said that owner is an absentee owner from Illinois. Another one around the corner was approved two months ago, which generates noise in the evening. She said she objects to the Conditional Use Permit process being used for short-term rentals, because Conditional Uses run with the land. If the current owner sells, the new owner could put any kind of commercial use there. This is why she supports a ban on Airbnb's in residential neighborhoods. She said Bardstown Road Corridor properties are specifically zoned to prevent bleeding of commercial uses into the residential areas. She discussed problems current residents are having with owners who say they reside in properties when they actually do not.

04:06:03 Arthur Cestaro, President of the Deer Park Neighborhood Association, said the Board is opposed to non-owner-occupied STR's in residential neighborhoods. He said the Deer Park Neighborhood Plan (completed in 2016 and adopted by the Louisville Metro Council) emphasized the importance of stability. He said a lot of work went in to stabilizing the relationship between residential and commercial uses along Bardstown Road, and also stabilizing the housing stock as it was constructed. He said the Neighborhood Association sees the non-owner-occupied STR's as a detriment to that stability. He discussed a similar issue that had arisen with Bellarmine University buying houses to be used as dormitories. He said much of those problems have been resolved because Bellarmine work with the neighbors and has been responsive to complaints. The concern is that, as these "hotels" crop up in the middle of neighborhoods, neighbors will lose control. There is also concern because CUP's run with the land.

PLANNING COMMISSION MINUTES
December 6, 2018

PUBLIC HEARING

CASE NO. 18AMEND1002

04:11:41 Jim Schorch was called but was not present.

The Commission took a 10-minute recess.

04:12:21 Commissioner Peterson asked for clarification about how many complaints had been received specifically related to STR's. Mr. Haberman said complaints presented today were specific to STR properties. However, sometimes complaints go to LMPD and not to Zoning/Code Enforcement, so there is no way to tell if that nuisance is coming from a STR or not. Noise complaints usually go to LMPD. Some complaints are unspecified. Some go to Code Enforcement/Property Maintenance, or through MetroCall. Commissioner Jarboe pointed out that, if the STR property is not registered, there is no way to determine if that is a STR-related complaint or not.

04:16:01 Commissioner Peterson asked if anything is being done about unregistered STR properties. Mr. Haberman discussed how Louisville Metro has been reaching out to the general public and STR owners/operators in particular. Commissioner Jarboe added that Airbnb has refused to divulge the owners/operators that have Airbnb's in Louisville Metro.

04:18:57 Commissioners' deliberation

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

04:26:43 On a motion by Commissioner Howard, seconded by Commissioner Lewis, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **January 24, 2019 Planning Commission public hearing, to be heard no earlier than 3:00 p.m.**

The vote was as follows:

YES: Commissioners Peterson, Daniels, Brown, Lewis, Howard, and Jarboe.
NOT PRESENT: Commissioners Smith, Robinson, Tomes, and Carlson.