



STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

PLN-ZOTA-24-00009: REGULATING SHORT TERM RENTALS WITHIN THE AGRICULTURAL ZONES

INITIATED BY: URBAN COUNTY COUNCIL

PROPOSED TEXT: SEE ATTACHED (Note: **Red** text indicates an addition to the existing Zoning Ordinance; **Blue** text indicates staff alternative text; text ~~stricken through~~ indicates a deletion)

STAFF REVIEW:

On October 24, 2024, the Urban County Council passed a resolution initiating a text amendment to the Zoning Ordinance for Planning Commission review and recommendation related to regulation of short term rentals within the agricultural zones (Resolution 539-2024). This proposed language represents the core recommendation of the Rural Land Management Board, who conducted a review of the regulations over the past year, along with modifications from the General Government and Planning Committee of the Urban County Council.

Currently, short-term rentals are limited to the residential, business and mixed-use zones, often correlated with the urban area of the community. These provisions were first established in 2023, and after approximately a year of operation, the Urban County Council initiated an update to the regulations for the urban STR regulations (ZOTA-24-00007). This update included reductions in occupancy limits, modifications of the considerations for the Board of Adjustment and significantly increased spacing and concentration requirements. The Planning Commission recommended approval of alternative language for the Council's request, and the Urban County Council is still in the process of reviewing the urban STR update, with the ability to adopt the language as early as December 5, 2024. Should the Urban County Council approve ZOTA-24-00007, the proposed language for this request will need to be reconciled with any new language that is adopted.

The following report reviews the proposed updated Zoning Ordinance regulations for short term rentals in Lexington and makes recommendations to modify the proposed Zoning Ordinance text to make some allowance for short term rentals in the agricultural zones.

TEXT AMENDMENT PROPOSAL

The Urban County Council's proposal establishes both hosted and un-hosted short-term rentals as conditional uses in the Agricultural Rural (A-R), Agricultural Buffer (A-B) and Agricultural Natural-Areas (A-N) zones, subject to specific requirements. The proposal limits the ability to request a conditional use for an un-hosted short-term rental to parcels that are less than ten (10) acres in size. Based on current data, there are 1,831 parcels within the Rural Service Area representing a total of 3,433 acres that could meet that acreage requirement. This represents 43% of the total number of parcels in the Rural Service Area, but only 2.67% of the total acreage within the Rural Service Area. The initiated text also places provisions for a minimum of a 500-foot spacing requirement between un-hosted short term rentals.



Conversely, the Urban County Council's proposal does not put a maximum acreage requirement for hosted short-term rentals in the agricultural zones, but does establish a one-mile spacing requirement between hosted rentals and any other short-term rental. The intent behind the differences in regulation between the hosted and un-hosted units was to limit the more commercialized un-hosted short-term rentals to the smaller parcels, which are more residential in character. In the interest of maintaining the agricultural nature of the larger parcels, un-hosted short-term rentals were excluded, and the only available path to a short term rental would be for a hosted use. Doing so ensures that the primary use of the dwelling is for the full-time resident, and that the short term rental is secondary to that use. Without an acreage requirement, all A-R, A-N, or A-B properties with a dwelling unit could request a conditional use for a hosted short term rental. In order to mitigate any issues with overconcentration, the Council has proposed a larger, one-mile separation requirement between hosted short term rentals and any other short term rental. The one-mile distance is consistent with that established for Bed and Breakfasts, which would be a similar land use.

The initiated text also establishes a separate occupancy limit and calculation for the agricultural short term rentals. The current requirement allows for an occupancy of two individuals per bedroom, plus an additional four individuals, or a total of twelve (12), whichever is less. The ordinance currently being considered by Council to update the regulations reduces the calculation to two individuals per bedroom plus two individuals, or a total of ten (10), whichever is less. For this text amendment, the Urban County Council proposes to set a separate standard for the agricultural short term rentals, which alters the calculation to a flat limit of two individuals per bedroom.

The proposed text also outlines several considerations that the Board of Adjustment must consider when evaluating any agricultural short term rental use. These considerations include an evaluation of the septic system for the subject property by the health department, evaluating the impact the use would have on any adjoining agricultural uses, ensuring there is sufficient parking on-site, and considering the number of short-term rentals within one mile of the proposed short-term rental.

