

**AGENDA REQUEST FORM**

**FOR: Council Meeting of December 20, 2022**

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**FROM: Ordinance Review Committee  
Chair Holly Hertzberg**

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**ORDINANCE OR RESOLUTION TITLE AND SUBJECT:**

**AN ORDINANCE TO AMEND §118.01 APPLICABILITY AND § 118.02 ENTRY UPON BUSINESS REGISTRY AND ISSUANCE OF BUSINESS LICENSE OF THE FAYETTEVILLE CITY CODE, AND § 151.01 DEFINITIONS, § 159.01 FEES/SCHEDULE, AND §163.18 SHORT-TERM RENTALS OF THE UNIFIED DEVELOPMENT CODE, AND TO ENACT § 164.26 TYPE 2 SHORT-TERM RENTALS IN NON-RESIDENTIAL AND MIXED USE ZONING DISTRICTS TO INCREASE FEES FOR CONDITIONAL USE PERMITS AND TYPE 2 SHORT-TERM RENTAL BUSINESS LICENSES, TO AMEND THE REGULATIONS FOR TYPE 2 SHORT TERM RENTALS BASED ON ZONING DISTRICT, AND TO REMOVE OUTDATED AND UNNECESSARY PROVISIONS RELATED TO THE 12 MONTH START-UP PERIOD**

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**APPROVED FOR AGENDA:**

*Holly Hertzberg*  
**City Council Member**  
Holly Hertzberg

12/03/2022  
Date

*Blake Pennington*  
**Asst. City Attorney** Blake Pennington  
Approved as to form

12/5/2022  
Date

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND §118.01 **APPLICABILITY** AND § 118.02 **ENTRY UPON BUSINESS REGISTRY AND ISSUANCE OF BUSINESS LICENSE** OF THE *FAYETTEVILLE CITY CODE*, AND § 151.01 **DEFINITIONS**, § 159.01 **FEES/SCHEDULE**, AND §163.18 **SHORT-TERM RENTALS** OF THE *UNIFIED DEVELOPMENT CODE*, AND TO ENACT § 164.26 **TYPE 2 SHORT-TERM RENTALS IN NON-RESIDENTIAL AND MIXED USE ZONING DISTRICTS** TO INCREASE FEES FOR CONDITIONAL USE PERMITS AND TYPE 2 SHORT-TERM RENTAL BUSINESS LICENSES, TO AMEND THE REGULATIONS FOR TYPE 2 SHORT TERM RENTALS BASED ON ZONING DISTRICT, AND TO REMOVE OUTDATED AND UNNECESSARY PROVISIONS RELATED TO THE 12 MONTH START-UP PERIOD

**WHEREAS**, since Ordinance No. 6427 was adopted on April 20, 2021, and as of November 29, 2022, the Development Services Department has issued 360 business licenses for Type 2 short-term rentals and there is currently a citywide cap of 894 business licenses for Type 2 short-term rentals; and

**WHEREAS**, the City Council Ordinance Review Committee has recommended changes to the City's short-term rental regulations including fee increases to recognize the actual staff time involved in administering these provisions, removing the conditional use permit requirement for Type 2 short-term rentals in non-residential and mixed-use zoning districts, and to incorporate factors to consider for Type 2 short-term rentals located in residential zoning districts.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals subsection (E) of §118.01 **Applicability** of the *Fayetteville City Code* and enacts a new subsection 118.01(E) as shown in Exhibit A attached hereto.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals subsection (C)(4) of §118.02 **Entry Upon Business Registry and Issuance of Business License** of the *Fayetteville City Code* and enacts a new subsection 118.01(C)(4) as follows:

*“Short Term Rentals.* Annual fees to submit the business’s first Application for Business Registry and License shall be \$50.00, except that if a business registers electronically it shall receive a \$3.00 credit against its annual fee and only be assessed \$47.00. Applications submitted after the October 31 deadline shall incur a fee of \$58.00 if submitted by November 30; \$61.00 if submitted by December 31, and \$72.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal shall be \$50.00 if timely paid (\$47.00 if renewed electronically). Otherwise, the late payment fees shall be assessed as above.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends §151.01 **Definitions** by repealing the last sentence of the definition of “Short-term rental, Type 2”.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends §159.01(B)(5) by changing the fee for Conditional use to \$200.00.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby repeals §163.18 **Short-Term Rentals** of the *Unified Development Code* and enacts a new § 163.18 **Type 2 Short-Term Rentals in Residential Zoning Districts** as shown in Exhibit B attached hereto.

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby enacts §164.26 **Type 2 Short-Term Rentals in Non-Residential and Mixed Use Zoning Districts** into the *Unified Development Code* as shown in Exhibit C attached hereto and made a part hereof.

