

ORDINANCE NO. _____ - 2023

AN ORDINANCE AMENDING ARTICLES 1-11, 3-13(a)-(j), 8-5(c)(11), 8-5(d)(15), 8-9(c)(10), 8-10(c)(10), 8-12(c)(1) AND (2), 8-14(c)(1), 8-15(c)(10), 8-15(d)(8), 8-16(c)(11), 8-16(d)(20), 8-17(b)(19), 8-19(b)(31), 8-21(o)(4)(e)(20), 8-21(o)(5)(e)(20), 12-3(i), 23A-5(c)(9), 23A-5(d)(10) AND (11), 23A-9(b)(36), 28-3(d)(2), 28-4(d)(3), 28-5(d)(1) AND (2), AND 28-5(h)(6)(e)(1)(b) OF THE ZONING ORDINANCE TO DEFINE AND REGULATE SHORT TERM RENTALS IN THE RESIDENTIAL, BUSINESS, MIXED USE AND INDUSTRIAL ZONES. (URBAN COUNTY COUNCIL).

WHEREAS, the Lexington-Fayette Urban County Planning Commission considered at a meeting on May 11, 2023 text amendments to Articles 1-11, 3-13(a)-(j), 8-5(c)(11), 8-5(d)(15), 8-9(c)(10), 8-10(c)(10), 8-12(c)(1) and (2), 8-14(c)(1), 8-15(c)(10), 8-15(d)(8), 8-16(c)(11), 8-16(d)(20), 8-17(b)(19), 8-19(b)(31), 8-21(o)(4)(e)(20), 8-21(o)(5)(e)(20), 12-3(i), 23A-5(c)(9), 23A-5(d)(10) and (11), 23A-9(b)(36), 28-3(d)(2), 28-4(d)(3), 28-5(d)(1) and (2), and 28-5(h)(6)(e)(1)(b) of the Zoning Ordinance to define and regulate Short Term Rentals in the residential, business, mixed use and industrial zones. The Planning Commission did recommend approval of the modified text amendment by a vote of 6-2; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation of the Planning Commission is attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 1-11 of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended in pertinent part as follows:

Sec. 1-11. Definitions.

Short Term Rental (STR) means the commercial use of a dwelling unit that is rented in whole or in part, for temporary occupancy by transient guests for a tenancy of less than thirty (30) consecutive days in duration, where no meals are served. This term does not include hotel or motel rooms, extended stay hotels, bed and breakfast facilities, boarding or lodging facilities, or farm employee dwelling units. Transient guests are those who have an established primary residence elsewhere, and this term shall not be construed to include individuals that rent a primary residence on a weekly basis.

Hosted Short Term Rental means a short term rental in which the dwelling unit utilized as the STR, or another dwelling unit on the subject property is a primary residence and a primary resident (as defined in Section 13-76 of the Code of Ordinances) continues to occupy the property while the short-term rental is being rented to a transient guest.

Un-Hosted Short Term Rental means a short term rental in which a primary

resident (as defined in Section 13-76 of the Code of Ordinances) does not occupy the property during the short term rental period.

Section 2 – That Article 3 shall be amended to add Section 3-13(a)-(j) of the Lexington-Fayette Urban County Government Zoning Ordinance as follows:

Sec. 3-13. General regulations for Short Term Rentals (STRs).

- (a) All short term rentals shall be licensed by the Division of Revenue and subject to the regulations of Section 13 of the Code of Ordinances.
- (b) Number of Dwelling Units allowed to be utilized as Short Term Rentals per Property:

