

Planning Commission

April 11, 2016



Case No:	16AMEND1002
Project Name:	LDC Text Amendment – Short Term Rentals
Case Manager:	Joseph Haberman, AICP, Planning Manager

REQUEST

Amend the Land Development Code (LDC) to define and regulate the short term rental of dwelling units.

SUMMARY

On December 3, 2015, Metro Council passed Resolution #124, 2015 (see Attachment #1). The resolution requests 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.

The LDC amendments described in this report relate to zoning. These amendments are associated with Metro Code amendments approved by Metro Council. On December 17, 2015, Metro Council passed Ordinance #217, 2015 (see Attachment #2). The ordinance amended Metro Code Section 115 to require that hosts register their short term rentals annually with Louisville Metro's Department of 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). Prior to adopting the ordinance, the topic of short term rentals was discussed by Metro Council at several meetings. Most of Metro Council's documents associated with the ordinance (file #O-131-15), including minutes, can be accessed through the following link:

<https://louisville.legistar.com/LegislationDetail.aspx?ID=2540122&GUID=21DE724B-13EC-4075-B0B0-54D5762A6D0F&Options=&Search=>

Short term rentals, also known as vacation rentals, are not specifically mentioned or addressed in the LDC. The Planning Director has interpreted that the rental of a dwelling unit of less than 30 days is not permitted. This decision is based upon the wording contained in the definition of *dwelling unit*, as provided in LDC Section 1.2.2: "Either a single room or two or more connected rooms used exclusively as a single unit and intended for occupancy for no less than thirty (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."

Louisville has a growing number of dwelling units being rented for short terms. Individuals in need of short term rentals are increasingly turning to the internet as a method to secure short term rental opportunities, including the ability to rent an entire house or only a room. Internet platforms include popular sites such as airbnb.com, flipkey.com, HomeAway.com, vacationrentals.com and VRBO.com.

These rentals are often different than other short term rental options currently permitted in the LDC, such as hotels, motels, bed and breakfast inns and boarding and lodging houses. Usually situated in residential areas, they serve as alternatives to more traditional lodging arrangements.

In general, short term rentals take three forms: 1) hosted home sharing, where the primary occupants of the residence remain on-site with the guests; 2) un-hosted home sharing, where the primary occupants of the residence vacate the unit while it is rented to guests; and 3) dedicated short term rentals, where there is not a primary occupant of the home.

For residents, short term rentals can provide extra income. For visitors, the properties can provide more authentic local experiences and/or affordable alternatives to hotels. However, on the other hand, if not adequately regulated, short term rentals have the potential to change the character of established residential areas and can impact the affordability and availability of rental housing markets.

Staff has researched the zoning regulations adopted by several other communities to determine best practices regarding short term rentals, including but not limited to Aspen, CO; Austin, TX; Key West, FL; Nashville, TN; Portland, OR; and San Francisco, CA. In addition, staff reviewed documentation prepared on the subject by the American Planning Association (APA).

The LDC amendments described in this staff report address short term rentals in the following ways:

- Clarifies definitions;
- Identifies appropriate locations and level of approval; and
- Provides required standards for 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, the Short Term Rental of a dwelling unit that is the primary residence of the host may be permitted with special standards and does not require a Conditional Use Permit. The short term rental of dwelling unit that is not the primary residence of the host requires a Conditional Use Permit. In the TNZD district, a Conditional Use Permit is required whether the Short Term Rental is or is not the primary residence of the host. In a C-N, C-R, C-1, C-2, C-3, C-M, W-1, W-2, PVD, PTD or PRD district, any short term rental is permitted with special standards and does not require a Conditional Use Permit. In the M-1, M-2, M-3, EZ-1, PRO, PEC and W-3 districts, short-term rentals are prohibited. See the following summary table.

