



TO: City of Fayetteville City Council

FROM: Mary McGetrick, Long Range Planning Manger

MEETING DATE: April 6th, 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.

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 in February 2019 and forwarded from the Ordinance review Sub-Committee to the full Council in March 2021. Staff presented a recommended code change along with alternatives. There were several members of the public at the Planning Commission, Council and Sub-Committee meetings and a variety of perspectives have been shared over the last year concerning how the City should handle short-term rentals.

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.

The recommended code amendments in this report have been revised to incorporate the legal recommendations from the City Attorney's office and the Ordinance Review Sub-committee of Council. 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", and clarifying what is required for building inspection. The primary revisions, as shown highlighted in green in the attached amended ordinance, from the Sub- committee include an insurance rider requirement, a change in occupancy allowances and the addition of a sunset clause.

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 to the focus group on November 5th, 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.
- **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 two 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:
 - More Type 2 short-term rentals than what is allowed by the city-wide density cap.
 - More than ten (10) percent or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - 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.
 - 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.
 - 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 3/17/21
 - Approved changes of the Ordinance Sub-Committee are highlighted in green
- Minutes of the March 17th, 2021 meeting of the Ordinance Review Sub-Committee
- City of Fayetteville short-term rental website
<http://www.fayetteville-ar.gov/3801/Short-Term-Rentals>

FAYETTEVILLE TITLE XI – BUSINESS REGULATIONS/ CHAPTER 118: STR EDITS IN STRIKEOUT-UNDERLINE

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

FAYETTEVILLE TITLE XI – BUSINESS REGULATIONS/ CHAPTER 118: STR EDITS IN STRIKEOUT-UNDERLINE

- (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; and
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short term rental unit
- (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 date Planning Commission forwarded the approved ordinance amendment to City Council or February 10, 2020 documenting that the unit was utilized as a short-term rental 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:

FAYETTEVILLE TITLE XI – BUSINESS REGULATIONS/ CHAPTER 118: STR EDITS IN STRIKEOUT-UNDERLINE

- (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.
 - (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 Development Services Director.
- (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).

FAYETTEVILLE TITLE XI – BUSINESS REGULATIONS/ CHAPTER 118: STR EDITS IN STRIKEOUT-UNDERLINE

- (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 emergency services or the Development Services Director.~~
- (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 ~~Development Services Director~~ 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 ~~two~~ 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 or a single unit whichever is greater: of total dwelling units as Type 2 rentals within a multi-family dwelling complex.~~
 - (c) Individual 2, 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 short term rental unit per building complex.
 - (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.

FAYETTEVILLE TITLE XI – BUSINESS REGULATIONS/ CHAPTER 118: STR EDITS IN STRIKEOUT-UNDERLINE

- (19) *Suspension and Revocation.* If the **Development Services Director** 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 party of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the 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

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

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

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

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

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

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.*

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

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

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

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

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

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

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

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

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 when operated as a short-term rental.
- (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 allowed in any structure established as a permanent 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 Planning Commission forwarded the approved ordinance amendment to City Council or February 10, 2020 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.

02-24-20 PLANNING COMMISSION

FAYETTEVILLE TITLE XV - UDC/ CHAPTER 163: STR EDITS IN STRIKEOUT-UNDERLINE

(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.

D'Andre Jones
Council Member

Matthew Petty
Council Member



Sloan Scroggin
Council Member

Holly Hertzberg
Council Member

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Kara Paxton

MINUTES
Ordinance Review Commission Meeting
Wednesday, March 17, 2021

1. Chairman Sloan Scroggin called the meeting to order at 5:30 P.M. with himself and Holly Hertzberg present by Zoom.
2. Mary McGetrick began to explain the current status with amendments of the Short-term Rental Ordinance as presented at the last Ordinance Review Committee Meeting. Committee Member Matthew Petty soon joined the meeting.

Mary discussed some additional potential changes for the Ordinance Review Committee's consideration including a Sunset Clause so the ordinance could be reviewed and safely changed in the future if experience with the ordinance revealed problems or issues.

