



General Government and Planning Committee

August 29, 2024

Summary and Motions

Chair Worley called the meeting to order at 3:01 p.m. Vice Mayor Wu and Committee Members J. Brown, Ellinger, Lynch, LeGris, Sheehan, and Reynolds were in attendance. Council members Monarrez, Gray, F. Brown, and Sevigny were present as non-voting members. Council member Plomin was absent.

I. June 11, 2024 General Government and Planning Committee Summary

Motion by Baxter to approve the June 11, 2024, GGP Committee Summary. Seconded by Sheehan. Motion passed without dissent.

II. Digital Billboards

Jennifer Sutton, Council Research Analyst and Traci Wade, Planning Manager, presented on behalf of this item. The topic was originally brought to Council in 2017 and presented to EQPW in 2018. A subcommittee was formed in 2019 and presented to the Planning and Public Safety Committee in August of 2020. The work was paused due to pending litigation. Digital billboards have a screen and are lit internally where static billboards have one message and are lit externally. Digital billboards do not contain video footage, flashing lights or animation. The State of Kentucky's current billboard regulations were updated in 2022 and governs the size, number of faces, angles, sensor requirements, the way messages must be displayed, and the location of billboards. The regulations currently have an exchange policy; 6 billboards for 1 new digital device or 5 devices for 1 conversion of an existing static device.

Currently, the billboard regulations in Lexington do not address digital billboards. Billboards are currently only allowed in B-3, B-4, I-1, and I-2 zones. There are 137 billboard structures in Lexington. Wade shared the proposed ZOTA which covers the location, maximum size, minimum spacing, duration of digital billboard messages, and luminance of digital billboards. It also defines the terms for standard billboard, digital billboard and flashing. The next steps include a Council initiated ZOTA, then it will advance to the Planning Commission where they will have 60 days to conduct their work, for it to then return to Council. There were some concerns regarding distracted driving, energy consumption, light pollution, and impact to quality of life.

A motion by Worley to approve and refer the Digital Billboards ZOTA as presented today to the Planning Commission, seconded by Ellinger, passed 7-2 (Yes: Wu, J. Brown, Ellinger, Lynch, Worley, Baxter, Reynolds. No: LeGris, Sheehan).

III. Short-Term Rentals Policy Review

Evan Thompson with the Division of Law presented on behalf of this item. The Short-Term Rental (STR) ordinance was passed on July 11, 2023. As of last week, the Division of Revenue has approved 686 special fees licenses. Thompson gave an overview of the Code of Ordinance changes. There is a change to the proof of residency required documents. Expiration of STR license and renewals will expire upon a change in use from one form to the other. Section 13-79 lays out certain duties of a licensee and the proposed changes include a change in occupancy limit, which decreases the total possible amount to 10 occupants. An

operator can only have one contract per STR at a time and licensees can't book whole house rentals for hosted rentals. In addition, there are other various clean-up changes.

Thompson explained the ZOTA changes which includes an addition of the Corridor Node Zone and the decrease of total possible occupants. Additional considerations for the Board of Adjustment have also been added. They should also consider whether the property being considered is in a high demand area for STRs and whether the property being considered is within a neighborhood that may be vulnerable to involuntary displacement. There are now spatial limitations for Un-Hosted STRs; no STRs requiring a Conditional Use Permit can be located within 500 feet of another Un-Hosted STR that has already received a Conditional Use Permit or otherwise grandfathered in previously. The number of STRs requiring a Conditional Use Permit cannot exceed 3% of all dwelling units within any given 1000' in residential zones. An operator can apply to the Board of Adjustment for possible relief for the following reasons: it is adjacent to nonresidential zones that allow for Un-Hosted STRs, separation from other Un-Hosted STRs within the buffer area, perimeter of the buffer area and located partially outside the buffer area, or a neighborhood plan encourages and supports Un-Hosted STRs in the subject area.

The areas that are at risk for displacement are determined by the ten census tracts identified in the Neighborhoods in Transition Report. They also examine areas that have tourism designations to determine if it is in area of high demand. The occupancy limit was changed because of conversations with constituents. The Division of Revenue is in the process of implementing their new software.

Next steps include advancing the revised ordinance to Council and to the Planning Commission. Then the ordinance will return to Council for review and adoption.