| Zones Allowed | Hosted (Occupancy up to 12) | Hosted (Occupancy >12) | Un-Hosted | # of Short Term Rental Units |
|--|-----------------------------|------------------------|-----------------|--|
| R-1A, R-1B, R-1C, R-1D, R-1E, R-1T | Accessory Use | Conditional Use | Conditional Use | <u>Hosted</u> : 1 dwelling unit <u>and</u> 1 ADU <u>Un-Hosted</u> : 1 dwelling unit <u>or</u> 1 ADU |
| R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3 | Accessory Use | Conditional Use | Conditional Use | <u>For Single Family Lots:</u> <u>Hosted</u> : 1 dwelling unit <u>and</u> 1 ADU <u>Un-Hosted</u> : 1 dwelling unit <u>or</u> 1 ADU <u>For Multi-Family and Group Residential Lots:</u> 10% max or 1, whichever is greater |
| B-1, P-1, MU-1, MU-2, MU-3 | Accessory Use | Conditional Use | Conditional Use | 25% max. |
| B-2, B-2A, B-2B, B-4*, I-1*, I-2*, CC, B-6P, MU-3* | Principal Use | Principal Use | Principal Use | No max. |

*When part of an Adaptive Reuse Project, Industrial Reuse Project, or Entertainment Mixed Use Project

- (c) Maximum Occupancy Limit (for accessory and principal uses): A maximum of two (2) individuals per bedroom, plus an additional four (4) individuals; or a total of 12 individuals, whichever is less. Any host or other permanent residents of the dwelling unit present during the short term rental period shall count toward the maximum occupancy.
- (d) Maximum Occupancy Limit (for conditional uses): The Board shall establish a maximum occupancy for the short term rental use in accordance with the above provision, except the Board may allow additional occupants when there is sufficient evidence that a greater occupancy will not result in overcrowding or create a nuisance.
- (e) Detached accessory structures may be used as a Short Term Rental only in a permitted Detached Accessory Dwelling Unit.
- (f) Short Term Rentals shall not be utilized for private events, such as weddings or parties, in which the number of participants exceeds the maximum occupancy limit. No private events shall occur between the hours of 11:00 p.m. and 7:00 a.m. Special events for a commercial purpose shall be prohibited at all times.
- (g) For Short Term Rentals regulated as conditional uses, the Board of Adjustment shall take into consideration:

1. The number of STRs, if any, in proximity of the property being considered for such use.
 2. The demonstrated compliance record of the applicant, if they operate other STRs in Lexington.
 3. The occupancy rate of other STRs in the general vicinity, including those operated by the applicant.
 4. Whether other STRs in the general vicinity have been cited as a nuisance, including those operated by the applicant
- (h) For any conditional use permit approved by the Board of Adjustment for a short term rental, the conditional use permit shall become null and void if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.
- (i) Any Short Term Rental operating in a principal dwelling unit prior to #ADOPTION DATE HERE#, that would hereafter be regulated as a conditional use shall be allowed to continue its operation per Article 4-7, but shall utilize the new regulations provided in Sections A, C, E, F, and H above. Such uses shall obtain the license required above from the Division of Revenue and be subject to the regulations of Section 13 of the Code of Ordinances. A change in ownership shall require a conditional use permit to be approved by the Board of Adjustment.
- (j) Any Short Term Rental operating in a principal dwelling unit prior to #ADOPTION DATE HERE# that is located in a zone that would hereafter prohibit Short Term Rentals shall be allowed to continue its operation as a non-conforming use per Article 4-3, and shall continue to operate in accordance with the definition of a dwelling unit occupied by one family or housekeeping unit, having no more than one rental contract per week, for a total of no more than 52 rentals per year and with an occupancy of no more than 4 unrelated individuals. Such uses shall obtain the license required above from the Division of Revenue and be subject to the regulations of Section 13 of the Code of Ordinances.

Section 3 – That Article 8-5(c)(11) of the Lexington-Fayette-Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-5. Single-Family Residential (R-1A) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
11. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 4 – That Article 8-5(d)(15) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-5. Single-Family Residential (R-1A) Zone.

- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
15. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated by Article 3-13 of the Zoning Ordinance.

Section 5 – That Article 8-9(c)(10) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-9. Single-Residential (R-1E) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

10. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 6 – That Article 8-10(c)(10) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-10. Townhouse Residential (R-1T) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

10. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 7 – That Article 8-12(c)(1) of the Lexington Fayette Urban County Government Zoning Ordinance is hereby amended, Article 8-12(c)(2) is deleted and Article 8-12(c)(3) is renumbered to (2) as follows:

Sec. 8-12. Planned Neighborhood Residential (R-3) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Items 1 through 3 and 6 through 11 of the permitted accessory uses in the R-1A zone.
2. Non-commercial athletic club facilities, when accessory to another permitted or conditional use.