3. Chairman Scroggin allowed the two members of the public attending by Zoom to speak.
4. Chairman Scroggin then asked City Attorney Kit Williams to discuss his proposal. Kit apologized for submitting anything at this late time. His proposal would allow residential short-term rentals which would follow the same rules as normal rentals to operate without needing any new permits. Operators of short-term rentals that desired 8 or more occupants would be deemed Micro-Hotels and could operate in commercial or mixed-use districts without conditional uses. Kit wanted to recognize those as businesses rather than residential rentals and include them in Use Unit 12a Limited Business which would require a conditional use like all

the other listed businesses to operate in a single-family residential district. Kit opposed treating short-term operators who had been violating City law better (giving them automatic conditional use permits) than property owners who had not broken the law.

5. The members of the Ordinance Review Committee approved the Short-term Rental Ordinance presented by Mary including the automatic conditional use permits for owners already operating short-term rentals for a substantial period of time. All short-term rentals (both #1 and #2) would receive occupancy limits of two persons per bedroom, plus two additional persons. No cap of 8 or 10 occupants would be enacted. A sunset clause for about 14 months after the six month initial period when current short-term operators were supposed to get safety inspections performed by the city accomplished was approved. The Committee wanted to add a requirement that operators have a rider to their homeowner's insurance policy for the short-term rental.
6. The Ordinance Review Committee unanimously recommended that the City Council pass the Short-term Rental Ordinance as amended. Mary will send out the revised ordinance to the members of the Ordinance Review Committee to ensure they are satisfied with her drafting including the new provisions.
7. The Committee adjourned around 7:30 P.M.



City Attorney Kit Williams

FAYETTEVILLE TITLE XI – BUSINESS REGULATIONS/ CHAPTER 118: STR EDITS IN STRIKEOUT-UNDERLINE

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

FAYETTEVILLE TITLE XI – BUSINESS REGULATIONS/ CHAPTER 118: STR EDITS IN STRIKEOUT-UNDERLINE

- (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; and
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short term rental unit
- (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 date Planning Commission forwarded the approved ordinance amendment to City Council or February 10, 2020 documenting that the unit was utilized as a short-term rental 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:

FAYETTEVILLE TITLE XI – BUSINESS REGULATIONS/ CHAPTER 118: STR EDITS IN STRIKEOUT-UNDERLINE

- (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.
 - (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 Development Services Director
- (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).

FAYETTEVILLE TITLE XI – BUSINESS REGULATIONS/ CHAPTER 118: STR EDITS IN STRIKEOUT-UNDERLINE

- (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 emergency services or the Development Services Director.~~
- (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 ~~Development Services Director~~ 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 ~~two~~ 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 or a single unit whichever is greater: of total dwelling units as Type 2 rentals within a multi-family dwelling complex.~~
 - (c) Individual 2, 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 short term rental unit per building complex.
 - (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.

FAYETTEVILLE TITLE XI – BUSINESS REGULATIONS/ CHAPTER 118: STR EDITS IN STRIKEOUT-UNDERLINE

- (19) *Suspension and Revocation.* If the **Development Services Director** 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 party of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the 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

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

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

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

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

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

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.*

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

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

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

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

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

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

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

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

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 when operated as a short-term rental.
- (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 allowed in any structure established as a permanent 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 Planning Commission forwarded the approved ordinance amendment to City Council or February 10, 2020 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.

02-24-20 PLANNING COMMISSION

FAYETTEVILLE TITLE XV - UDC/ CHAPTER 163: STR EDITS IN STRIKEOUT-UNDERLINE

(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.



DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Susan Norton**, Chief of Staff
Mary McGetrick, Long Range Planner
Jonathan Curth, Development Manager

FROM: **Kit Williams**, City Attorney

DATE: **April 2, 2021**

RE: **Explanation of the Constitutional Requirement for *Equal Protection of the Laws* for the Short-term Rental Ordinance**

CONSTITUTIONAL PROVISIONS

“(N)or shall any State ... deny to any person within its jurisdiction the equal protection of the laws.” *14th Amendment to United States Constitution*

“The equality of all persons before the law is recognized, and shall ever remain inviolate...” *Arkansas Constitution Article 2 §3 Equality before the law.*

“The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens. *Arkansas Constitution Article 2§18 Privileges and Immunities -Equality*

“The *Equal Protection Clause of the Fourteenth Amendment* ‘is essentially a direction that all persons similarly situated should be treated alike.’” *Lawrence v. Texas*, 539 US 558, 579 (2003); Justice O’Connor concurring.

SHORT-TERM RENTAL ORDINANCE ISSUES

The proposed Short-term Rental Ordinance must comply with all these constitutional provisions to be valid. Let me illustrate the *Equal Protection of the Laws* and other constitutional problems inherent within the ordinance presented by the Planning Department for enactment by how three typical Fayetteville landlords would be treated pursuant to this law.

Amy, Bob, and Connie are three landlords that each own a typical three bedroom house in a Fayetteville neighborhood. Although having slightly different floor plans, all three houses have about the same square footage built on similarly sized lots. The houses sit side by side along the same residential street and have all been owned and operated as rentals for the last decade.

Amy and Connie have always operated their houses as normal monthly rentals and obeyed all zoning and other city regulations. Bob, who owns the middle house, started off also renting his house as a monthly rental. However, about three years ago Bob decided to try to increase his annual profit on his house by listing and operating the house as a short-term rental (less than 30 days at a time). This short-term rental operation violated *Fayetteville's Unified Development Code*, but generated significantly more money for Bob. Amy and Connie learned that Bob has been using his house as a short-term rental because their tenants have complained about the large number of cars parking not only in Bob's driveway, but also spilling over into and taking up much of the on-street parking spaces.

The proposed Short-term Rental Ordinance requires that short-term rental operators who rent their entire house and do not live there must obtain a Conditional Use Permit from the Planning Commission. Actually, the ordinance only requires that **landlords like Amy who have not violated the Fayetteville Code must pay the \$100.00 application fee and request the Planning Commission to grant them a Conditional Use Permit.** On the other hand, landlords like Bob (and hundreds of others) who have long violated City law and disobeyed the *Unified Development Code* by illegally operating short-term rentals get a free pass and a free Conditional Use Permit.

Bob and hundreds of his fellow law breakers do not have to apply to the Planning Commission (and pay the \$100.00 application fee), nor spend hours to attend the Planning Commission Meeting to request the required Conditional Use Permit. The proposed ordinance automatically and for free grants them a Conditional Use Permit. If a landlord like Amy has obeyed our *Fayetteville Code*, she must pay the \$100.00 application fee and hope the Planning Commission will grant her a Conditional Use Permit to operate a short-term rental. In contrast, a landlord like Bob who has long violated the *Fayetteville Code* by illegally operating a short-term rental gets favorable treatment from our law by automatically receiving a free Conditional Use Permit.

No matter how you look at it, a landlord like Bob who has long violated our *Code* is treated much more favorably than a landlord like Amy who has not violated our *Code*. Amy, who wants to convert her regular rental into a short-term rental once it becomes legal, is treated much worse (\$100.00 fee; time, effort and uncertainty of applying to and presenting her request for a Conditional Use Permit to the Planning Commission) than Bob who immediately is granted his free Conditional Use Permit with no hoops to jump through, no uncertainty, no efforts, and none of preparation hours required of Amy.

