



**TO:** City of Fayetteville City Council

**FROM:** Mary McGetrick, Long Range Planning Manger

**MEETING DATE:** January 13<sup>th</sup>, 2021

**SUBJECT:** **ADM 20-7000 Administrative Item (Amend Fayetteville Code of Ordinances: Short-term Residential Rentals):** Submitted by the Development Services Department for revisions to the Fayetteville Code of Ordinances for short-term residential rentals.

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**RECOMMENDATION:**

Staff recommends forwarding the proposed code change to the City Council with a recommendation for approval.

**RECOMMENDED MOTION:**

*“I move to approve ADM 20-7000 as recommend by City staff.”*

**BACKGROUND:**

The short-term rental code amendments were approved by Planning Commission at the \*\*\*\* meeting. Staff presented a recommended code change along with alternatives. There were several members of the public at the meeting and a variety of perspectives were shared about how the city should handle short-term rentals. The recommended code amendments in this report have been revised to incorporate the legal recommendations from the City Attorney’s office. The primary revisions from the City Attorney’s office included relocating many of the short-term rental requirements from Chapter 163 into Chapter 118, Business Licenses, changing enforcement staff to the Development Services Director, replacing “shalls” in certain places with “mays”, removing the requirement for liability insurance, and clarifying what is required for building inspection.

A short-term rental (STR) is the leasing out of a furnished residential dwelling on a short-term basis, generally less than a month. It is estimated that there are approximately 500-600 STR units in Fayetteville. However, Fayetteville’s codes do not have specific rules for STRs and they are classified as hotels/motels in the zoning code. This prevents them from legally operating in a single-family district and there are numerous STRs currently in violation. In July 2019 the City Council adopted Resolution 172-19 directing staff to study and develop an ordinance for STRs for their consideration.

*Public Input:* As the first step in studying STRs, the City hosted a focus group on August 19, 2019. The focus group represented various perspectives including neighborhood representatives, concerned citizens, rental owners and managers, and hotel owners. The group was guided by a professional facilitator to identify key issues and recommendations in moving forward with local rules for STRs. On September 30, 2019, the city hosted an open public input meeting which allowed all attendees to provide input in writing and verbally on the issues identified by the focus group. The city staff continued to take comment from the public and elected officials over the last

few months. After reviewing the public comment and completing extensive research on many cities' short-term rental codes, the City's consultant on the project, Garver LLC, completed a first draft of revisions to the Fayetteville Code of Ordinance for STRs. This first draft was presented to the same focus group on January 15, 2020 for their review and comment. Staff presented the final draft ordinance, for comment, to the focus group on November 5<sup>th</sup>, 2020

#### **DISCUSSION:**

The Development Services Department and their consultant, Garver LLC, have drafted amendments to the Fayetteville Code of Ordinances for short-term residential rentals. The primary issues proposed in the previous revisions include the following:

- **Location:** STRs would be allowed by right in all zoning districts where residential dwellings and hotel/motel uses are allowed.
- **Type 1 and Type 2 STRs:** There are two types of STRs. Type 1 is a full-time residence and Type 2 is a full-time STR. Type 1's are not subject to density limitations, Type 2's are subject to density limitations.
- **Residency:** A permanent resident does not have to live in the STR dwelling.
- **Occupancy:** Maximum of 2 people per bedroom plus 2, **with a maximum of 8 people regardless of the number of bedrooms.** A definition of bedroom is included.
- **Permit:** a business license must be obtained prior to operation.
- **Inspection:** prior to approval of a business license the rental unit must pass a safety and egress inspection conducted by the Fayetteville Building Safety Division. A life safety and egress inspection will verify the basic life safety requirements like fire alarms and basic egress requirements like a door. The requirement for an inspection every three years has been removed; an inspection is only required for the initial license.
- **Grace period:** 6 months for existing STRs to obtain inspection and business license. After the enactment of the short-term rental ordinance, existing short-term rental operators may temporarily continue to operate and shall have up to six months to obtain a business license and be considered in compliance. After the six month start-up period, all short-term rental units must have a business license to operate and be considered in compliance. To qualify for this exemption from having to petition the Planning Commission to obtain an individualized conditional use permit as a pre-existing short-term rental, satisfactory proof of operation within the last three years and prior to the enactment date must be provided to the City such as a copy of an advertisement listing the unit and a copy of a transaction documenting that the unit was utilized as a short-term rental within the applicable time period. Short-term rentals must also successfully pass an inspection as described in §118.01 (E)(9)(e) of the Unified Development Code to the City's satisfaction.

