

RESOLUTION NO. 479 -2024

A RESOLUTION INITIATING A ZONING ORDINANCE TEXT AMENDMENT TO AMEND ARTICLES 3, 8 AND 23A, REVISING TERMS AND CONDITIONS FOR SHORT-TERM RENTALS.

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

Section 1 - That a Zoning Ordinance text amendment to amend Articles 3, 8 and 23-A to revise terms and conditions for operation of short-term rentals, as described in the proposed attached text, be and hereby is initiated for Planning Commission consideration and recommendation.

Section 2 – That the draft proposed text amendment to the Zoning Ordinance is attached hereto and incorporated herein as an exhibit to this resolution.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: September 26, 2024



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

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), Number of Dwelling Units allowed to be utilized as Short Term Rentals per Property:

Zones Allowed	Hosted (Occupancy up to <u>10-12</u>)	Hosted (Occupancy > <u>10-12</u>)	Un-Hosted	# of <u>Dwellings on Property allowed as Short Term Rental Units</u>
<u>Single Family Lots</u> ¹				
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 Lots</u> ²				
R-1T, R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3, <u>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	<u>25% max. or 1, whichever is greater</u>
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 ~~42~~ 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 ~~12~~ 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 ~~12~~ 10 occupants, as regulated in Section 3-13 of the Zoning Ordinance.