**PASSED** and **APPROVED** this 20<sup>th</sup> day of December, 2022.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**KARA PAXTON**, City Clerk/Treasurer

# EXHIBIT A

## 118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom 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. The occupant or owner must occupy the residence for nine (9) months of the year. 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 in a residential zoning district prior to the city issuing a business license.
  - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
    - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
    - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
    - (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) A separate business license shall be required for each dwelling unit used as a short-term rental.
  - (5) Any change in ownership requires a new or amended business license.
  - (6) 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.
  - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
    - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
    - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
    - (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.
- (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
- (9) *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.
  - (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.
  - (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.
- (10) *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) hours of being contacted.
- (11) *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 (3) years and shall be provided to the City upon request.
- (12) *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.
- (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
- (14) *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.
- (15) *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).
- (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 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. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
  - (b) More than 10% 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) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
- (17) *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 (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director 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.
- (18) Short-term rentals must comply with the Unified Development Code including the regulations contained in §163.18 and § 164.26 and must successfully obtain a business license prior to operation.

# EXHIBIT B

## 163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) 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.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *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.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
  - 2) Adequate adjoining or nearby streets for on-street parking;
  - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
  - 4) Prior zoning or code violations.

# EXHIBIT C

## 164.26 Type 2 Short-Term Rentals in Non-Residential and Mixed Use Zoning Districts

- (A) *Commercial and Mixed Use Zoning Districts.* Type 2 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. Type 2 short-term rentals in all other non-residential and mixed-use zoning districts may be permitted but shall count towards the Type 2 short-term rental density cap.

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) 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.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *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.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.



# **RED-LINE VERSIONS**

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## 118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom 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. The occupant or owner must occupy the residence for nine (9) months of the year. 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 in a residential zoning district prior to the city issuing a business license, except as defined in §118.01(E)(4).
  - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
    - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
    - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
    - (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) *Twelve (12) Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license for the operation of a short-term rental. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.~~
  - ~~(a) *Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.*~~
  - ~~(b) *Persons seeking to operate a Type 2 short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).*~~
  - ~~(bc) *Type 1 and 2 short-term rentals seeking a business license or permit under the 12-month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.*~~

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~~(cd) Applications submitted prior to the end of the 12-month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the City by that time.~~

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

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

(76) 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.

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

- (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
- (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
- (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.

(108) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(119) *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.
- (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.
- (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.

(1210) *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) hours of being contacted.

(1311) *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

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shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

- (1412) *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.
- (1513) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
- (1614) *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.
- (1715) *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).
- (1816) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 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. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
  - (b) More than 10% 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) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
- (1917) *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 (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director 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.
- (2018) Short-term rentals must comply with ~~all applicable codes under the~~ Unified Development Code including the regulations contained in §163.18 and § 164.26 and ~~must~~ successfully obtain a business license prior to operation.

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## 118.02 Entry Upon Business Registry And Issuance Of Business License

(C) *Fees.*

- (1) *Home Based Business.* A resident conducting a non-traffic generating occupation, profession or business within the resident's dwelling unit who is registering for the first time shall pay an annual fee to submit an Application For Business Registry and License of \$22.00 if submitted by October 31, except if the home based business owner registers electronically, the owner shall receive a \$2.00 credit against the annual fee and pay only \$20.00.

Applications submitted after the October 31 deadline shall incur a fee of \$24.00 if submitted by November 30; \$26.00 if submitted by December 31; and \$30.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal fee shall be \$15.00 if timely paid. Otherwise, late payment fees shall be as assessed above.

- (2) *All Other (Non-Home Based) Businesses.* Annual fees to submit the business's first Application For Business Registry and License shall be \$35.00 if submitted by October 31, except that if a business registers electronically it shall receive a \$3.00 credit against its annual fee and only be assessed \$32.00. Applications submitted after the October 31 deadline shall incur a fee of \$38.00 if submitted by November 30; \$41.00 if submitted by December 31, and \$52.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal shall be \$15.00 if timely paid. Otherwise, the late payment fees shall be assessed as above.

- (3) *Partial Year Registration Fee for New Business.* If a new business or entity registers and applies for a license after March 1, the fee for the business license through November 30 of the same year shall be \$17.00 except that if a business registers electronically it shall receive a \$2.00 credit against its partial year fee and only be assessed \$15.00.

- (4) *Short Term Rentals.* Annual fees to submit the business's first Application for Business Registry and License shall be \$50.00, except that if a business registers electronically it shall receive a \$3.00 credit against its annual fee and only be assessed \$47.00. Applications submitted after the October 31 deadline shall incur a fee of \$58.00 if submitted by November 30; \$61.00 if submitted by December 31, and \$72.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal shall be \$50.00 if timely paid (\$47.00 if renewed electronically). Otherwise, the late payment fees shall be assessed as above.