Type 1 and 2 short-term rentals seeking a business license or permit under the 6-month start-up period which are currently operating in 2, 3 and 4 unit buildings in which more than 1 unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.

All Type 2 short-term rentals submitting an application for a business license or permit after the six month grace period has expired shall be required to obtain an individualized conditional use permit from the Planning Commission and pass the City's premises inspection prior to the City being able to issue a business license.

- **Special events:** No parties or special events allowed in STRs by right.
- **Parking:** Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- **Density limitations:** Density limitations only apply to Type 2 STRs. A city-wide density cap of one percent (2%) of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit the following:
  - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
  - (b) **More than ten percent (10 %) dwellings units** as Type 2 rentals within a multi-family dwelling complex
  - (c) Individual 2-family, 3 and 4-family buildings that are owned **by the same person or entity** are not a part of a multi-family complex shall have no more than one (1) Type 2 short term rental unit per building complex.
  - (d) Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motel are permitted by right shall not count towards the city-wide density cap.
  - (e) Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter
- **Fees:** STRs would only be subject to the typical business license and occupancy inspection fees.
- **Exceptions:** Exceptions to the short-term rental code are subject to review as a conditional use permit.

*Request:* Staff requests that the City Council amend chapter 118 of the Business Regulations and chapters 151, 161, 162, and 163 of the Unified Development Code for short-term rentals. The code changes are described above and shown in the attached strikeout-highlight version of the code.

**STAFF RECOMMENDATION:**

**Staff recommends that the City Council approve the code changes as outlined above and in the attached ordinance.**

**BUDGET/STAFF IMPACT:**

N/A

**Attachments/website:**

- Proposed code changes shown in strikeout – **Updated 1/10/21**
- City of Fayetteville short-term rental website  
<http://www.fayetteville-ar.gov/3801/Short-Term-Rentals>

CHAPTER 118: - BUSINESS REGISTRY AND LICENSES

118.01 - Applicability

(A) General Businesses.

- (1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates either a legally permitted home occupation or a short-term rental within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.
- (2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.
- (3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

(B) Religious Entities. Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The city business license shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

(C) Minors Exempt. No individual under eighteen (18) years of age shall be required to register or obtain a business license.

(D) Individual Landlords Renting Less Than Three (3) Dwelling Units Exempt. An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three (3) dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter. However, a landlord that operates a short-term residential rental shall not be exempt and must apply for and obtain a business license for each individual short-term rental.

(E) Short-term rentals. A residential dwelling unit, portion of a dwelling unit, or room within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) Short-term rental, Type 1. A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) Short-term rental, Type 2. A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental prior to the City issuing a business license, except as defined in §118.01(E)(4).

(3) License Required: No dwelling unit in the City shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and

(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.

(4) *6 Month Start-up Period.* After the enactment of the short term rental ordinance, existing short term rental operators shall have 6 months to obtain a business license and be considered in compliance. After the 6 month start-up period, all short term rental units must have a business license to be considered in compliance. To qualify for this exemption as a pre-existing short-term rental, satisfactory proof of operation prior to the enactment date shall be provided to the city including a copy of a back-dated advertisement listing the unit and a copy of a transaction prior to the adoption date documenting that the unit was utilized as a short-term rental. Short-term rentals must also successfully pass an inspection as described in §118.01(E)(9)(e). The City has complete discretion in determining whether such submitted proof is sufficient and satisfactory.