The favoring of hundreds of law breakers over potentially thousands of our citizens who have faithfully obeyed Fayetteville's laws does not only appear pretty unfair, but may be a violation of the *Equal Protection of the Laws Clause*. Justice Kennedy writing for the United States Supreme Court in *Romer v. Evans*, 517 U.S. 620, 633-634 (1996) puts it this way:

"It is not within our constitutional tradition to enact laws of this sort. Central both to the idea of the rule of law and to our own Constitution's guarantee of equal protection is the principle that government and each of its parts remain open on impartial terms to all who seek its assistance. 'Equal protection of the laws is not achieved through indiscriminate imposition of inequalities'. Respect for this principle explains why laws singling out a certain class of citizens for disfavored legal status or general hardships are rare. A law declaring that in general it shall be more difficult for one group of citizens than for all others to seek aid from the government is itself a denial of equal protection of the laws in the most literal sense. 'The guaranty of 'equal protection of the laws is a pledge of the protection of equal laws.'" (Citations omitted)

In the case of the Short-term rental ordinance, the "certain class of citizens for disfavored legal status or general hardships" are those like Amy who have obeyed our law. Those who are favored are those like Bob who have broken our law. No matter what arguments the City may present, favoring law-breaking over law-obeying citizens will be hard to justify. Amy would be treated unequally because it will be more expensive, time consuming, and difficult for her to have to try to obtain the Conditional Use Permit to operate a short-term rental than Bob who would have received his Conditional Use Permit automatically with no fee.

FURTHER DISFAVORED TREATMENT OF LAWFUL LANDLORDS

Amy and other citizens who have obeyed our law also could be denied even the possibility of operating a short-term rental because of the numerical limits allowed for short-term rental limits in the ordinance. This 2% of residential units limitation will initially all be given to the law-breakers like Bob. Thus, a majority (many hundreds) of the limited number of short-term rentals allowed by this ordinance will immediately be given to the law-breakers. The remaining allotment may be insufficient for all law-abiding citizens like Amy who might want to convert to short-term rentals to even apply. When the total number of allowed short-term rentals in residential areas has been reached, some citizens like Amy who waited for short-term rentals to be legal will not be allowed to even apply.

In fact, the ordinance guarantees that the vast majority of citizens who will be allowed to operate the Type-2 short-term rentals will be those citizens like Bob who have

broken our law. Citizens who have obeyed our law like Amy are forced to the back of the line. Does this satisfy the “pledge of the protection of equal laws?” Does this “not grant to any . . . class of citizens, privileges or immunities which, upon the same terms shall not be equally belong to all citizens?” *Arkansas Constitution, Article 2 § 18 Privileges and Immunities - Equality.*

Although neighbors of the houses of Amy, Bob, and Connie never got the chance to speak to the Planning Commission about Bob’s illegal short-term rental, they certainly can complain to the Planning Commission when Amy seeks her Conditional Use Permit. These neighbors could reasonably claim that a second short-term rental on this street is way too much because of parking, noise, or other issues. Thus, Amy might not receive her Conditional Use Permit because she followed the law while Bob broke the law.

OCCUPANCY LIMITS PRESENT MORE *EQUAL PROTECTION* ISSUES

Another separate *Equal Protection of the Laws* issue arises when the ordinance grants significantly greater occupational density for a short-term rental than an ordinary rental. Bob would be allowed to house **eight unrelated persons** in his short-term rental while Connie who wants to continue renting in the normal month or longer term remains limited to **three unrelated persons**. This three unrelated person limitation was enacted by the City Council about twenty years ago to resolve almost constant neighborhood complaints of over-crowding, over-parking and neighborhood disturbances especially near the University. Multifamily districts allow up to four unrelated persons per unit.

This proposed ordinance almost **triples** the number of unrelated persons that can occupy a single family home in a residential neighborhood. Connie might like to house at least six persons in her three bedroom house which could substantially increase the rent she could charge. Unfairly, this proposed ordinance says that eight transient renters in a three bedroom house is allowed, but even half that amount, four monthly renters, is illegal. So, the City Council would be telling the Judge and Jury in an *Equal Protection* trial that it is rational and reasonable that four monthly renters would cause such neighborhood problems that they should be prohibited while twice as many transient, short-term renters would be no problem and should be allowed. Is that really a rational distinction to justify such drastic increase in house occupancy limits? Or is it just caving in to the pressure of the currently illegal short-term rental operators, so they can make even more money at the expense of our residential neighborhoods?