A motion by J. Brown to approve the proposed Short-Term Rental Ordinances and refer the proposed ZOTA to the Planning Commission, seconded by Sheehan, passed unanimously.

IV. Items Referred to Committee

No action was taken on this item.

V. Adjournment

The Committee adjourned at 4:44 pm.

Article 17 - SIGN REGULATIONS

Sec. 17-5. - Nonconforming signs.

A legal, nonconforming sign may continue in existence as long as it is properly maintained in good condition.

These provisions shall not prevent the repair or restoration to a safe condition of any sign, but a nonconforming sign shall not be:

- (a) Changed to another nonconforming sign except where only the face or copy is changed;
- (b) Structurally altered so as to increase the degree of nonconformity of the sign;
- (c) Expanded or enlarged;
- (d) Reestablished after its removal; or
- (e) Moved to a new location on the building or lot.

Sec. 17-8. - General requirements.

All signs in all zones shall meet the following requirements:

- (a) Illuminated signs shall be located in a fashion which prevents all direct rays of light from shining beyond the property lines of the lot on which the sign is located.
- (b) No light, sign, billboard or other advertising device shall be designed or erected to imitate or resemble any official marker erected by a government entity or any official traffic sign, signal, or device or use any words, phrases, symbols, or characters implying the existence of danger, or the need to stop or maneuver the vehicle.
- (c) No sign shall be attached to or painted on the surface of any tree, utility pole, or street light.
- (d) Projecting signs shall have at least 8 feet of clearance above a road or sidewalk.
- (e) Neon lighting and other lighted tubing signs may be used on signs where signs are permitted to be directly illuminated as defined in this Article.
- (f) No sign, except for government signs, shall be located within the sight triangle of any intersection.
- (g) No sign shall be placed in or project into the public or private street right-of-way, except as specifically permitted herein.
- (h) Every sign, including those for which a permit is not required, shall be maintained in good and safe structural condition at all times.

(i) The immediate premises occupied by a sign shall be maintained by the owner in a clean, sanitary and healthful condition. The premises shall be kept free and clear of weeds, debris, trash and refuse.

(j) Electronic message display systems shall be inspected by the Division of Building Inspection upon installation to ensure compliance with approved plans, permits and requirements of Article 17.

Sec. 17-11. - Signs permitted by specific zone.

Any sign not specifically permitted shall be prohibited.

(g) Highway Service Business, Warehouse/Wholesale, and Industrial Zones (B-3, B-4, I-1, I-2). Permitted signs may be free-standing or wall mounted, as specified; signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated unless specified otherwise; no free-standing sign shall exceed twenty-five (25) feet in height; no free-standing billboard shall exceed forty (40) feet in height.

(1) Signs shall be permitted as follows:

(a) The total surface area of signs shall not exceed two (2) square feet per linear foot of street or building frontage, whichever is greater; or thirty-two (32) square feet, whichever is greater.

(b) One free-standing sign per lot shall be permitted per street frontage, with a maximum of two (2) free-standing signs; not exceeding seventy-five (75) square feet per sign; minimum setback shall be ten (10) feet.

(c) The surface area of wall-mounted sign(s) shall not exceed fifteen percent (15%) of the wall area to which it is attached or thirty-two (32) square feet, whichever is greater, each wall to be considered separately. Only one sign shall be permitted per wall. In the case of a building containing two or more separate uses, these requirements shall be applied separately to the wall area of the building space leased, rented or owned by the individual tenant.

(d) Window signs shall be limited to no more than twenty-five percent (25%) of the total window area.

(2) Traffic directional signs and signs on or under a canopy or awning shall be permitted as regulated in the B-1 zone.

(3) In conjunction with an indoor theater: one marquee, not to exceed twenty-four (24) square feet per theater; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. In addition, one attraction board attached to one free-standing sign, not to exceed twenty-four (24) square feet per theater. The area of the marquee and attraction board shall be included in the computation of the maximum permitted sign area. (Note: Where an attraction board attached to a free-standing sign is not

utilized, a second marquee, mounted on a different building face, shall be permitted as regulated above.)

(4) One attraction board, wall mounted or attached to a permitted free-standing sign, the area of the attraction board to be included in the maximum permitted sign area.