(a) After the enactment of the short-term rental ordinance, existing short-term rental operators may temporarily continue to operate and shall have up to six months to obtain a business license and be considered in compliance. After the six month start-up period, all short-term rental units must have a business license to operate and be considered in compliance. To qualify for this exemption from having to petition the Planning Commission to obtain an individualized conditional use permit as a pre-existing short-term rental, satisfactory proof of operation within the last three years and prior to the enactment date must be provided to the City such as a copy of an advertisement listing the unit and a copy of a transaction documenting that the unit was utilized as a short-term rental within the applicable time period. Short-term rentals must also successfully pass an inspection as described in §118.01(E)(9)(e) of the *Unified Development Code* to the City's satisfaction.

(b) Type 1 and 2 short-term rentals seeking a business license or permit under the 6-month start-up period which are currently operating in 2, 3 and 4 unit buildings in which more than 1 unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.

(c) All Type 2 short-term rentals submitting an application for a business license or permit after the six month grace period has expired shall be required to obtain an individualized conditional use permit from the Planning Commission and pass the City's premises inspection prior to the City being able to issue a business license.

(5) No hosting platform shall facilitate or conduct any booking transaction for a short-term rental in the City without the short-term rental first obtaining and maintaining possession of the requisite business license.

(6) A separate business license shall be required for each dwelling unit used as a short-term rental.

(7) Any change in ownership requires a new or amended business license.

(8) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(9) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.

(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the City.

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- (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
  - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
  - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
  - (f) Proof of application for remittance of Hotel, Motel and Restaurant tax to the City of Fayetteville, and verification that all sales, use, and Hotel, Motel and Restaurant taxes are current.
  - (g) Any additional data as deemed necessary or desirable for permit approval by the Zoning and Development Administrator.
- (10) License Renewals. Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

- (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
- (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license. Exceptions to the occupancy standards for short-term rentals may be granted by the Planning Commission as a conditional use permit.
  - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing. No hosting platform or owner/agent may offer, advertise, book, facilitate, or engage in short-term rental activity or advertisement that violates any provision of the short-term rental code.
  - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the City phone number to report a safety complaint.
- (12) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hour of being contacted if required and at the sole discretion of by emergency services or the Zoning and Development Administrator.
- (13) *Guest records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three years and shall be provided to the City upon request.
- (14) *Health and safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173: Building Regulations.
- (15) *Criminal activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department.
- (16) *Taxes and fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and City fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
- (17) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Zoning and Development Administrator through the issuance of a City of Fayetteville Business Registry and License (business license).
- (18) *Density For Type 2 Short-term Rentals.* A city-wide density cap of one percent (2%) of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
- (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
  - (b) More than ten (10) percent of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
  - (c) Individual 2-family, 3 and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2
  - (d) Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not count towards the city-wide density cap.

(19) *Suspension and Revocation.* If the Zoning and Development Administrator has reason to believe that any of the grounds specified in §118.03(A) of the *Fayetteville Code* exist, or that any rental unit was rented for less than one full night, or to more than one part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Zoning and Development Administrator may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the *Fayetteville Code*.

(20) Short-term rentals must comply with all applicable codes under Unified Development Code Chapter 163.18 and successfully obtain a business license prior to operation.

CHAPTER 151: DEFINITIONS

***Agent, Owner-Designated.*** A person designated by the owner of a property, where designee has a physical address within the City of Fayetteville, is accessible 24-hours a day, and otherwise in compliance with the UDC requirements for short-term rentals. The owner may serve as their own agent.

***Bedroom.*** A fully enclosed portion of a building designed or intended to be used principally for sleeping purposes.

***Booking transaction.*** Any contractual agreement between a guest and an owner relative to a short-term rental.

***Dwelling unit (zoning).*** One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

***Guest, Short-term rental.*** Any person who occupies a short-term rental, for a period of less than 30 consecutive days, pursuant to a short-term rental lease term and/or other like agreement, for the purposes of temporary lodging.