The City Council would be favoring the interests of non-resident, transient, short-term renters over Fayetteville citizens wanting to rent a house in a quiet residential neighborhood or nice apartment to actually live, work and vote here. It would be those Fayetteville residents who are often also our citizens who would be discriminated against in favor of the transient, short-term renters. It would be our residents who would have to live next to short-term renters clogging up street parking spaces because of their double or triple occupancy. Are there careful provisions in the proposed ordinance to require

off-street parking for these large groups of visiting transient renters with no knowledge or commitment to our pleasant residential neighborhoods? Not for law-breaking landlords like Bob who would receive his Conditional Use Permit from the City Council automatically by the enactment of this ordinance and thereby avoid any Planning Commission Hearing where additional conditions could be imposed. Amy and her law-abiding fellow landlords could be forced to accept additional conditions like off-street parking, fencing or vegetation buffers required by the Planning Commission to protect neighbors. Does this meet the *Arkansas Constitution's* requirement of "The equality of all persons before the law. . .?"

THE BOTTOM LINE

The proposed ordinance creates the need for way more conditional use permits than should be required. Then staff uses the hard work and effort it would require of the Planning Staff and Planning Commission to individually consider each of these newly required Conditional Use Permits to justify giving them automatically to all current long-time law-breakers like Bob.

So the City Council would be telling the Judge and Jury that our discrimination against our law-abiding landlords like Amy by pushing them to the back of the approval line and forcing them to apply and pay for a Conditional Use Permit is justified because we do not want to make the effort to have the law-breakers like Bob have to apply to the Planning Commission for Conditional Uses.

The City Council would also be telling the Judge and Jury that eight transient renters would cause fewer neighborhood issues and should therefore be allowed in a single family house in a residential neighborhood while four long-term Fayetteville residents would be so disruptive that they should not be allowed to rent an identical single-family house.

If the City Council enacts this proposed ordinance, I believe it will be only a matter of time before the established residential occupation limits for a family or three unrelated individuals will probably have to be abandoned because of litigation alleging a violation of the *Equal Protection of the Laws* clause. Then all residential rentals will have to be allowed to have two tenants per bedroom, plus two more persons (for a living room couch?). Thus, most three bedroom houses would have to be allowed at least eight unrelated tenants.

There is a far simpler and fairer way to regulate most short-term rentals which would not violate our constitutions, nor favor law-breakers over law abiding citizens. It is up to the City Council Members and the Mayor to chart the course they want Fayetteville to travel.



DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE CITY ATTORNEY

TO: Mayor Jordan City Council

CC: Susan Norton, Chief of Staff Mary McGetrick, Long Range Planner Jonathan Curth, Development Manager

FROM: Kit Williams, City Attorney

[Handwritten signature of Kit Williams]

DATE: April 6, 2021

RE: Rational basis test for Equal Protection of a Law cases

City ordinances like State statutes are normally presumed to be constitutional and the burden to prove a violation of Due Process or Unequal Protection of the Law clauses is upon the person challenging the ordinance. No matter what regulatory ordinance the City Council may enact for Short-term rentals or any other subject, I will strongly argue that the ordinance "is rationally related to achieving a legitimate governmental objective." Streight v. Ragland, 280 Ark. 206, 655 S.W. 2d 459, 463 (1983).

"(T)he legislation in question must bear a reasonable relation to the achievement of the public objective. This requirement means that the law must accomplish the declared public end and not impose a burden upon someone not reasonably connected with the cause of the evil." Ragland v. Forsythe, 282 Ark. 43, 666 S.W. 2d 680, 681 (1984) (citation omitted).

I think the currently proposed ordinance clearly meets the first requirement of a "reasonable relation to the achievement of the public objective" of regulating Short-term rentals. The second requirement to "not impose a burden upon someone not reasonably connected with the cause of the evil" is more problematic. The burden and cost of obtaining a conditional use permit is not imposed upon the landlords who have been breaking the law, but upon those who have not violated our law. It is hard to argue that landlords obeying the Fayetteville Code are "connected with the cause evil" that needs to be prevented by this ordinance.