(5) Menu boards as permitted and regulated in the B-1 zone.

(6) In addition, billboards shall be permitted as follows:

(a) Location.

(i) The lot on which the billboard is constructed must abut a federal or state highway.

(ii) Billboards shall be required to be set back from any street right-of-way twenty (20) feet, or at the same setback as any principal building on the lot, whichever is less.

(iii) Billboards shall not project over the public or private right-of-way.

(iv) No billboard shall be permitted within one hundred fifty (150) feet of any residential zone.

(b) Maximum Size.

(i) No billboard shall exceed four hundred (400) square feet in area.

(ii) Temporary embellishments may be attached, but are limited to ten percent (10%) of the maximum sign area.

~~(c) Minimum Spacing. No billboard shall be permitted within one hundred fifty (150) feet of any residential zone.~~

~~(d) (i) No Standard billboards shall be located at least within five hundred (500) feet of from another standard billboard.~~

(ii) Digital billboards shall be located at least two-thousand five hundred (2,500) feet from another digital billboard.

~~(e) Billboards shall be required to be set back from any street right-of-way twenty (20) feet, or at the same setback as any principal building on the lot, whichever is less.~~

(d) Duration of message for digital billboard: The sign shall remain static for a period of not less eight (8) seconds. The transition from one (1) message or image to the next shall be direct and immediate.

(e) Luminance for digital billboard: Between sunrise and sunset, the maximum luminance shall be five thousand (5,000) nits, and between sunset and sunrise, the maximum luminance shall be five hundred (500) nits. Sunrise and sunset shall be determined by the National Oceanic and Atmospheric Administration

(NOAA), US Department of Commerce, for Lexington-Fayette Urban County. The sign must be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's luminance.

Sec. 17-12. - Advertising on interstate highways.

No billboard shall be permitted adjacent to interstate or limited-access highways except in conformance with the ~~setback~~ all requirements established by the Federal Highway Administration, the Kentucky Transportation Cabinet, and the requirements of this Zoning Ordinance with respect to the zoning district involved.

Sec. 17-18. - Definitions.

The following definitions unique to this Article are listed below.

- (h) Billboard: Signage intended for lease to a variety of businesses, organizations, and/or individuals. In such case, the sign itself shall be an income generator and a commercial use of the property.

Standard Billboard: A billboard erected using traditional materials such as metal, wood, plastic and/or vinyl without internal illumination.

Digital Billboard: A billboard erected using an electronic message display system. Such sign shall have no moving or scrolling messages, special effects, animations, or video display.

NOTE: These are other definitions that are related to billboard regulation

- (p) Electronic Message Display System: A sign with copy or images which includes, but is not limited to reflective disc, direct illumination, rotating veils, light emitting diodes (L.E.D.s), or liquid crystal diodes (L.C.D.s), and is controlled by means of a central computer or video control system and which has no audible sound.
- (q) Flashing or Blinking: Intermittent or sequential illumination for the purpose of attracting attention to the sign. Flashing includes scintillation, light bursts, sparkling, and twinkling.
- (aa) Luminance: The light that is emitted by or reflected from a surface, measured in nits.
- (gg) Nit: A photometric unit of measurement describing luminous intensity (candelas) per unit area. Expressed in SI units, one nit is equal to one cd/m².
- (ll) Rotating or Moving Sign: Any portion of which moves by mechanical means or the wind; does not refer to changing copy with an electronic message display system.

(mm) Sign: Any copy, including material used to differentiate the copy from the background, which is applied to a surface as a means of identifying, advertising, announcing, or illustrating products, services, and/or events.

