



SHORT TERM RENTALS LAND DEVELOPMENT CODE AMENDMENT STAFF REPORT

SUMMARY

Owner N/A Applicant City of Orlando Project Planner Jason Burton, Chief Planner	Description of the Request: Request to amend the City's Land Development Code to allow "hosted" short term rentals of a single booking in all residential zoning districts. Staff's Recommendation: Approval of the request.	Public Comment: Staff posted this item on the city's website, and placed a classified ad in the Orlando Sentinel. No public comments have been received as of the date of the Staff Report, with the exception of four inquires from citizens; staff will present the various comments to the board and paraphrase any concerns at the MPB hearing. Staff has been interviewed twice by the Orlando Sentinel about proposed regulations.
Updated: November 13, 2017		

ANALYSIS

Overview.

The City is proposing to modify our Land Development Code to allow more short-term rentals within the City, specifically to allow such uses on a limited basis within all residential zoning districts; provided that there is only one booking at a time, and that the resident is on-site to "host" guests. These uses are to be accessory uses to a primary residential use—therefore the entire unit cannot be rented out as a short-term rental. Short-term rentals typically are visitor accommodations that are booked on various on-line platforms, like AirBnB and others, typically in individual residential units.

History.

The City has regulated short-term rentals as Commercial Dwelling Units since the early 1990's in the City's consolidated Land Development Code, when a hierarchy of uses was created to deal with visitor accommodations to the City:

1. *Hotel/Motel.* An establishment of lodging units designed for transient guests. These uses are usually limited in location to the City's activity centers and mixed use zoning districts. These uses also typically have parking facilities, restaurants, dining rooms, meeting rooms, cocktail lounges and similar uses. Hotel uses are prohibited in the all residential zoning districts, and state laws govern several aspects of hotel/motel uses.
2. *Bed and Breakfast.* A residential accessory use where rooms or lodging units and a breakfast service are provided to guest clients, for lengths of stay ranging from one night to seasonal. The City's current regulations require that the owner live on site. The City has a limit of no more than 8 visitors and there is a maximum of 500 square feet per property devoted to guest rooms. There are limited locations to Office, Mixed Use or Activity Center zoning districts, yet provides a conditional use process to allow them in the R-2B and above residential zoning districts (R-3's, MXD's). State laws also govern the occupancy/building requirements for these uses as well. A 1200-ft separation is required between bed and breakfasts.
3. *Commercial Dwelling Units.* Occupancies between 7 and 30 days for seasonal rentals, permitted in the O-3, Mixed Use and Activity Center zoning districts. Requires a conditional use permit in the O-1, O-2 and MXD-2 zoning district. A business tax receipt is required, and units are built to multi-family development standards.

Due to the above system of rentals and its configuration in City Code, typical residential zoning districts (R-1's, R-2A zoning districts) are not allowed to lease for less periods than a month in the City of Orlando to visitors; additionally, some Homeowner Associations within the City will typically have minimum lease requirements of six months. These regulations have been put into place to prevent transient occupancies in residential zoning districts, which can sometimes have greater impacts to a neighborhood than that of a typical residential dwelling unit (parking, noise, transient nature of the visitors, etc.).

The City has fielded a number of code enforcement complaints regarding short term rentals in the City, after which most properties come into compliance with City regulations. In two cases in the past year, two properties in particular have run fines totaling over \$5,000. Concerns expressed by neighbors that cause neighborhood complaints include parking, allowing an illegal use in a neighborhood, constant stream of guests, noise and disturbance problems, party houses, and the improper location of a business within a residential zoning district. The loss of a permanent resident and devoting of a residential unit to visitor accommodations can also have negative impacts to the surroundings and City overall. Complaints are typically in response to entire properties being turned over to a short-term rental and its negative secondary impacts.

Other cities (in particular beach communities) have had more severe problems, where entire large, new homes have replaced a traditional neighborhood development pattern and are used to operate de facto hotels—with multiple bookings—outside of the typical state and local regulations for hotels. In some communities, investors have been reported to buy entire floors of a condominium building to operate hotels outside of the state and local hotel regulations.