Section 8 – That Articles 8-14(c)(1) of the Lexington-Fayette Urban County Government Zoning Ordinance are hereby amended in pertinent part as follows:

Sec. 8-14. High Rise Apartment (R-5) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. The permitted accessory uses in the R-1A zone, items 1 through 3, 6 through 9 and 11.

Section 9 – That Articles 8-15(c)(10) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended in pertinent part as follows:

Sec. 8-15. Professional Office (P-1) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

10. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 10 – That Articles 8-15(d)(8) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended in pertinent part as follows:

Sec. 8-15. Professional Office (P-1) Zone.

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

8. Un-hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.

Section 11 – That Article 8-16(c)(11) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended in pertinent part as follows:

Sec. 8-16. Neighborhood Business (B-1) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

11. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 12 – That Articles 8-16(d)(20) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended in pertinent part as follows:

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

20. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 13 – That Articles 8-17(b)(19) of the Lexington-Fayette Urban County Government Zoning Ordinance are hereby amended in pertinent part as follows:

Sec. 8-17. Downtown Business (B-2) Zone.

(b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)

19. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Section 14 – That Article 8-19(b)(31) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-19. Lexington Center Business (B-2B) Zone.

(b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)

31. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Section 15 – That Article 8-21(o)(4)(e)(20) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-21. Wholesale and Warehouse Business (B-4) Zone.

(o) *Special Provisions.*

4. Adaptive Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
 - e. Principal uses in Adaptive Reuse Projects:

20. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Section 16 – That Article 8-21(o)(5)(e)(20) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

(o) *Special Provisions.*

5. Industrial Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
 - e. Principal uses in Industrial Reuse Projects:

20. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Section 17 – That Article 12-3(i) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Article 12 COMMERCIAL CENTER (B-6P) ZONE

Sec. 12-3. Principal permitted uses.

- (i) Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Section 18 – That Appendix 23A-5(c)(9) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 23A-5. Expansion Area Residential 1 (EAR-1) Zone.

(c) *Accessory Uses.*

9. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 19 – That Appendix 23A-5(d)(10) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended by deleting the current section 10 and adding a new section 10 as follows:

Sec. 23A-5. Expansion Area Residential 1 (EAR-1) Zone.

(d) *Conditional Uses.*

10. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 20 – That Appendix 23A-9(b)36 of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 23A-9. Community Center (CC) Zone.

(b) *Principal Uses.*

36. Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.

Section 21 – That Article 28-3(d)(2) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 28-3. Mixed use 1: Neighborhood Node Zone (MU-1).

(d) *Conditional Uses.* The following shall be conditional uses in the MU-1 zone:

2. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 22 – That Article 28-4(d)(3) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 28-4. Mixed use 2: Neighborhood Corridor Zone (MU-2).

(d) *Conditional Uses:* The following shall be conditional uses in the MU-2 zone:

3. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance

Section 23 – That Article 28-5(d)1 and 2 of the Lexington Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 28-5. Mixed use 3: Mixed use Community Zone (MU-3).

(d) *Conditional Uses*

1. The conditional uses in the B-1 zone except as prohibited under Subsection (e) of this section, below.
2. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 24 – That Article 28-5(h)(5)(e)(1)(b) of the Lexington Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 28-5. Mixed use 3: Mixed use Community Zone (MU-3).

(h) *Special Provisions.* Special provisions shall be as follows:

(e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed use Project:

1. As Principal Permitted Uses:
 - b. Motels, hotels, extended-stay hotels, and hosted or un-hosted short-term rentals as regulated in Article 3-13.

Section 25 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
PUBLISHED:

0623-23:TWJ:X:\Cases\PLANNING\23-LE0001\LEG\00785085.DOCX