(Ord. No. [015-2021](#), § 1, 3-18-2021 Ord. No. [126-2023](#), § 3, 11-2-2023)

ORDINANCE NO. _____ - 2024

AN ORDINANCE AMENDING SECTION 13-76 OF THE CODE OF ORDINANCES TO REQUIRE CERTAIN DOCUMENTS TO PROVE PRIMARY RESIDENCY; AMENDING SECTION 13-77 OF THE CODE TO CLARIFY THAT APPROVAL BY THE DIVISION OF PLANNING IS NECESSARY TO APPLY FOR A SPECIAL FEE LICENSE AND TO PROVIDE THAT A LICENSE SHALL AUTOMATICALLY EXPIRE UPON A CHANGE IN USE FROM ONE FORM OF SHORT-TERM RENTAL (HOSTED OR UN-HOSTED) TO THE OTHER; AMENDING SECTION 13-79 OF THE CODE TO AMEND THE MAXIMUM OCCUPANCY OF A SHORT-TERM RENTAL, TO LIMIT THE NUMBER OF CONTRACTS OR BOOKINGS A SHORT-TERM RENTAL MAY HAVE AT ONE TIME, AND TO REQUIRE THAT ONLY A PORTION OF THE DWELLING UNIT NOT OTHERWISE OCCUPIED MAY BE RENTED AT ONE TIME; ALL EFFECTIVE UPON PASSAGE OF COUNCIL.

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

Section 1 – That Section 13-76 of the Lexington-Fayette Urban County Government Code of Ordinances be and hereby is amended to read as follows:

Sec. 13-76. - Definitions.

For the purposes of this Article, the following definitions shall apply:

- (a) *Director* shall mean the Director of the Lexington-Fayette Urban County Government, Division of Revenue.
- (b) *Hosted short-term rental* shall mean a short-term rental in which the dwelling unit utilized as the short-term rental, or another dwelling unit on the subject property, is a primary residence, and the primary resident continues to occupy the property while the short-term rental is being rented to a transient guest.
- (c) *Hosting platform* shall mean an internet-based platform that generally facilitates the rental of the short-term rental accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations.
- (d) *Licensee* shall mean any person who owns a short-term rental that possesses a short-term rental special fees license pursuant to this Article.
- (e) *Person* shall have the same meaning as provided in Section 13-1 of the Code.

(f) *Primary residence* shall mean the permanent residence or the usual place of return for housing of the owner of the short-term rental, the operator of the short-term rental, or an individual who otherwise consents to be an agent of the owner or operator for the purposes of this article, as documented by ~~at least two (2)~~ of the following:

(1) One of the following:

- a. Un-expired driver's license; or
- b. Current voter registration; and

(2) One of the following, dated within the past year:

- a. Tax document showing the premises as the individual's residence; or
- b. Bank statement; or
- c. Motor vehicle registration; or
- d. Utility bill.

~~(1) Motor vehicle registration;~~

~~(2) Driver's license;~~

~~(3) Voter registration;~~

~~(4) Tax documents showing the premises as the individual's residence;~~

~~(5) Utility bill.~~

An individual may only have (1) primary residence and must reside there for a minimum of two hundred and seventy-five (275) days during the calendar year.

(g) *Primary resident* shall mean the owner of the short-term rental, the operator of the short-term rental, or an individual who otherwise consents to be the agent of the owner or operator for the purposes of this article, whose primary residence is the dwelling unit utilized as the short-term rental, or another dwelling unit on the subject property.

(h) *Rent* shall have the same definition as provided in Section 2-172 of the Code.

(i) *Short-term rental* shall mean a dwelling unit that is rented, leased, or otherwise assigned, in whole or in part, for temporary occupancy by

transient guests for a tenancy of less than thirty (30) consecutive days, where no meals are served. This term does not include hotel or motel rooms, extended stay hotels, bed and breakfast facilities, or boarding and lodging house rooms.

- (j) *Short-term rental advertisement* shall mean any method of soliciting another to use a dwelling unit or portion thereof as a short-term rental.
- (k) *Transient guest* shall mean an individual 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 thirty (30) consecutive days. This term shall not be construed to include individuals who rent their primary residence on a weekly basis.
- (l) *Un-Hosted short-term rental* shall mean a short-term rental in which the dwelling unit utilized as the short-term rental, or another dwelling unit on the subject property, is not a primary residence, or a primary resident fails to occupy the subject property while the short-term rental is being rented to a transient guest.

Section 2 – That Section 13-77 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 13-77. – Short-term rental special fee license.