The State of Florida Legislature has also been active in potentially regulating local jurisdiction's ability to regulate short-term rentals. In 2011, the State removed the ability of local governments to regulate transient vacation rentals; yet grandfathered existing regulations such as those in place within the City of Orlando. However, the State revised laws regarding short term rentals in 2014, by only limiting local governments ability to regulate them on the basis of frequency or duration. In other words, a local jurisdiction could not pass a limit on the percentage of time units are allowed to be turned over into a short-term rental (e.g. San Francisco allows the entire unit to be rented out for a maximum of 25% of the year, New Orleans limits to 90 days a year—both frequency regulations; or, a regulation where there is a minimum 3-night stay, etc.). As with the previous 2011 legislation, ordinances that were already in place were not affected.

How do other jurisdictions regulate short-term rentals in Florida? There are several “legacy” regulations that are somewhat similar to Orlando's that have been in place for some time:

Orange County: Short term rentals are allowed in the R-3 transient rental zoning district, which is approximately 4.1% of the zoned properties within the unincorporated County. Similar to Orlando, Orange County fields complaints regarding short term rentals in their typical residential zoning districts where such uses are not allowed.

Jacksonville: Jacksonville prohibits short-term rentals in all residential zoning districts.

Key West: Allows the entire unit to be rented on a short term basis, however, it is limited to certain zoning districts that do not include the typical residential zoning district.

Miami Beach: Has an acute affordable housing shortage; short term rentals place additional pressure on reducing the amount of residential units in the city. Prohibits short term rentals in all single family homes, and limits to certain commercial zoning districts.

St. Petersburg: Prohibits short-term rentals.

Recent ordinances in Florida: Some jurisdictions in Florida have wrestled with various concerns regarding short-term rentals, and have passed ordinances to control the emerging issues regarding short-term rentals; sometimes these ordinances are also developed in reaction to the state's pre-emption issues with recent legislation.

Ft. Lauderdale: New licensing registration ordinance for short term rentals that targets potential negative impacts. (2015).

Hollywood: Safety and operational requirements, parking standards, inspections and registration (2015).

Flagler County: Occupancy limits, parking, registration requirements, & life, health and safety requirements (2015).

Panama City Beach: Set occupancy limits, registration requirements and enforcement rules (2015).

What is happening around the country? There are several tactics being taken by Orlando's peer cities throughout the nation that may have differing regulatory environments from Florida; however, the most recent successful programs throughout the country concentrate on only allowing “hosted” visits within most residential zoning districts with registration requirements. Here are elements of several different characteristics of laws regulating short term rentals throughout the country:

Prohibits short-term rentals: Atlanta and Oklahoma City.

Limits short-term rentals to certain zoning districts: Savannah, Austin, New Orleans, New York.

Limits to “hosted” units only: Los Angeles, Chicago, Denver, Portland

Limits frequency and duration: New York, San Francisco, New Orleans.

Analysis.

As the City begins to consider modification of our current regulations regarding short term rentals, there are several considerations and potential impacts that staff has analyzed which follow. To date there are up to 2,000 listings for short-term rentals within the City of Orlando at any given time, with the balance of these listings being in locations that are currently not allowed; the thought is that the City should progress to allow some expansion of short-term rental uses within the City, as the City innovates to incorporate more forms of the sharing economy. Also, being the center city of the nation's most visited region should make Orlando a leader in forming a policy that provides reasonable rules and regulations to uses that are occurring in the community.

Community Concerns of Short Term Rentals. The conversion of a dwelling unit to that of accommodations for visitors can have potential detrimental impacts to a surrounding neighborhood. Such commercial uses can have greater impacts than an existing residential use by exacerbating noise, parking, trash collection, and maintenance issues. There are sometimes fears of losing the fabric of a neighborhood when properties are turned over to transient populations, as people don't have to opportunity for a full time neighbor. The loss of a permanent dwelling unit can also exacerbate the housing market and its impact on affordable housing.