	R-R through R-8A	TNZD	C-N through C-M	W-1, W-2, PVD, PTD PRD	M-1, M-2, M-3	EZ-1, PRO, PEC	W-3
STR that is the primary residence of the host	PS	PC	PS	PS	NP	NP	NP
STR that is not the primary residence of the host	PC	PC	PS	PS	NP	NP	NP

STR = Short term rental PS = Permitted Subject to Standards
 PC = Permitted with Conditional Use Permit NP = Not Permitted

The item was reviewed by the Planning Committee on March 10, 2016 and March 24, 2016. To address comments by the Committee and the public, staff revised the proposed amendment to limit short term rentals in residentially zoned areas to single-family residences and duplexes (and thereby not permit short term rentals in multi-family structures in residentially zoned areas); require adequate “off-street” parking; and require Conditional Use Permits for short term rentals in the TNZD. Staff shall continue to research other issues brought forth during the committee meetings, including how to address existing short term rentals that would be deemed nonconforming by adoption of the proposed amendment, the amount of parking that would be considered adequate and if and how neighbors should be notified of a non-Conditional Use Permit short term rental application.

PROPOSED AMENDMENT

The Planning Commission may make a recommendation to Metro Council to approve, approve with modifications, or deny a proposed LDC text amendment.

1.2.2 Definitions

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Bed and Breakfast Inn - The use of a residential structure as a small inn which provides no more than nine (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 Kentucky Cabinet for Health Services to operate as a Bed and Breakfast Inn. This term does not include hotels, motels, extended stay lodgings, short term rentals or boarding and lodging houses.

* * * * *

Boarding and Lodging House - A dwelling unit where for compensation and by prearrangement rooms are provided for no more than eight people. Meals may or may not be provided, but there exists one common kitchen facility. This term does not include hotels, motels, extended stay lodgings facilities, short term rentals, nursing homes ~~rooms~~, or assisted living residences ~~units~~.

* * * * *

Dwelling - A building or portion thereof designed and used exclusively for residential occupancy. This term does not include hotels, ~~or~~ motels or extended stay lodgings.

* * * * *

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 thirty (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). Notwithstanding the provisions of this definition, where permitted, short term rentals may be occupied by more than one family and for less than 30 consecutive days. This term does not include hotel or motel rooms, extended stay lodging facilities, ~~boarding and lodging rooms~~, nursing home rooms, or assisted living residence units.

* * * * *

Extended Stay Lodging - Accommodations for persons away from their permanent place of residence, which are available on a daily or weekly basis and may include kitchen facilities. This term does not include short term rentals, boarding and lodging houses, nursing homes or assisted living residences.

* * * * *

Hotel - A building used for temporary fee-based occupancy of a room or suite of rooms and which contains no fewer than six (6) such separate rooms or suites and which has a registration desk. This term does not include short term rentals, boarding and lodging houses, nursing homes or assisted living residences.

* * * * *

Motel - An establishment consisting of a group of attached or detached lodging units having bathrooms, used as individual sleeping units for ten or more persons, designed primarily for transient automobile travelers, and providing for accessory off-street parking facilities convenient to the lodging rooms and which may include one dwelling unit for a bona fide caretaker or operator. The term "~~motel~~" includes buildings designed as auto courts, tourist courts, motor lodges, autels, and similar terms. This term does not include short term rentals, boarding and lodging houses, nursing homes or assisted living residences.

* * * * *

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.

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2.3.5 OTF Office/Tourist Facility District

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A. Permitted Uses:

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~~Tourist homes~~

* * * *

2.4.4 C-2 Commercial District

* * * * *

A. Permitted Uses:

* * * *

~~Tourist homes~~

* * * *

2.6.3 PEC Planned Employment Center District

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A. Permitted Uses:

All uses permitted in the M-2 Industrial District

All uses permitted in the C-1 Commercial District, excluding dwellings

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Note: Resolving existing conflict related to restricted dwelling units

Note: Unrestricted dwelling units are not permitted

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2.7.1 Planned Village Development (PVD) District

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C. Development Guidelines and Standards.

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4. Land Use.

The table below (Table 2.7.1) lists the uses permitted within a village. P means the use is permitted, subject to design standards and location standards where noted. L means the use is limited. Limited uses must be approved by the Planning Commission at the time of approval of the Master Plan. Subsequent requests for limited uses shall require amendment of the Master Plan and shall be reviewed according to D.2. of this Section. PSS means the use may be permitted with special standards pursuant to Chapter 4, Part 3 of the Land Development Code.

X means the use is not permitted. No permitted use or limited use shall be required to secure a conditional use permit. For others listed in Chapter 4, Part 2 of the Land Development Code as Conditional Uses, an applicant may apply for and obtain a conditional use permit provided the private covenants, declarations or restriction of the association of property owners do not forbid the conditional use applied for.