***Host, Short-term rental.*** The owner(s) of a short-term rental who has authority to offer the dwelling unit, portion thereof, or a room within the dwelling unit as a legal short-term rental.

***Owner.*** A person who owns at least a 50 percent interest in a dwelling unit used for short-term rentals.

***Permanent residential dwelling.*** A structure that has been legally permitted or is a legal, non-conforming structure allowed for permanent occupancy as a residential dwelling.

***Hosting Platform.*** A person or entity that participates in the short-term rental business by providing and collecting or receiving a fee(s) for facilitating booking transactions through which a short-term rental host may offer a short-term rental to a short-term rental guest. Hosting platforms typically, though not always, facilitate booking transactions through an on line platform that allows a short-term rental host to advertise the short-term rental through a website provided by the hosting platform and the hosting platform conducts a transaction by which potential short-term rental guest reserve a guestroom(s) and arrange payment, whether the short-term rental guest pays rent directly to the short-term rental host or to the hosting platform.

***Short-term rental.*** A residential dwelling unit, portion of a dwelling unit, or room within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

***Short-term rental, Type 1.*** A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

***Short-term rental, Type 2.*** A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental prior to the City issuing a business license.

CHAPTER 161: - ZONING REGULATIONS

161.02 - Zoning Compliance And Business License

- (A) *Required.* It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a business license has been issued by the Zoning and Development Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter.
- (B) *Conforming Uses.* Uses permitted within the underlying zoning district shall be eligible for a business license, subject to §118 of the Fayetteville Code.
- (C) *Nonconforming Uses.*
  - (1) **Except for short-term rental units subject to chapter 163 of the UDC,** uses within the following use unit categories established prior to September 7, 2010 and operating in a zoning district that does not currently allow the use, are for the purposes of zoning compliance determined to be an existing nonconforming use, may continue to operate and are eligible to obtain a city business license. The exemption shall not be construed as relieving the owner or operator of such business from the regulations of the business license ordinance, including grounds for suspension and revocation, or from any other applicable federal, state, or city regulations.

Use Units	
3	Public protection facilities
4	Cultural and recreational facilities
5	Government facilities
6	Agricultural
7	Animal husbandry
12a	Limited business
13	Eating places
15	Neighborhood shopping goods
24	Home occupation
25	Offices, studios, and related services

- (2) Except for short-term rental units subject to chapter 163 of the UDC, uses within the following use unit categories established prior to July 15, 2003 and operating in a zoning district that does not currently allow the use, are for the purposes of zoning compliance determined to be an existing nonconforming use, may continue to operate and are eligible to obtain a city business license. The exemption shall not be construed as relieving the owner or operator of such business from the regulations of the business license ordinance, including grounds for suspension and revocation, or from any other applicable federal, state, or city regulations.

Use Units	
2	City-wide uses by conditional use permit
14	Hotel, motel and amusement facilities
16	Shopping goods
17	Transportation trades and services
18	Gasoline service stations & drive in/drive through restaurants
19	Commercial recreation, small sites
20	Commercial recreation, large sites
21	Warehousing and wholesale
22	Manufacturing
23	Heavy industrial
27	Wholesale bulk petroleum storage facilities with underground tanks
28	Center for collecting recyclable materials
29	Dance halls
30	Extractive uses

31	Facilities emitting odors/handling explosives
32	Sexually oriented businesses
33	Adult live entertainment club or bar
34	Liquor stores
35	Outdoor music establishments
36	Wireless communications facilities
38	Mini-storage units
39	Auto salvage and junk yards
40	Sidewalk cafes
42	Clean technologies
43	Animal boarding and training

**161.3 - District R-A, Residential-Agricultural**

(B) *Uses* .

(1) *Permitted Uses*.

