

ORDINANCE NO. BL2017-981

An ordinance amending sections 17.04.060 , 17.08.030, 17.16.250, and 17.16.070 of the Metropolitan Code of Laws to establish distinct land uses for “Short term rental property – Owner-Occupied” and “Short term rental property – Not Owner-Occupied”, and establishing a renewal allowance for existing permitted uses. (Proposal No. 2017Z-026TX-001).

NOW, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Section 17.04.060 of the Metropolitan Code of Laws is hereby amended by deleting the definitions for “Owner-occupied” and “Short term rental property (STRP)” therein and substituting the following in lieu thereof:

“Owner-occupied” means the owner of the property permanently resides in the STRP or in the principal residential unit with which the STRP is associated on the same lot; provided however that in order to qualify as owner-occupied, the owner of the property: (1) must be a natural person or persons; (2) may not be a limited liability entity, including without limitation a corporation or limited liability company; and (3) may not be an unincorporated entity, including without limitation a partnership, joint venture, or trust.

“Short term rental property (STRP) – Owner-Occupied” means an owner-occupied residential dwelling unit containing not more than four sleeping rooms that is used and/or advertised through an online marketplace for rent for transient occupancy by guests.

“Short term rental property (STRP) – Not Owner-Occupied” means a residential dwelling unit that is not owner-occupied containing not more than four sleeping rooms that is used and/or advertised through an online marketplace for rent for transient occupancy by guests.

Section 2. That section 17.08.030 (District land use tables) of the Metropolitan Code of Laws is hereby amended by deleting “Short term rental property (STRP)” in its entirety.

Section 3. That section 17.08.030 (District land use tables) of the Metropolitan Code of Laws is hereby further amended by adding “Short term rental property (STRP) – Owner-Occupied” as an accessory (A) use in AG, AR2a, RS80 through RS3.75, R80 through R6-A, RM2 through RM20-A, RM40 through RM100-A, MHP, MUN and MUN-A, MUL and MUL-A, MUG and MUG-A, MUI and MUI-A, ON, OG, OR20 through OR40-A, ORI and ORI-A, CN and CN-A, CL and CL-A, CS and CS-A, CA, CF, DTC-North, DTC-South, DTC-West, DTC- Central, SCN, SCC, IWD, IR and IG.

Section 4. That section 17.08.030 (District land use tables) of the Metropolitan Code of Laws is hereby further amended by adding under Commercial Uses “Short term rental property (STRP) – Not Owner-Occupied” as a use permitted with conditions (PC) in RM2 through RM20-A, RM40 through RM100-A, MUN and MUN-A, MUL and MUL-A, MUG and MUG-A, MUI and MUI-A, OG, OR20 through OR40-A, ORI and ORI-A, CN and CN-A, CL and CL-A, CS and CS-A, CA, CF, DTC North, DTC South, DTC-West, DTC Central, SCN, SCC and SCR.

Section 5. That section 17.16.250.E of the Metropolitan Code of Laws is hereby further amended by changing the name from "Short term rental property (STRP)." to "Short term rental property (STRP) – Owner-Occupied."

Section 6. That Section 17.16.250.E of the Metropolitan Code is hereby amended by deleting subsection 17.16.250.E.1 in its entirety and substituting the following in lieu thereof:

1. Permit required. No person or entity shall operate a STRP or advertise a residential property for use as a STRP without the owner of the property first having obtained a STRP permit issued by the department of codes administration in accordance with the provisions of this chapter. Any advertising or description of a STRP on any internet website must: (a) prominently display the permit number for the STRP unit; or (b) include an image of the permit, or a link to an image of the permit, in which the permit number is legible.

Section 7. That Section 17.16.070 of the Metropolitan Code is hereby amended by adding the following as subsection 17.16.070.U thereto and renumbering the remaining sections.