- (a) No person shall own a short-term rental in Lexington-Fayette County unless the person possesses a valid special fee license for the short-term rental issued by the Lexington-Fayette Urban County Government, Division of Revenue, as provided in Section 13-13 of the Code and this Article.
- (b) The Director may promulgate such forms and procedures as reasonably necessary for the orderly and efficient processing of short-term rental special fee license applications and renewals. Provided, however, that an applicant shall be required to provide the following information as part of its application for a special license and renewal:
 - (1) Address of the proposed short-term rental;
 - (2) Name, address, phone number, and email address of the applicant;
 - (3) Name, address, phone number, and email address of the operator of the short-term rental, if different from the applicant;
 - (4) Name, address, phone number, and email address of an emergency contact that resides or is otherwise located in Lexington-Fayette County, Kentucky, or within twenty-five (25) miles of the proposed short-term rental;

- (5) Approval by the Division of Planning ~~that the short-term rental is a hosted short-term rental or is otherwise a legal nonconforming hosted or un-hosted short-term rental under Section 3-13(i) and (j) of the Zoning Ordinance; that the un-hosted short-term rental has a conditional use permit issued by the Board of Adjustment if applicable; that the hosted short-term rental with an occupancy greater than twelve (12) individuals has a conditional use permit issued by the Board of Adjustment, if applicable; or that the short-term rental otherwise~~ complies with the Zoning Ordinance;
 - (6) The maximum number of occupants requested for the short-term rental, which shall ~~not be greater~~ be no greater than ~~be consistent with~~ the number permitted by Section 13-79(a)(7);
 - (7) A site plan and floor plan depicting the short-term rental, including the number of vehicles that can be legally parked on the property, without encroaching onto the street, sidewalks, alleys, public rights of way or public property;
 - (8) A certificate of insurance or other valid proof of general liability insurance in the amount not less than one million dollars (\$1,000,000.00) per occurrence, which shall remain in effect at all times while engaged in the licensed activity;
 - (9) An affidavit confirming that the health and safety requirements of Section 13-79(a)(1)-(6) of the Code of Ordinances have been satisfied for each short-term rental;
 - (10) An affidavit confirming that the applicant complies and shall continue to comply with all aspects the applicable building codes, fire codes, and all other applicable state, federal, and local laws or regulations; and
 - (11) For short-term rentals utilizing septic tanks, evidence indicating that the septic tank is of sufficient size to accommodate the occupancy requested in subsection (6).
- (c) All applications for a special fee license and renewal shall be accompanied by the fee referenced in Section 13-13 of the Code for short-term rental special fee licenses.
 - (d) The operator of the short-term rental may apply on behalf of the owner of the short-term rental, with the express written permission of the owner. However, the owner of the short-term rental shall remain the Licensee.
 - (e) A short-term rental special fee license shall cover all short-term rentals owned by the Licensee holding the license.

- (f) All short-term rental special fee licenses and renewals shall expire upon the earlier of (1) December 31st following the most recent application or renewal; (2) a change in Licensee or ownership of a dwelling unit used as a short-term rental; 3) a change in use from one form of short-term rental (hosted or un-hosted) to the other; or ~~34~~) the revocation of a conditional use permit.
- (g) Upon receipt of the short-term rental special fee license, each Licensee shall be issued a unique Local Registration Number, by which the short-term rental may be identified.
- (h) The Director may refuse to issue a license or renew the license of a Licensee in the following circumstances:
 - (1) When the applicant intentionally or knowingly makes a false statement as to a material matter in an application;
 - (2) When the applicant fails to complete any part of the application;
 - (3) When the Licensee has failed to pay any fee, tax, fine, or penalty related to a violation of Sections 13-76 through 13-82;
 - (4) When the property submitted for registration or renewal as a short-term rental is subject to unsatisfied penalties, fines, or liens assessed or levied by the Government for any reason;
 - (5) When the Licensee fails to maintain a conditional use permit, if applicable; or
 - (6) When the Licensee or short-term rental is not in compliance with any applicable federal, state, or local law or regulation, including, without limitation, mandatory zoning, building, safety, maintenance, health, sanitation, fire, electrical, plumbing, and mechanical codes.
- (i) The Director may revoke the registration of any short-term rental for any of the following reasons:
 - (1) When any one of the circumstances provided in section (h), above, occurs;
 - (2) When the Licensee or the short-term rental has been found to be in violation of Sections 13-76 through 13-82 two (2) or more times during the relevant license term.