Community Benefits of Short Term Rentals. Besides allowing residents to participate in on-line platforms and the sharing economy, visits to urban areas can boost opportunities for visitors to experience the authentic Orlando—including the local businesses, main streets and downtown areas of our City. The opportunity of having visitors could provide for increased cultural exchange when they are hosted by residents. Hosting visitors to a residential unit can also provide supplemental income to residents to afford rents and mortgages, especially in a city where almost 45% of the population is considered "rent burdened".

Staff Recommendation. Allow hosted visits for short-term rentals, where the resident is present within their unit, a single booking at a time. This allows all residents and property owners - including all residential zoning districts properties within the City of Orlando - the ability to host guests on their property, which controls for potential nuisances.

Following the City's council workshop on short-term rentals in November 2016, staff have looked at a number of our peer cities and have concluded the innovative peers cities nationwide are going this direction regarding short-term rentals—where the resident "hosting" the guest is the best code enforcement that the City can hope to have to control for the variable nuisances that can arise. The leasing out of entire units for short term, transient visitors would not be allowed, unless the use is allowed as a Commercial Dwelling Unit under current requirements, or within a hotel/motel use. This requires that the resident be "on-site" to host the guest, akin to a mini-bed and breakfast.

Analysis of Staff Recommendation.

Hosted visits includes the requirement that the property owner/resident lives on-site and is present to manage the visitor in an effort to control for a variety of nuisance issues that can arise with short-term rentals; this reduces obnoxious impacts to neighbors when the entire unit is turned over to visitors (party-houses, late arrivals, parking problems, etc.). Having a visitor stay with a resident supports more visitors to discovering "urban" Orlando; hosts can better accommodate directions to local businesses, downtown and main street scenes. Allowing hosted visits has the ability for residents to supplement their income, while not exacerbating our affordable housing crisis when a residential unit is taken off of the market to exclusively accommodate visitors. The idea is that a visitor with the host on-site is not more detrimental than having family visiting.

Staff have carefully considered the hosted requirement in light of the state's current pre-emption laws regarding short-term rentals. Those laws place restrictions on local government's ability to place limits on the frequency or duration of visits. Oddly enough, the state's pre-emption of local law may not allow for the City to further open up our Commercial Dwelling Unit standards (grandfathered under state law), which requires a minimum seven day stay.

Bookings are limited to a single party, to prevent the running of a de facto hotel. Bed and Breakfasts under our current land development regulations are the proper avenue for which property owners may want to consider opening a business that welcomes multiple bookings from different parties.

The staff is working with our information technology partners to provide an on-line platform for registration of short-term rentals within the City of Orlando. The registration will require that the resident provide two forms of proof of residency, and provide details (such as the total number of bedrooms—and how many are devoted to guest stays; or, an accessory cottage) to ensure that the use as a short-term rental remains as an accessory use to the primary use of the property. If the resident of the property is not the property owner, notarized permission from the property owner in a form acceptable to the zoning official will be required, similar to other residential accessory uses. The registration approval from the City will be required to be posted with the on-line listing to provide for easy enforcement, and transparency to neighbors that the use complies with City requirements.

Elements of Orlando's Proposed Program.

Hosted Short-term Rental regulations will be drafted into the “accessory use” section of Chapter 58 of the City's Land Development Code, separate and apart from the Commercial Dwelling unit standards, and contain the following:

1. Only hosted visits—where the resident is present, is allowed. A use where the entire unit is rented for a short-term rental is only allowed as a Commercial Dwelling Unit under existing code requirements, which have zoning location limitations.
2. Only a single booking is allowed at a time; otherwise, the use will be considered a Bed and Breakfast, which are limited in their location, are sometimes required to obtain a Conditional Use Permit, and have further state licensing requirements.
3. On-line registrations and annual payment of fees to the City will create an opportunity to easily comply with City requirements and will count towards the Business Tax Receipt requirements of the City; posting of the registration to the on-line platform provides transparency to neighbors and easier enforcement by City staff.
4. Ensuring that the property remains as a residential use allows our residents to supplement their household incomes, without exacerbating the City's housing crisis. A subordinate amount of bedrooms devoted to short-term rental or the use of an on-site accessory cottage ensures that the short-term rental use remains an accessory use to the primary residential use of the property.
5. Proof of residency requirements ensures that the unit is the hosting residents' primary residence; two forms of proof of residency will be required (e.g. OUC bill, driver's license, etc.).
6. The Planning Official shall be authorized to promulgate reasonable rules and regulations regarding the implementation of the above elements of the above short-term rental program.

