



MEMORANDUM

TO: Public Works Committee

CC: Bola Akande, City Administrator

FROM: Lisa Koerkenmeier, AICP, Director of Planning and Development

DATE: November 8, 2017

SUBJECT: Short Term Rentals in Residential Districts

INTRODUCTION:

In general, short term rentals refer to occupancy for less than 30 days, and are classified as lodging establishments if they have five (5) or more guest rooms. There has been a growing concern among many communities about regulating establishments with less than five (5) rooms such as home sharing and vacation rentals through sites like Airbnb, VRBO, Flipkey, and HomeAway. To date the State of Missouri has not adopted regulations addressing the operation of short-term rentals. Staff has been researching this business/residential use and a summary of staff findings is attached to this memo for your review.

BACKGROUND:

There are short-term rental listings for properties in Brentwood on the Airbnb website as well as other similar websites. Generally, these websites do not provide a specific address until the person inquiring has made a reservation. However, staff has begun documentation on two properties; 8822 Pine and 2646 Helen. Currently our Zoning Code does not specifically address short-term rentals since this has become a more popular, fast-moving trend since 2014 when the Zoning Code was last updated. Staff has taken a position since short-term rentals are not permitted they are prohibited, nor would short-term rentals comply with the City's occupancy permit program. However, prior to remedying the violation of operating short-term rentals, staff would prefer to amend the Zoning Code so it is clear that operating short-term rentals are prohibited in Brentwood.

Staff is developing a proposed ordinance to amend the zoning regulations to clarify the prohibition of short-term rentals in all residential zoning districts. A new definition for short-term rentals would be added to the definition section. The home occupation provisions would be amended to prohibit short-term rentals. The district regulations for each residential zoning district would be amended to clarify that "residential" use does not include short-term residential use by transient guests (i.e. short term rental). Lastly, additional language concerning occupancy permits would be added to clarify that short term rentals cannot qualify for an occupancy permit. Additionally, staff will need to address the commercial district regulations which permit by right residential uses for possible amendments.

FINANCE/OPERATIONS:

No impact on finance and operations.

RECOMMENDATION:

If the Public Works Committee supports the prohibition of short-term rentals, staff will continue to work with Stephanie Karr to finalize the text amendments. Since the propose amendments will involve Chapter 400, the City's Zoning Code, the amendments will be presented to the Planning and Zoning Commission and a recommendation forwarded to the Board of Aldermen for your consideration.

ADDITIONAL INFORMATION:

Staff research of Short Term Rentals (SRT) has included:

- Property Rights vs. Police Powers- constitutional concerns, safety & welfare, neighborhood character, property value. Currently if not permitted, it is prohibited, but zoning regulations are generally interpreted in the least restrictive upon the rights of the property owner.
- Types of regulations include complete ban, maximum number, distance, business license, taxes, and enforcement of existing regulations such as property maintenance, nuisance abatement and operational standards. Overall goal is to strike a balance between protection of health, safety and welfare vs. overregulation that encourages underground rentals.
- Short Term Rental Freedom Act is proposed legislation introduced and passed in the House but not yet voted on in the Senate. (House Bill No. 2662). Does not appear it will pass.
- City of Maplewood Short Term Rentals (STR) – Ordinance, highlights below:
 - Number of STR's is capped at six (6) properties.
 - Must meet city and state building, fire, safety and occupancy codes.
 - STR's only allowed with a conditional use permit in the Single Family Residential District.
 - Does not supersede any deed restrictions or private conditions on property.
 - STR's must be owner occupied structures.
 - STR's must have owner on-site during evening when rented (45 min complaint response).
 - Not more than 2 rooms may be rented, 2 persons per room maximum.
 - Annual STR business license required (\$75)
 - Owners must obtain and keep transients or renters contact info for 3 years.
 - Maximum stay is 30 days at a time.
 - Enhanced noise requirements for occupied STR structures.
 - Off-street parking must be available for STR occupants.
 - STR's must allow full access to the site by city inspectors.
 - General statement of City Manager authority to mitigate any potential secondary affects that may be unique to STR's.

Additional Considerations- limits for total STR's per calendar year, neighborhood preservation, allow in other zoning districts, unfair competition for bed and breakfast operations, monitor housing availability, limit commercial operators with multiple listings, and safety.

City of Ellisville draft legislation was also reviewed. A few items that varied from the City of Maplewood Ordinance include- limitation of rentals to principal residential dwelling (no rentals of detached or secondary residences are allowed), a local contact person must be available 24-7 to respond to complaints regarding operation, quiet time from 10pm to 10am, owner must obtain occupancy permit allowing STR tenants and parking was also addressed. This ordinance also addressed penalties for violation.

Proposed Transient Guest Taxation Legislation (House Bill No. 2704) and taxing authority were also a topic of discussion. According to Section 94.110RSMo third class cities are not granted power to tax short term rentals, but constitutional charter cities do have taxing authority.