Kit Williams City Attorney

Blake Pennington Assistant City Attorney

Jodi Batker Paralegal

The Arkansas Supreme Court invalidated a Springdale bee keeping ordinance on State Constitutional grounds because the ordinance required "two or more neighbors (to) have filed a written protest." *City of Springdale v. Chandler*, 257 S.W. 2d 934, 935 (1953).

"Hence the ordinance is in conflict with Art. 2, §18 of the Constitution which provides: 'The General Assembly shall not grant to any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens.'

A city ordinance which allows an arbitrary discrimination is unconstitutional and void." *Id.*

Because the proposed ordinance grants free, automatic conditional use permits only to the class of citizens who have long violated Fayetteville law while denying that same privilege on the same terms to law-abiding citizens, the **Privileges and Immunities - Equality** provision in the *Arkansas Constitution's Declaration of Rights Chapter* also endangers the validity of the proposed ordinance.

"The Equal Protection Clause of the Fourteenth Amendment protects an individual from state action which selects him out for discriminatory treatment by subjecting him to taxes not imposed on others of the same class." *Southern Bell v. Arkansas Public Service*, 73 Ark. App. 222, 40 S.W. 3d 838, 843 (2001).

The proposed ordinance requires \$100.00 fees to be paid by law-abiding landlords to apply for the necessary conditional use permits while exempting law-breaking landlords from having to pay these government required fees. The Court might find that assessing required fees rather than taxes is a distinction without a difference for Equal Protection analysis.

Although there is a strong presumption that an ordinance challenged on *Equal Protection of Law* grounds has a rational basis that the challenger must disprove, the proposed ordinance remains vulnerable both for its classification favoring law-breakers over law-abiders and for its double to triple occupancy allowance for short-term rentals in residential zones over traditional rentals.

In order to protect the City Council's power to amend this regulatory in the future and regardless if we all eventually agree that we have come up with a "perfect" ordinance, I agree with the Ordinance Review Committee's decision that a Sunset Clause should be included in the enacting ordinance. Attached is the currently proposed enacting ordinance with a new Section 2 Sunset Clause so that 14 months after the 6 month initial preparation phase, the City Council can review the workings of the regulations to determine if any changes need to be made. No matter what else is done regarding the proposed Short-term Rental regulations, the enacting ordinance should be amended to the ordinance attached to this memo.



DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE
CITY ATTORNEY

TO: **Mayor Jordan**
City Council

CC: **Susan Norton**, Chief of Staff
Mary McGetrick, Long Range Planner
Jonathan Curth, Development Manager

FROM: **Kit Williams**, City Attorney

DATE: **April 6, 2021**

RE: **Two Options for Safer Constitutional Regulation of Short-term Rentals**

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

HISTORY

Since the City Council clearly expressed its desire to authorize and regulate short-term rentals, I do not want to point out constitutional problems in the current proposal without at least providing constitutionally safer alternative regulations. I did provide one such potential regulation to the Ordinance Review Committee prior to its last meeting, but like this presentation to the whole City Council despite my best efforts it comes too late for more than a cursory review during the April 6th meeting.

My experience with neighborhood issues for residential rentals reveals the major complaints the City had received were usually linked to crowding or over-occupancy problems and overflowing tenant cars in the front yard or taking up most of the on-street public parking. These problems most often involved University students in houses within a mile of campus. The City Council in the past addressed these neighborhood concerns by defining a family as either a related family group or not more than three unrelated persons in a single-family zoned district or four in a multi-family district. The problems which confronted the early 2000's City Councils are probably not on your radar now because the previous City Council's laws on occupancy in the definition of "Family" and for excessive parking have been very successful. However, **these neighborhood problems would likely resurface if the solutions enacted by your predecessors are repealed or ignored.**

OPTION ONE: Provide legislatively issued Conditional Use Permits for all

One option that has been suggested would solve half of the *Equal Protection of the Law* problem. It would be to legislatively grant free conditional use permits not only to landlords who have been illegally operating short-term rentals, but to all landlords who may wish to operate a high density short-term rental in residential neighborhoods. This, unfortunately would not solve the *Equal Protection of the Law* issue of allowing short-term rentals to house double or triple the number of tenants as opposed to monthly rentals, but at least the regulation would not favor law-breakers over landlords who have obeyed the law as in the currently proposed ordinance.