Related Code Amendments.

Since the City is reconsidering how and where short-term rentals are allowed within the City, two additional related code amendments are proposed to slightly modify the Bed and Breakfast and Commercial Dwelling Unit standards:

- The Bed & Breakfast requirements of the City requires that the property owner live on site; it is proposed that a proprietor live on-site. Since the hosted short-term rental proposal both allows tenants and property owners the ability to host, it makes sense that the City would not restrict Bed & Breakfasts exclusively to owner-occupied properties. Additionally, there is no appreciable difference in neighborhood impacts whether a proprietor or property owner is operating the Bed & Breakfast.
- Should state law allow the City to modify our Commercial Dwelling Unit regulations, it is reasonable that the minimum seven night stay be deleted so that no minimum night duration stay is required. This will provide for a proper avenue for home sharing of the entire unit to occur in multi-family, mixed-use and activity center zoning districts, where these uses—including hotels/motels, are appropriate. This provision also allows the City to come into closer conformance with state law which seeks to limit a city's power to have a duration (stay) requirement. A business tax receipt and other approvals are required to operate such a use according to current City codes.

Growth Management Plan/Code Consistency Analysis.

The proposal preserves residential units throughout the City, and may supplement household incomes to induce housing affordability, consistent with several goals of our Growth Management Plan (GMP). While tourism has been a large driver of the regional economy, the introduction of accommodating the sharing economy through short-term rentals grows new economic opportunities for our residents and allows for innovation. The proposal strengthens the possibilities for a broad range of family situations, and could create cottage industry opportunities for individual households. The amendment is also responsive to expanding individual property rights within the City, and is intended to not cause a detriment to surrounding properties. Finally, the City of Orlando is a city that has innovated with its codes, providing for a variety of mixed use zoning districts, as well as a system of accessory uses that can be accomplished in a residential zoning district; providing this available use to residential zoning districts is consistent with the City's ongoing philosophy of allowing accessory uses, especially if the regulation is crafted to control for disruptions for the surrounding neighborhood.

Conclusion.

Central Florida is the most visited region within the United States, and one of the top visitor destinations in the world. The area hosts over 65 million visitors a year. With the City of Orlando being the central city to the Central Florida region, the City should be responsive to providing an avenue for residents and visitors to participate in on-line sharing platforms. However, problems may arise when entire residential units are devoted to transient visitors in residential neighborhoods—and there are current limitations to where those uses are allowed within our City. Allowing for hosted visits to our City, where the resident is on-site to host the visitor, controls for potential nuisances, may increase household income, and provides a visitor experience to visit the “you don't know the half of it” Orlando—including our downtown, main streets and local businesses.

FINDINGS

In review of the proposed LDC amendment, it is found that:

1. The proposed Land Development Code amendment within the interest of the health, safety and welfare of the City of Orlando, and results and logical development/use patterns with the City.
2. The proposed Land Development Code amendment is consistent with the State Comprehensive Plan (Chapter 187, Florida Statutes).
3. The proposed Land Development Code amendment is consistent with the East Central Florida Strategic Regional Policy Plan.
4. The proposed Land Development Code amendment is consistent with the provisions of Chapter 163, Part II, Florida Statutes.
5. The proposed Land Development Code amendment is consistent with the objectives and policies of the City's adopted Growth Management Plan (GMP).

RECOMMENDATION

Staff recommends approval of the proposed concepts for a Land Development Code Amendment, finding that the amendment is consistent with the City's Growth Management Plan. If the recommendation is approved by the City Council, the City Attorney will draft and prepare an ordinance for approval and adoption by the City Council.