A Licensee whose special fees license is revoked is not eligible to apply for another short-term rental special fees license for the dwelling unit in which the license was revoked for a period of one (1) year.

- (j) The Director may revoke, suspend, or refuse to renew or issue a license on a dwelling unit basis.
- (k) Relevant divisions and departments with necessary information for the Director to perform his or her responsibilities under this article should provide such information to the Director at his or her request. Members of the public may also provide complaints and relevant evidence indicating violation of this article to the Director.

Section 3 – That Section 13-79 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 13-79. – Duties of a Licensee.

It is the duty of a Licensee under this Article to ensure that:

- (a) Every short-term rental owned by the Licensee meets and complies with the following at all times:
 - (1) Contains sufficient smoke detectors installed and in working order as required in Section 12-1 of the Code of Ordinances;
 - (2) Contains at least one (1) functional carbon monoxide detector installed in an appropriate location as set forth in the Kentucky Residential Code;
 - (3) Contains at least one (1) maintained and charged fire extinguisher located in an open and easily accessible location on each habitable floor of the short-term rental;
 - (4) Contains at least one (1) operable emergency and rescue opening in every sleeping room, as set forth in the Kentucky Residential Code;
 - (5) Has posted, in a conspicuous location in the short-term rental, the following:
 - a. the name, email address, and telephone number of the Licensee or operator of the short-term rental, if different from the Licensee;
 - b. the name, email address, and telephone number of the registered emergency contact for the short-term rental referenced in the Licensee’s application for a special fees license;

- c. the emergency and non-emergency telephone numbers for police, fire, and emergency medical service providers;
 - d. trash and recycling pickup information;
 - e. a clearly marked emergency evacuation plan for the premises showing exit routes, exits, and fire extinguisher locations;
 - f. the maximum number of occupants permitted in the short-term rental;
 - g. a copy of the conditional use permit, if applicable; and
 - h. the website address of the Lexington-Fayette Urban County Government where the guest may review the locally-required duties of a Licensee and file a complaint;
- (6) Contains no outdoor signage identifying the dwelling unit as a short-term rental;
- (7) May be occupied by a maximum of two (2) individuals per bedroom, plus an additional ~~two (2)~~four (4) individuals, up to a maximum of ~~ten (10)~~twelve (12) individuals; or as otherwise allowed in the Licensee's conditional use permit or the Zoning Ordinance. Any permanent resident of the dwelling unit present during the short-term rental period shall count toward the maximum occupancy; and
- (8) May not become the location where a violation of the laws governing assault, sexual offenses, prostitution, controlled substances, weapons, gambling on the premises, or any felony has occurred. Instances in which the Licensee or primary resident is the victim of the crime and had no control over the criminal act, including domestic violence, shall not be considered.
- (b) 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 described in this section. No private events, such as weddings or parties, 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;
- (c) The Licensee shall abide by all requirements contained within the conditional use permit, if applicable;
- (d) There shall be no more than one contract per short-term rental at a time;
- (e) The Licensee of a hosted short-term rental shall not allow "entire (or whole) house," "entire (or whole) home," or "entire (or whole) dwelling unit" rentals

for those short-term rentals occupied by someone other than the transient guest.

- (f) The Licensee shall submit a true and accurate report annually to the Division of Revenue, in the manner and form specified by the Director, identifying:
 - (1) The address of each short-term rental owned or operated by the Licensee;
 - (2) The Local Registration Number of each short-term rental owned or operated by the Licensee; and,
 - (3) The number of contracts to which each short-term rental owned or operated by the Licensee was subject in the preceding year, and the duration of each contract;
- (g) Every short-term rental operated by the Licensee complies with all applicable planning and zoning rules, ordinances, and regulations.

Section 4 – That the Division of Revenue be and hereby is authorized to amend the Lexington-Fayette Urban County Government, Division of Revenue, License Fee Regulations (5th Edition) as necessary to implement this Ordinance.