U. Short term rental property (STRP) – Not Owner-Occupied.

1. No person or entity shall operate a STRP or advertise a residential property for use as a STRP without the owner of the property first having obtained a STRP permit issued by the department of codes administration in accordance with the provisions of this chapter. Any advertising or description of a STRP on any internet website must: (a) prominently display the permit number for the STRP unit; or (b) include an image of the permit, or a link to an image of the permit, in which the permit number is legible.

2. Application.

- a. STRP permit applications shall be valid for ninety (90) calendar days from the date filed and shall expire if the application process has not been completed within that time.
- b. The STRP permit application shall verify by affidavit that all of the information being provided is true and accurate and the application shall include the following information:
 - i. The name, telephone number, address, and email address of the owner and of a person or business ("responsible party") residing or located within twenty-five miles of the STRP that is responsible for addressing all maintenance and safety concerns;
 - ii. Proof of insurance evidencing homeowner's fire, hazard, and liability insurance. Liability coverage shall have limits of not less than one million dollars per occurrence.
 - iii. Proof of written notification to the owner of each adjacent property prior to filing the application. For each such adjacent property, proof of written notification shall be: (a) a signature of an owner; (b) a signed receipt of U.S. registered or certified mail addressed to an owner; or (c) notice from the U.S. Postal Service that registered or certified mail to an owner was refused or not timely accepted.
 - iv. A statement that the applicant has confirmed that operating the proposed STRP would not violate any Home Owners Association

agreement or bylaws, Condominium Agreement, Covenants, Codes and Restrictions or any other agreement governing and limiting the use of the proposed STRP property.

- v. Proof of payment of all taxes due, including property taxes and, for permit renewals, all applicable room, occupancy, and sales taxes required by state law or the Metropolitan Code.

3. Signage. Any sign, as defined in Section 17.32.030.B of this Zoning Code, on a property used for a STRP shall be governed by the provision of Chapter 17.32, Sign Regulations, of this Zoning Code.

4. Regulations.

- a. All STRP occupants shall abide by all applicable noise restrictions and regulations regarding the public peace and welfare contained in the Metropolitan Code, and all applicable waste management provisions of Chapter 10.20 of the Metropolitan Code.
- b. The STRP shall meet all applicable requirements of the state and local building and fire safety codes, including, but not limited to, having approved smoke alarms meeting Underwriters Laboratory (UL) 217 standards installed as follows:
 - i. In all sleeping areas.
 - ii. In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.
 - iii. In each story within the sleeping unit, including basements.
- c. Parking shall be provided as required by Section 17.20.030. No recreational vehicles, buses, or trailers shall be visible on the street or property in conjunction with the STRP use.
- d. No food shall be prepared for or served to the transient by the permit holder.
- e. The principal renter of a STRP unit shall be at least twenty-one years of age.
- f. Maximum occupancy. The maximum number of occupants permitted on a STRP property at any one time shall not exceed more than twice the number of sleeping rooms plus four. Simultaneous rental to more than one party under separate contracts shall not be allowed. The occupancy maximum shall be conspicuously posted within the STRP unit. Advertising a STRP for more occupants than allowed by this regulation shall be grounds for revocation of the permit.
- g. The STRP owner shall not receive any compensation or remuneration to permit occupancy of a STRP for a period of less than twenty-four hours. The maximum stay for any guest shall be thirty consecutive days.
- h. The name and telephone number of the local responsible party shall be conspicuously posted within the STRP unit. The responsible party shall answer calls twenty-four hours a day, seven days a week for the duration of each short term rental period to address problems associated with the STRP.
- i. Expiration and renewal of permit.
 - i. A STRP permit shall expire three hundred sixty-five days after it is issued unless it is renewed prior to its expiration.
 - ii. For STRP units that have received no documented complaints to Metro Codes, Police, or Public Works during the most recent permit period, a renewal application may be submitted by mail, online, or in person according to regulations promulgated by the Metro Codes Department.