	Village Edge	Village General	Village Center
* * * * *			
LODGING USE			
* * * * *			
<u>Short Term Rental</u>	<u>PSS</u>	<u>PSS</u>	<u>PSS</u>
* * * * *			

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2.7.2 Planned Transit Development (PTD) District

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E. Development Standards

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2. Land Use
- a. PTD District Land Use Table. The table below lists the uses permitted within a PTD. P means the use is permitted, subject to design standards and location standards where noted. L means the use is limited. Limited uses must be approved by the Planning Commission at the time of approval of the Detailed Development Plan. PSS means the use may be permitted with special standards pursuant to Chapter 4, Part 3 of the Land Development Code. X means the use is not permitted. No permitted use or limited use shall be required to secure a conditional use permit. Hours of operation of proposed uses shall be established in the Master Plan.

PTD District Land Use Table

"PTD" Permitted Uses	TRANSIT DISTRICT CENTER	TRANSIT DISTRICT TRANSITION
* * * * *		
LODGING USE		
* * * * *		
<u>Short Term Rental</u>	<u>PSS</u>	<u>PSS</u>
* * * * *		

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2.7.3 Planned Residential Development (PRD) District ¹

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C. Permitted Uses.

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Short Term Rentals, in accordance with the special standards set forth in Chapter 4, Part 3 of the Land Development Code

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2.7.4 Traditional Neighborhood Zoning District

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B. Development Guidelines and Standards

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2. TNZD Components.

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- e. Land Use within TNZD. The table below is illustrative of the uses permitted within the TNZD. Permitted uses of structures, densities, and floor area ratios within a TNZD are regulated on a structure-by-structure basis. The TNZD shall contain a mixture of uses, including single-family and multifamily residential, retail, and service establishments. The regulation of usage of any structure within the TNZD shall be guided by the architecture, size, or traditional use of the building, and in accordance with the purposes and pattern of the district. This table does not provide an example of uses in the TNZD Neighborhood General "Form District" Edge Transition because this area's list of uses would be based on the specific form district of an area and may vary widely from one form district to another and from one geographic area to another.

TNZD Land Use Table

"P" means the use is permitted, subject to design standards and location standards where noted. "P/M" means the use is permitted where mapped. Mapped uses recognize historic uses of lots or, in the case of vacant development sites, an appropriate compatible use. "X" means the use is not permitted. P/CU = Permitted as Conditional Use. No permitted use or use permitted where mapped shall be required to secure a conditional use permit.

Land Use Category	Neighborhood	Neighborhood	Neighborhood
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	<i>General</i>	<i>Transition-Center</i>	<i>Center</i>
* * * * *			
<i>Other Uses</i>			
* * * * *			
<u>Short Term Rental</u>	<u>PC/U</u>	<u>PC/U</u>	<u>PC/U</u>
* * * * *			

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4.2.1 Intent and Applicability

Certain land uses due to their extent, nature of operation, limited application, or relationship to natural resources are considered as exceptional cases. The uses listed in this Part may be permitted in certain districts by Conditional Use Permit following a public hearing before the Board of Zoning Adjustment provided such uses will not have an adverse effect on neighboring property, are not in conflict with the goals and plan elements of the Comprehensive Plan, the proposed uses are essential to or will promote the public health, safety, and the general welfare in one or more zones, and are in compliance with the listed standards and requirements.

The following uses are subject to the Conditional Use Permit process:

Section	Conditional Use
* * *	* * *
<u>4.2.63</u>	<u>Short Term Rental of a dwelling unit that is not 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</u>
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4.2.63 Short Term Rental of a dwelling unit that is not 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

A short term rental of dwelling unit that is not 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 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 four individuals.
- D. The dwelling unit shall be a single-family residence or duplex.
- 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.
- G. The dwelling unit shall have an appropriate amount of off-street parking available for guests.
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

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4.3.20 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 a 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 C-N, C-R, C-1, C-2, C-3, C-M, W-1, W-2, PVD, PTD, PRD or TNZD 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 four individuals.
- D. The dwelling unit shall be a single-family residence or duplex.
- 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.
- G. The dwelling unit shall have an appropriate amount of off-street parking available for guests.
- 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.