Section 5 – That if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 6 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF THE URBAN COUNTY COUNCIL

PUBLISHED:
0699-23:EPT:
4863-5501-5119, v. 4

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) Except as limited by subsections (k) and (l), nNumber of Dwelling Units allowed to be utilized as Short Term Rentals per Property:

| Zones Allowed | Hosted (Occupancy up to <u>10</u> 12) | Hosted (Occupancy > <u>10</u> 12) | Un-Hosted | # of <u>Dwellings on Property allowed as Short Term Rental Units</u> |
|--|---|---|-----------------|---|
| <u>Single Family Lots¹</u> | | | | |
| R-1A, R-1B, R-1C, R-1D, R-1E, R-1T, <u>R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3</u> | Accessory Use | Conditional Use | Conditional Use | Hosted: 1 dwelling unit and 1 ADU Un-Hosted: 1 dwelling unit or 1 ADU |
| <u>Multi-Family and Group Residential Lots²</u> | | | | |
| <u>R-1T, R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3, CN</u> | Accessory Use | Conditional Use | Conditional Use | For Single Family Lots: Hosted: 1 dwelling unit and 1 ADU Un-Hosted: 1 dwelling unit or 1 ADU For Multi-Family and Group Residential Lots: 10% max or 1, whichever is greater |
| B-1, P-1, MU-1, MU-2, MU-3 | Accessory Use | Accessory Use | Principal Use | 25% max. or 1, whichever is greater |
| 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. |

¹ Single Family Lots may include either a detached dwelling unit or a subdivided attached dwelling unit as a principal structure.

² Multi-Family and Group Residential Lots may include condominiums and attached single family dwelling units on one lot.

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

(c) Maximum Occupancy Limit (for principal and accessory uses~~accessory uses in residential zones~~): A maximum of two (2) individuals per bedroom, plus an additional two (2) ~~four (4)~~ individuals; or a total of 10 ~~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. Occupancy for accessory dwelling units used as short-term rentals shall be in accordance with Section 3-12(m).

(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.~~

2.1. The demonstrated compliance record of the applicant, if they operate other STRs in Lexington.

~~32. The occupancy rate of other STRs in the general vicinity, including those operated by the applicant. Whether the property being considered is located in an area containing a mixture of land uses and/or zoning categories that may create a high demand for Short Term Rentals.~~

43. Whether other STRs in the general vicinity have been cited as a nuisance, including those operated by the applicant

~~54. Whether the property being considered is located within a neighborhood that may be vulnerable to involuntary displacement based upon socio-economic demographics.~~

(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 July 11, 2023, 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 July 11, 2023 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.

(k) No Short Term Rental regulated as a conditional use shall be located within 500' of another Short Term Rental that has either received a Conditional Use Permit from the Board or is otherwise a legal non-conforming use pursuant to subsection (i), above.

(l) The number of Short Term Rentals regulated as a conditional use shall not exceed 3% of all dwelling units within 1000' in residential zones.

(m) Relief from subsections (k) and (l) may be provided by the Board on a case-by-case basis for the following reasons; however, relief may be denied upon consideration of other factors and the burden is on the applicant to demonstrate that the subject Short Term Rental would not contribute to an overconcentration of Short Term Rentals regulated as a conditional use in the immediate area and/or adversely affect the affordable housing stock in the immediate area:

(1) The property is adjacent to nonresidential zones that allow Short Term Rentals as a principal or accessory use;

(2) There is a significant environmental feature or primary collector or higher classification road that separates the proposed Short Term Rental from other Short Term Rentals regulated as a conditional use within the buffer area;

(3) A Short Term Rental regulated as a conditional use within the buffer area is located on the perimeter of the buffer area, with part of the property being located outside of the buffer area; or

(4) A neighborhood plan encourages and supports Short Term Rentals regulated as a conditional use in the subject area.

(Ord. No. [074-2023](#), § 3, 7-11-2023; Ord. No. [148-2023](#), § 3, 12-7-2023)

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

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

1. Single-family detached residences.
2. Parks and playgrounds operated by government.
3. Temporary real estate sales offices for the sale of lots, located only within the subdivision in which said lots are located; to be removed at the end of two (2) years or when all the lots are sold, whichever comes first.

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

11. Hosted Short Term Rentals for ~~42~~ 10 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

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

14. Hosted Short Term Rentals as regulated in Article 3-13 of the Zoning Ordinance for greater than 10 occupants.

~~14. The short-term rental (defined in the Code of Ordinances) of Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of short-term rental facilities, if any, within the general neighborhood of the property being considered for such use.~~

15. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than ~~42~~ 10 occupants, as regulated by Article 3-13 of the Zoning Ordinance.