EVALUATION

Staff is proposing several modifications to the Urban County Council's proposed text amendment. The staff alternative language maintains most of the existing framework proposed by the Urban County Council, but modifies the language in several areas for clarity, consistency, and applicability.

One of the larger changes to the Council's language is the removal of the un-hosted short term rental conditional use permit option in the Agricultural Buffer (A-B) and Agricultural Natural Areas (A-N) zones. Council's text allowed for the potential of un-hosted short-term rentals in those zones; however, this came with a maximum lot size requirement of ten (10) acres. Both zones have a minimum lot size requirement that is more than ten acres, and as these zones were more recently created, there are no nonconforming lots that are less than the 10-acre requirement. As the condition could not be met, staff recommends that the provision be removed. Any A-N or A-B zoned parcels would retain the ability to have a hosted STR, provided they meet all other necessary requirements.

Planning Staff's alternative text also makes changes to the utilization of Farm Employee Dwelling Units (FEDU) for hosted rentals. Under Council's initial language, these units could only be utilized



if the dwelling unit was constructed prior to the adoption of the proposed Ordinance, and did not allow new Farm Employee Dwelling Units to be constructed and later used for short term rentals. This provision was intended to ensure there was not a proliferation of Farm Employee Dwelling Units being constructed for the sole purpose of being utilized for short term rentals. However, in order to construct a FEDU, the applicant must demonstrate that they have an active agricultural use, and that the use of the dwelling unit will be by employees or family members involved in the operation of the farm. This requirement, coupled with the conditional use permit review protects against the over proliferation of these uses.

Similarly, staff recommends the removal of an accessory use within these zones - the keeping of roomers or boarders. This language is no longer necessary, as the new short term rental language creates a pathway for rentals that are for a period of less than a month, while still allowing for long term rentals to operate as well. There are other uses that provide a similar function to short term rentals, such as Bed and Breakfast uses or farmstays, that will remain as conditional uses. These uses are differentiated from short term rentals through the provision of services. With a short-term rental, no services are provided to the renter other than the rental of the unit. As such, the host or operator of short term rentals cannot provide services such as meals, guided hunting tours, or any other form of additional services.

Staff recommends adding one additional consideration for the Board related to agricultural zones to prohibit short term rentals on any property that is protected with a conservation easement that is administered under the Purchase of Development Rights (PDR) Program. There have been questions about whether short term rentals are commercial in nature and thus prohibited by existing conservation easements. In order to eliminate any continued debate or confusion in the future, the Staff recommends prohibiting short term rentals for any PDR protected farm.

The final change proposed by Staff is the modification of the 500-foot spacing criteria between un-hosted short-term rentals. If adopted, the current iteration of the updated short term rental text amendment creates a 600-foot separation requirement between conditionally permitted short term rental uses. If adopted, this requirement as written would apply to short term rentals within the agricultural zones as well, resulting in duplicative language, and create potential confusion as to what the required separation distance is.

Staff is supportive of this effort to introduce short term rentals within the agricultural zones. The proposed regulations allow pathways for property owners within these areas to have greater utilization of their property, as well as expanding the opportunities for agritourism. The proposal provides protections for nearby property owners in these areas by making these conditional uses subject to specific spacing requirements, ensuring there are adequate facilities to support the use, and placing conditions that ensure that the operation of the use will not negatively impact the surrounding area.

The PROPOSED STAFF ALTERNATIVE TEXT is attached for further review and consideration.



The Staff Recommends: **Approval of the Staff Alternative Text** to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment with staff alternative text allows for short term rental uses within the agricultural zones while also including safeguards against overconcentration and clustering, thus protecting the valuable agricultural nature of Fayette County's Rural Service Area.
2. The proposed text amendment with staff alternative text provides enforceable limitations on hosted and un-hosted short term rentals in order to prevent adverse impacts on the health, safety, and welfare of the local community and visitors to the agricultural zones.
3. The request allows for reasonable utilization of existing residential uses, while also safeguarding rural land (Theme E, Goal #1.C).