My concern is that this would permit any high density short-term rental (which I refer to as a Micro-Hotel) to operate in all single-family and multi-family zoned neighborhoods throughout Fayetteville without allowing any input from the neighbors. This foreclosure of any neighbor input whether or not to allow a Micro-Hotel in a single family or multi-family zoned neighborhood would expand from the currently proposed ordinance's illegally operating short-term rentals to any house or structure where a landlord or owner might want to take advantage of the doubling, tripling or even higher number of tenants allowed in the high density short-term rental (Micro-Hotel).

Allowing a residential short-term rental which is held to the same occupancy and other standards as our monthly or yearly rentals without requiring a public hearing may be okay. But allowing a business to lodge eight to twenty or more transient tenants in a three-story structure in a residential neighborhood could cause significant neighborhood problems. If the City Council authorizes this type of project and denies any neighborhood comment about granting approval for such project, I am afraid there could be a lot of unhappy neighbors.

OPTION TWO: Regulate Only Micro-Hotels (Type #2)

I have been guided by this history of neighborhoods adversely affected by overcrowded houses to try to make short-term rentals functionable, but not disruptive, in residential neighborhoods. My proposal would require many fewer **conditional use permits which would be required only if a landlord wanted the rental to act like a business with many tenants** rather than merely a residential short-term rental under all the same rules as every other residential rental except for the length of the tenants' stay. To make this easier to understand, I would avoid the #1 and #2 jargon. I would concentrate almost all regulation on what I would refer to as a Micro-Hotel (although any other easy to understand term would be acceptable.)

A key to protecting the very successful definition of "Family" (that has been so successful that recent prosecutions for violating occupancy have been very rare) is to acknowledge that a Micro-Hotel with 8 or more transient, short-term tenants in a standard three bedroom single family house is not a residential rental, but a business.

Micro-Hotels should be allowed to operate just like any other business wanting to locate in a purely residential zoning district. The district would need to be approved for Use Unit 12a Limited Business. That would mean we can skip amending those 14 or so residential zoning districts currently proposed for amendments by making a single amendment to add Micro-Hotel to Use Unit 12a, Limited Business.

Short-term residential rentals should be treated just like normal over thirty day residential rentals

The vast majority of single family houses that the owners would like to operate as Short-term rentals should be treated exactly like all the regular over 30 day rentals except their owners would need to obtain the HMR tax forms from the City's Accounting Division just like every other entity that is subject to our HMR tax collecting requirements. I see little reason to treat residential rentals for over and under 30 days differently except for the collection of HMR taxes pursuant to state law. Owners operating more than three residential rentals would still need a business license regardless of the length of the rental period. The same rules should apply for the Landlord Representative Registry. I believe that **the City needs no new regulations for short-term residential rentals**. They would simply be required to obey all regulation for all residential rentals including density limitations.

Higher Density Commercially Operating Short-term rentals

For an owner who wants hirer density for their commercially operated rental, their **Micro-Hotel** could operate wherever Limited Business or General Business is authorized: which is in virtually every residential district (all those denser than RSF-2) with a conditional use. **No conditional use permit at all would be required for a Micro-Hotel to operate in:**

Neighborhood Services -Limited;
Neighborhood Services - General;
Residential- Office;
Neighborhood Commercial;
Community Services;
Thoroughfare Commercial;
Urban Thoroughfare;
Central Commercial;
Downtown Core;
Main Street/Center;
Downtown General;

"Micro-Hotels" would need conditional use permits only in purely residential districts just like every other limited or general business owner that wants to operate commercially in those residential districts. I do not recommend rewarding those

property owners who have disobeyed our law by legislatively granting them any privileges such as conditional use permits while our law-abiding citizens would be treated as second class citizens. The City Council could enact this ordinance, but delay penalty enforcement for several months to allow our law-abiding citizens to take advantage of this new opportunity and to allow those who ignored our law to get into compliance through a conditional use or rezoning.