All such renewal applications shall include a statement verified by affidavit that:

- (a) includes all of the information required in an application under Section 17.16.250.E.2; and
 - (b) the STRP continues to be in full compliance with all applicable laws, including the payment of all applicable taxes.
- iii. For an STRP that has received no documented complaints to Metro Codes, Police, or Public Works during the most recent permit period, a 30 calendar day grace period for renewal after the expiration of the STRP permit may be allowed by the zoning administrator upon a showing by the owner of a reasonable explanation other than neglect or mistake for the delay.
- iv. For an STRP with documented complaints to Metro Codes, Police, or Public Works during the most recent permit period, no grace period shall be allowed and all permit renewal applications shall be submitted timely. The permit may be renewed upon the payment of a renewal fee, and the submission of a statement verified by affidavit that includes all of the information required in an application under Section 17.16.250.E.2.
- j. The permit holder shall be responsible for collecting and remitting all applicable room, occupancy, and sales taxes required by state law or the Metropolitan Code.
- k. A STRP permit shall not be transferred or assigned to another individual, person, entity, or address, nor shall the permit authorize any person, other than the person named therein, to operate a STRP on the property.
- l. Denial or Revocation of Permit.
- i. Upon the filing of a complaint regarding a STRP permit, the department of codes administration shall notify the permit holder in writing or by e-mail of such complaint.
 - ii. If the Zoning Administrator determines, based on reasonably reliable information that the Zoning Administrator has obtained including without limitation public records or reports, records of regularly conducted activity, or a direct or online statement against a person's own interest, that three violations of this section or other Code sections referenced in this section have occurred within a 12 month period, the permit to operate a STRP may be revoked.
 - iii. Before revoking any permit, the department of codes administration shall give the permit holder fifteen days written notice of the alleged violation(s) against him/her.
 - iv. Any denial or revocation of a STRP permit may be appealed to the board of zoning appeals as an administrative appeal pursuant to Section 17.40.180.A. of the Metropolitan Zoning Code.
 - v. Once a STRP permit has been revoked, no new permit shall be issued to the applicant for the same property for a period of one year from the date of revocation.
 - vi. The penalty for operating a short term rental property without a permit shall be:
 - (1) A fifty dollar fine as imposed by a court of competent jurisdiction. Each day of operation without a permit shall constitute a separate offense.
 - (2) Upon a finding by the Board of Zoning Appeals that a short term rental property has operated without a permit, there shall be a waiting period of up to one year from the date of such

finding for the property to become eligible for a STRP permit, as determined by the BZA. Properties that have been denied a permit by the Board of Zoning Appeals and made subject to the one (1) year waiting period prior to October 4, 2016 may re-appeal to the Board of Zoning Appeals with no payment of an appeal fee. The length of the waiting period shall be based upon whether the operator was aware or unaware of the requirement that the STRP have a permit. Evidence to be evaluated in making this decision may include but is not limited to:

- (a) the testimony of the STRP operator;
 - (b) the testimony of neighbors or others with knowledge of the STRP operation;
 - (c) evidence that the operator was informed of the requirement and disregarded this information;
 - (d) evidence that the operator had looked into requirements and misunderstood them;
 - (e) prior or repeat offenses by the operator under this section; and
 - (f) whether the operator, upon being informed of the requirement, obtained or attempted to obtain a permit before renting the STRP again.
- (3) Upon a finding of a court of competent jurisdiction that a short term rental property has operated without a permit, in addition to any other relief granted, there shall be a waiting period of three years from the date of such finding for the property to become eligible for a STRP permit.

Section 8. Notwithstanding the foregoing, properly issued and maintained permits issued under previous regulations may be renewed prior to their expiration, subject to compliance with operational regulations.

Section 9. The Metropolitan Clerk is directed to send a copy of this Ordinance to the Office of the Mayor, Director of the Planning Department, the Director of the Department of Codes Administration, and the Zoning Administrator for the Department of Codes Administration.

Section 10. This Ordinance shall take effect from and after its enactment, and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Brett Withers
Member of Council