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings

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Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training
Unit 46	Short-term rentals

**161.4 - District RSF-.5, Residential Single-Family - One Half (½) Unit Per Acre**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

**161.5 - District RSF-1, Residential Single-Family - One (1) Unit Per Acre**

(B) *Uses.*

(C) *Permitted Uses .*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

**161.6 - District RSF-2, Residential Single-Family - Two (2) Units Per Acre**

(B) *Uses.*

(C) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

**161.7 - District RSF-4, Residential Single-Family - Four (4) Units Per Acre**

(B) *Uses.*

(1) *Permitted Uses .*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

**161.8 - District RSF-7, Residential Single-Family - Seven (7) Units Per Acre**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

**161.9 - District RSF-8, Residential Single-Family - Eight (8) Units Per Acre**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

**161.10 - District RSF-18, Residential Single-Family - Eighteen (18) Units Per Acre**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

**161.11 - District RI-12, Residential Intermediate, Twelve (12) Units Per Acre**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings

Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
<u>Unit 46</u>	Short-term rentals

**161.12 - District RI-U, Residential Intermediate - Urban**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster housing development
<u>Unit 46</u>	Short-term rentals

**161.13 - District RMF-6, Residential Multi-Family - Six (6) Units Per Acre**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings

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Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rental

**161.14 - District RMF-12, Residential Multi-Family - Twelve (12) Units Per Acre**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rental

**161.15 - District RMF-18, Residential Multi-Family - Eighteen (18) Units Per Acre**

(B) *Uses.*

(1) *Permitted Uses.*

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Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rental

**161.16 - District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre**

(B) *Uses.*

(1) Permitted Uses.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rental

**161.17 - District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rental

**161.18 - NS-L, Neighborhood Services - Limited**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited Business
Unit 24	Home occupations

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Unit 40	Sidewalk cafes
Unit 41	Accessory dwelling units
Unit 44	Cluster housing development
Unit 46	Short-term rental

**161.19 - NS-G, Neighborhood Services - General**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12b	General business
Unit 24	Home occupations
Unit 40	Sidewalk cafes
Unit 41	Accessory dwelling units
Unit 44	Cluster housing development
Unit 46	Short-term rental

**161.20 - District R-O, Residential Office**

(B) *Uses.*

(1) *Permitted uses .*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 25	Offices, studios, and related services
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rental

**161.22 - Community Services**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places

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Unit 15	Neighborhood Shopping goods
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rental

**161.24 - Urban Thoroughfare**

(B) *Uses* .

(1) *Permitted Uses*.

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings

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Unit 13	Eating places
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor store
Unit 40	Sidewalk cafes
Unit 41	Accessory Dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rental

**161.25 - District C-3, Central Commercial**

(B) *Uses.*

(1) *Permitted Uses .*

FAYETTEVILLE TITLE XV - UDC/ CHAPTER 161: STR EDITS IN STRIKEOUT-UNDERLINE

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rental

**161.26 - Downtown Core**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
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FAYETTEVILLE TITLE XV - UDC/ CHAPTER 161: STR EDITS IN STRIKEOUT-UNDERLINE

Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rental

**161.27 - Main Street/Center**

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings

Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rental

**161.28 - Downtown General**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development

Unit 45	Small scale production
Unit 46	Short-term rental

**161.29 - Neighborhood Conservation**

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rental

FAYETTEVILLE TITLE XV - UDC/ CHAPTER 162: STR EDITS IN STRIKEOUT-UNDERLINE

CHAPTER 162: - USE UNITS

162.01 - Establishment/Listing

The various use units referred to in the zoning district provisions are herein listed in numerical order. Within the use units, the permitted uses are ordinarily listed in alphabetical order. In these use units where there is a preliminary descriptive statement (which may mention specific uses) in addition to the detailed list of uses, the detailed list shall govern.