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## 151.01 Definitions

*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.~~

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## 159.01 Fees/Schedule

(B) *Fee schedule.*

(5) *Zoning.*

Rezoning	\$325.00
Conditional use	<del>\$100.00</del> 200.00
Manufactured home:	
Initial permit	\$25.00
Renewal	\$12.50
Home occupation:	
Initial permit	\$25.00
Renewal	\$12.50
Planning Commission or Board of Adjustment Variance:	
Before any violation has occurred	\$100.00
After any violation has occurred	\$200.00
Appeal of Zoning and Development Administrator interpretation	\$100.00
Zoning Verification Letter	\$50.00

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## 163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

### ~~(A) General Standards.~~

- ~~(1A) Residential Zoning Districts. Type 2 Short-term rentals may be permitted as a conditional use in all zoning districts where residential uses are allowed by right the following residential zoning districts:~~

- 1) R-A
- 2) RSF-5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

~~Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.~~

~~Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.~~

- ~~(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.~~

- ~~(3B) Occupancy. Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.~~

- ~~(4C) Parking. Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.~~

- ~~(5D) 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.~~

- ~~(6E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.~~

- ~~(7) Twelve Month Start up Period. After the enactment of the short term rental ordinance, short term rental operators shall have twelve (12) months to submit an application for a business license. After the twelve (12) month start up period, all short term rental units must have a business license to be considered in compliance.~~

- ~~(a) Persons seeking to operate a short term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short term rental without~~



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having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.

- ~~(b)~~ Persons seeking to operate a Type 2 Short term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
  - ~~(c)~~ Type 1 and 2 short term rentals seeking a business license or permit under the twelve (12) month start up period which are currently operating in 2, 3 and 4 unit buildings in which more than one (1) unit is being used as a short term rental may obtain a business license for all currently operating short term rentals.
  - ~~(d)~~ Applications submitted prior to the end of the twelve (12) month start up period shall expire sixty (60) days after the start up period has ended if the business license has not been issued by the city by that time.
- (8F) *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.
- (9G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
  - 2) Adequate adjoining or nearby streets for on-street parking;
  - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
  - 4) Prior zoning or code violations.

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## 164.26 Type 2 Short-Term Rentals in Non-Residential and Mixed Use Zoning Districts

- (A) *Commercial and Mixed Use Zoning Districts.* Type 2 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. Type 2 short-term rentals in all other non-residential and mixed-use zoning districts may be permitted but shall count towards the Type 2 short-term rental density cap.  
Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.
- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) 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.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *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.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.



OFFICE OF THE  
CITY ATTORNEY

## DEPARTMENTAL CORRESPONDENCE



Kit Williams  
*City Attorney*

Blake Pennington  
*Assistant City Attorney*

Jodi Batker  
*Paralegal*

TO: **Mayor Jordan  
City Council**

FROM: **Blake Pennington, Assistant City Attorney**

A blue ink handwritten signature of Blake Pennington, consisting of a large, stylized initial 'B' followed by a horizontal line.

DATE: **December 8, 2022**

RE: **Potential Amendments to Short Term Rental Regulations  
from Council Member Wiederkehr**

Attached are two amendments to the short term rental regulations that are being sponsored by Council Member Wiederkehr for the full City Council's consideration.

The first amendment would change the city-wide density cap in Section 118.01 of the City Code for Type 2 short term rentals from 2% of dwelling units (approximately 894 as of today) to 550 dwelling units. It would also remove the exemption for Type 2 short term rentals in zoning districts that allow hotels and motels by right. The Ordinance Review Committee had some discussions about modifications to the density provisions but did not reach any consensus.

The second amendment is supplemental to the amendments proposed by the Ordinance Review Committee for Section 163.18 of the Unified Development Code. This amendment would reduce the occupancy limit for Type 2 short term rentals in residential zones to the limit of the underlying zone plus one. Currently the ordinance allows 2 people per bedroom plus 2. The proposed amendment would allow Type 2 short term rentals to have up to 4 unrelated people in a single family zoning district and up to 5 in a multi-family zoning district.

## 118.01 - Applicability

### (E) Short-Term Rentals.

(18) Density For Type 2 Short-Term Rentals. A city-wide density cap of ~~2% of all dwelling units in the Fayetteville city limits may be utilized as~~ 550 dwelling units may be 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. ~~Type 2 short term rentals in commercial and mixed use zoning districts where hotel/motels are permitted by right shall not contribute to the city wide density cap.~~

(b) More than 10% 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) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

## 163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (B) *Occupancy.* Short-term rentals in the residential zones listed in section (A) above shall be subject to the occupancy limits of the underlying zoning district plus one (1).  
~~Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.~~