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

(a) Intent. The intent of this zone is to provide for low density, single family detached residences and supporting uses. This zone should be located in areas of the community where services and facilities are/will be adequate to serve the anticipated population. This zone may be used for zero-lot-line houses, patio houses, and other compact housing types. This zone should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

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

1. Single-family detached residences.
2. Parks and playgrounds operated by government.
3. Temporary real estate sales offices for the sale of lots, located only within the subdivision in which said lots are located; to be removed at the end of two (2) years or when all the lots are sold, whichever comes first.

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

1. Private garages, storage sheds and parking areas.
2. Swimming pools and tennis courts.
3. Agricultural uses, excluding commercial stock raising.
4. Private, non-commercial parks and open space.
5. Home offices and home occupations.
6. A ground, roof or pole-mounted satellite dish antenna, as regulated by Section 15-8.
7. Family childcare home.
8. Hiking and bicycling trails.
9. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.
10. Hosted Short Term Rentals for ~~12~~ 10 or fewer occupants, as regulated in Section 3-13 of the Zoning Ordinance.

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

(a) Intent. The intent of this zone is to provide for low density, single family residences, emphasizing the incorporation of attached single family dwellings (townhomes) and supporting uses. This zone should be located in areas of the community where services and facilities are/will be adequate to serve the anticipated population. Attached single family dwellings should be located along road frontage and should not adversely impact the associated pedestrian system. This zone should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

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

1. Private garages, storage sheds and parking areas.
2. Swimming pools and tennis courts.
3. Agricultural uses, excluding commercial stock raising.
4. Private, non-commercial parks and open space.
5. Home offices and home occupations.
6. A ground, roof or pole-mounted satellite dish antenna, as regulated in Section 15-8.
7. Family childcare home.
8. Hiking and bicycling trails.
9. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.

10. Hosted Short Term Rentals for ~~42~~ 10 or fewer occupants, as regulated in Section 3-13 of the Zoning Ordinance.

Sec. 8-25. – Corridor Node (CN) Zone.

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

1. Wholesale, warehouse, and storage facilities.
2. Parking structures.
3. Swimming pools.
4. Satellite dish antennas, as further regulated by Section 15-8.
5. Electric Vehicle (EV) charging facilities located within a structured parking facility.
6. Home based businesses.

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

(e) Conditional Uses. (Permitted only with Board of Adjustment approval.) Required conditions for any conditional use permitted herein shall be as follows:

15. Un-hosted Short Term Rentals and Hosted Short Term Rentals for greater than 10 occupants as regulated in Article 3-13 of the Zoning Ordinance.

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

(c) Accessory Uses.

1. Private garages and parking areas.
2. Accessory Dwelling Units, as regulated in Article 3-12.
3. Swimming pools and tennis courts, which may include a clubhouse, as approved by the Planning Commission on a final development plan, for the use and enjoyment of the surrounding neighborhood, which may also include weight training and exercise rooms, restrooms, meeting rooms, or similar facilities.
4. Home offices and home occupations.
5. Family childcare home.
6. The keeping of not more than two (2) roomers or boarders by a resident family.
7. Childcare facilities and schools for academic instruction when accessory to a place of religious assembly on the same property.
8. Non-commercial hiking and bicycling trails.

9. Hosted Short Term Rentals for ~~42~~ 10 or fewer occupants, as regulated in Section 3-13 of the Zoning Ordinance.

(d) Conditional Uses.

1. Home-based businesses.
2. Type II Childcare Center. A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
3. Temporary Real Estate Sales Offices for the sale of lots located only within the subdivision in which the sales office is located, to be removed at the end of two (2) years or when all the lots are sold, whichever comes first.
4. Clubhouse, with sale of food and merchandise, when accessory to a golf course.
5. Historic house museums.
6. Schools for academic instruction, except as permitted herein, but only when located on a lot adjacent to a street that has the functional classification of collector/boulevard or arterial.
7. Equine trails.
8. Seasonal activities.
9. Market gardens.
10. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than ~~42~~ 10 occupants, as regulated in Section 3-13 of the Zoning Ordinance.