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 12b	General business
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods

FAYETTEVILLE TITLE XV - UDC/ CHAPTER 162: STR EDITS IN STRIKEOUT-UNDERLINE

Unit 17	Transportation Trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 24	Home occupation
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 30	Extractive uses
Unit 31	Facilities emitting odors & facilities handling explosives
Unit 32	Sexually oriented business
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor stores
Unit 35	Outdoor music establishments

FAYETTEVILLE TITLE XV - UDC/ CHAPTER 162: STR EDITS IN STRIKEOUT-UNDERLINE

Unit 36	Wireless communications facilities
Unit 37	Manufactured homes
Unit 38	Mini-storage units
Unit 39	Auto salvage and junk yards
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings
Unit 42	Clean technologies
Unit 43	Animal boarding and training
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rental

(O) *Unit 14 . Hotel, Motel, and Amusement Facilities.*

- (1) *Description.* Unit 14 consists of hotels, motels, and certain types of amusement facilities.
- (2) *Included Uses.*

Hotel
Membership lodge
Motel
Motion picture theater
Night club, not providing dancing or outdoor music
Tavern, not providing dancing or outdoor music
<i>Use Unit 46, Short-term rental is also permitted within Use</i>

Unit 14

(UU) Unit 46 . Short-term rental.

(1) Description. Unit 46 is provided to allow a permanent residential dwelling unit, portion of a residential dwelling unit, or room within a residential dwelling unit, to be leased and/or rented to a guest(s) for a period of less than thirty (30) consecutive days.

(2) Included Uses.

Short-term rentals

CHAPTER 163: - USE CONDITIONS

163.01 - Listing

The use conditions set forth in this chapter are the following:

Bed and breakfast facilities
Carnival, circus, amusement park or similar temporary open-air enterprise
Child care, nursery school
Dance halls
Facilities emitting odors and facilities handling explosives
Home occupations
Manufactured homes
Outdoor music establishments
Sexually oriented businesses
<u>Short-term rentals</u>
Tandem lot development
Wireless communications facilities

163.18 – Short-term rentals

(A) General Standards.

- (1) Residential Zoning Districts. Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.
- (2) Commercial and Mixed Use Zoning Districts. Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.

- (3) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), with a maximum of eight (8) people regardless of the number of bedrooms, for the entire unit.
- (4) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (5) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (6) Short-term rental units are permitted in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (7) *6 Month Start-up Period.* After the enactment of the short-term rental ordinance, existing short-term rental operators shall have 6 months to obtain a business license and be considered in compliance. After the 6-month start-up period, all short-term rental units must have a business license to be considered in compliance. To qualify for this exemption as a pre-existing short-term rental, satisfactory proof of operation prior to the enactment date shall be provided to the city including a copy of a back-dated advertisement listing the unit and a copy of a transaction prior to the adoption date documenting that the unit was utilized as a short-term rental. Short-term rentals must also successfully pass an inspection as described in §118.01(E)(9)(e). The City has complete discretion in determining whether such submitted proof is sufficient and satisfactory.
  - (a) After the enactment of the short-term rental ordinance, existing short-term rental operators may temporarily continue to operate and shall have up to six months to obtain a business license and be considered in compliance. After the six month start-up period, all short-term rental units must have a business license to operate and be considered in compliance. To qualify for this exemption from having to petition the Planning Commission to obtain an individualized conditional use permit as a pre-existing short-term rental, satisfactory proof of operation within the last three years and prior to the enactment date must be provided to the City such as a copy of an advertisement listing the unit and a copy of a transaction documenting that the unit was utilized as a short-term rental within the applicable time period. Short-term rentals must also successfully pass an inspection as described in §118.01(E)(9)(e) of the *Unified Development Code* to the City's satisfaction.
  - (b) Type 1 and 2 short-term rentals seeking a business license or permit under the 6-month start-up period which are currently operating in 2, 3 and 4 unit buildings in which more than 1 unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
  - (c) All Type 2 short-term rentals submitting an application for a business license or permit after the six month grace period has expired shall be required to obtain an individualized conditional use permit from the Planning Commission and pass the City's premises inspection prior to the City being able to issue a business license.
- (8) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (9) Short-term rentals must comply with all applicable codes under City Code Section 118.01 and successfully obtain a business license prior to operation.

