

ORDINANCE NO. 056, SERIES 2019

AN ORDINANCE AMENDING SEVERAL SECTIONS OF THE LOUISVILLE METRO LAND DEVELOPMENT CODE AND SECTION 115 OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES (“LMCO”) RELATING TO SHORT TERM RENTALS (CASE NO. 18AMEND1002) AMENDMENT BY SUBSTITUTION (AS AMENDED).

SPONSORED BY: COUNCILMEMBERS MADONNA FLOOD AND BRANDON COAN

WHEREAS, the Louisville Metro Planning Commission held two public hearings on these amendments on December 6, 2018 and January 24, 2019 and has also received an enormous amount of written comments for and against these short term rental regulations; and

WHEREAS, the Planning Commission considered the record and testimony relative to these amendments and recommended the approval of amendments in part to balance the needs of long term residents with short term rentals; and

WHEREAS, the Council concurs with some recommendations of the Planning Commission, but disagrees with others, and so prepared its own amendments, which are attached; and

WHEREAS, the Council adopts the attached amendments.

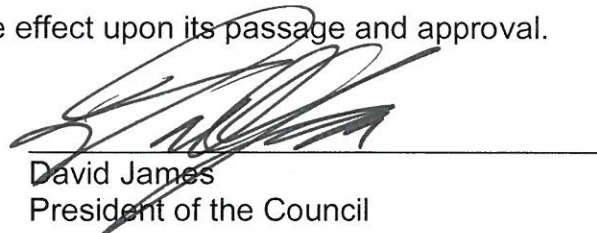
NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:


SECTION I: The attached amendments to the Land Development Code and Section 115 of the LMCO are approved and adopted.

SECTION II: This Ordinance shall take effect upon its passage and approval.


H. Stephen Ott
Metro Council Clerk

PRO - TEM


David James
President of the Council



Greg Fischer
Mayor

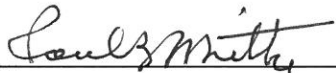
5/8/19

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

**LOUISVILLE METRO COUNCIL
READ AND PASSED**
April 25, 2019

By: 

Ordinances/Short Term Rentals/O-053-19 – Amend LDC and LMCO Re Short Term Rentals (Amend. by Sub.)(as amended)(4-25-19).docx

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 sShort tTerm rRental 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

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, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six 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. This provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host.

- DE. 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.
- EF. Food and alcoholic beverages shall not be served by the host to any guest.
- FG. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- GH. There shall be a sufficient amount of parking available for 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.
- HI. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- IJ. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Board of Zoning Adjustment Planning Director may revoke the approval pursuant to section 11.5A.6. When the Planning Director revokes an 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.
- 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.
- L. 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.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus ~~four~~ two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six 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 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. 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.~~
- JI. 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 approval 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 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.

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 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.

HOSTING PLATFORM. ~~A person or entity 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 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) If the property is subject to two (2) 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 twelve (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 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.

(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, ~~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 hHost 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, 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 ~~\$25~~ \$100 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.

(D) A change in Host, ownership, or tenancy of a dwelling unit used as short term rental invalidates any existing registration. The new Host, property owner, and/or tenant must apply for a registration in their name.

§ 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 TRANSIENT OCCUPANCY TAXES REGISTRATION WITH THE LOUISVILLE METRO REVENUE COMMISSION.

- (A) Pursuant to LMCO Chapter 121, Transient occupancy transient room taxes are to be collected and paid by the Host to the Metro Government pursuant to this code 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 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; and
- (B) Pursuant to LMCO Chapter 110, the Host is subject to occupational license taxes to the Louisville 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; 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)~~ At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals; and
- ~~(D)~~(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 and telephone number of the Host and any emergency contact shall be conspicuously posted within the short term rental.
- (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.

§ 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 10 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) ~~Louisville Metro Government~~ 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 ~~Louisville Metro Government~~ 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 10 business days of receiving the subpoena and produce responsive 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.

§ ~~115.521~~ 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 \$125 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 \$1,000 as imposed by a Zoning 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 a Zoning 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.
- (2)(3) In addition to the penalties provided herein, the Director is authorized to pursue remedial civil actions for violations of §§ 115.515 through 115.521 by civil complaint or petition for injunctive relief, declaration of rights or other appropriate proceedings filed in the Jefferson County, Kentucky Circuit Court.