Occupancy Limits for the Commercial Micro-Hotels and Residential Short-term rentals

In order to better protect our long-established and effective occupancy limit for single family zoned districts, residential short-term rentals would have to follow all existing regulations for normal residential rentals. On the other hand, a Micro-Hotel, as an acknowledged and permitted limited or general **business** use, would not be a residential dwelling unit at all, but a commercial enterprise subject to commercial standards rather than residential standards. I agree with Planning's suggested commercial occupancy limit. Indeed, most of Planning's proposed requirements for this commercial enterprise should be adopted for Micro-Hotels.

All residentially zoned districts from RSF-4 to RMF-40 allow Limited Business (not to exceed 3,000 square feet) as a Conditional Use. I suggest an amendment to the Limited Business Use Unit to include a Micro-Hotel as one of the Limited Businesses which can be allowed in these residentially zoned districts with a conditional use.

Both Neighborhood Services Limited and Residential Office permit Limited Business as of right. These districts would then be allowed a limited size Micro-Hotel as of right. All more intense commercial districts from NS-G to Urban Thoroughfare and Downtown General would permit Micro-Hotels as large as 8,000 square feet as of right with simple amendments to Limited Business, General Business, Neighborhood Shopping Goods and Hotel, Motel, and Amusement Facilities to add Micro-Hotel.

Practical Effects of this Second Option

Zoning districts or land devoted to RSF-4, Residential Single Family, Four Units per acre and all denser residential units could be used for Micro-Hotels with an approved conditional use to allow Limited Business. The current 3,000 square feet limitation required by Limited Business helps ensure that the included commercial activities (now to include Micro-Hotel) will be more compatible with a surrounding residential neighborhood.

Every owner of a residentially zoned lot could install a normal, noncommercial short-term rental as of right.

Every property owner in a commercial or mixed-use zoning district from Neighborhood Services General and Community Services to Urban Thoroughfare and Downtown General could as of right construct or remodel a Micro-Hotel up to the 8,000 square feet limit.

Conditional Uses would be required only where they are most needed: in the primarily residential districts for owners seeking a Micro-Hotel rather than a residential Short-term rental. All residential short-term rentals (but not Micro-Hotels) would remain subject to the current residency limits in the code. If an owner wanted to take advantage of the commercial occupancy limits allowed for Micro-Hotels, that owner would need to obtain a conditional use permit for Limited Business or rezone to one of the eleven mixed-use zoning district that allows General Business, Neighborhood Shopping Goods, or Hotels and thus, Micro-Hotels as of right.

BENEFITS OF THIS OPTION

- (1) Short-term residential rentals would not need a conditional use permit or rezoning, but would operate under the same rules as normal rentals.
- (2) The long-standing definition of "Family" protecting our neighborhoods would remain valid for all residential rentals.
- (3) Micro-Hotels would be authorized by right in eleven current zoning districts with no conditional use required.
- (4) Micro-Hotels could be authorized by conditional use permit in almost all residential zoned districts or rezoned to a mixed-use district to allow a use by right.
- (5) Neighbors could comment on any necessary conditional use or rezoning.

POTENTIAL DOWNSIDES

- (1) Residential short-term rentals would be allowed in all residential districts with a greater density than RSF-2 without neighborhood approval or comment.
- (2) No limits on number of short-term rentals that could be operated in Fayetteville. (Affordable housing concern.)
- (3) No liability insurance requirement for residential short-term rentals (just like monthly rentals) (Still required for Micro-Hotels).
- (4) No special health/safety inspection for residential short-term rentals. (Still required for Micro-Hotels.)
- (5) No 3-hour response requirement for landlord of residential short-term rental. (Still required for Micro-Hotel.)

Any of these potential problems could be remedied as part of a Sunset review or extension.