Real Estate Investors NWA ~ Arkansas Short Term Rental Alliance

Position Paper: Fayetteville Short Term Rental Ordinance

December 17, 2020

In an effort to provide input for further consideration and revision regarding the proposed Short Term Rental Ordinance suggested at the December 1st City Council meeting, Real Estate Investors NWA and Arkansas Short Term Rental Alliance has drafted a Position Paper to present our views.

Below are the Issues we find challenging and recommendations for further discussion.

1. Conditional Use Permit and Inspections

We find the Conditional Use Permit too onerous for Type 2 STR owners and suspect it will also be burdensome to city officials charged with enacting the process. Most Type 2 owners are small investors unfamiliar with this process and we believe a blanket regulation such as this would lead to confusion, filing errors and ultimately noncompliance.

**SUGGESTED REVISION:** We recommend this regulation be eliminated or alternatively with implementation only after the 2% Density Cap has been reached.

A general Fire Inspection for each unit seems reasonable and would address any safety concerns while identifying possible code violations. The inspection process is already in place and would be the least burdensome on city officials.

2. 8-Person Cap on STR

We find this regulation to be particularly burdensome. STR are neither residential owners nor hotels. We fall somewhere in between and are actually a separate business category.

We understand the intent of both the Planning Commission and City Council is to make STRs legal without diminishing the beneficial aspects for entertainment, short term training/educational programs, prospective new residents and many other legitimate uses of temporary housing.

Placing an 8-person cap on STR eliminates a large portion of our market, particularly the higher end housing so desired by event visitors, professionals exploring our “funky” city prior to a move and other social purposes. The harm this cap imposes includes unnecessarily restricting Highest and Best use for our properties, eliminating potential users of STR housing and lower revenue for both owners and the city

**SUGGESTED REVISION:** We recommend the regulation remain 2 people per bedroom plus 2 and that the 8-person cap be eliminated.

3. Cap of 1 STR Unit Per Multi-Family Property

We find this item to be an unwarranted over-regulation with no foundation, cause or need. It hampers our ability to efficiently maintain our units and is a gross interference in the ability to run our businesses as we see fit. Ultimately, we feel this will be deemed unconstitutional and again limit our capacity to operate our property in the Highest and Best use possible.

**SUGGESTED REVISION:** We recommend this restriction be eliminated entirely.

4. Permanent Structure Requirement

Part of the value and desirability of STRs is for renters to experience new, different and creative accommodations. Currently, there are many examples in Fayetteville including recreational vehicles, houseboats and even a Tree House. We believe these alternative housing options to be of great benefit and a major attraction to visitors of our unique city.

**SUGGESTED REVISION:** We feel this requirement would benefit from further study and propose a 1-year review of STR uses and accommodations. At the end of the year, if there is deemed to be a problem, further action can be taken at that time.

5. Owner or Agent Accessibility

We feel the 24-7 availability and particularly the requirement of an agent to be physically present at the STR within one hour is unreasonable and probably unworkable.

**SUGGESTED REVISION:** The availability requirement should be no different than that of any landlord or personal residential owner.

6. Special Events Prohibition

We find this restriction unnecessary and confusing. Special events or temporary housing related to special events are the main purpose for STRs. Weddings at luxury accommodations, anniversaries, family reunions and other private parties are the reason renters seek STRs. Weekend corporate training events serve a beneficial and legitimate purpose for STRs. All these events and others not listed bring visitors, revenue and goodwill to Fayetteville.

**SUGGESTED REVISION:** We find no reason or need for this restriction and recommend it be removed. If there is some foundational cause the planners were trying to accomplish, it should be more clearly defined and open to further discussion.

It is our desire that this Position Paper be used to facilitate more dialogue resulting in an Ordinance beneficial to all parties. We hope the experience will foster additional collaboration among our members as stakeholders in providing a vibrant, fun and beneficial short term rental market within our beloved City of Fayetteville.

Respectfully submitted,

***Real Estate Investors NWA***

***Arkansas Short Term Rental Alliance***