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**PLANNING COMMISSION REPORT**  
**Regular Agenda: Public Hearing Item**

PC Staff Report  
05/23/2018

**ITEM NO. 6      TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; SHORT-TERM RENTALS (JSC)**

**TA-18-00079:** Consider a Text Amendment to the City of Lawrence Land Development Code to permit short-term rental units. *Initiated by City Commission on February 20, 2018.*

**RECOMMENDATION:** Staff recommends the Planning Commission forward the proposed amendment to Articles 4, 5, 9, and 17 of the Lawrence Land Development Code permitting short-term rental unit uses to the Lawrence City Commission with a recommendation for approval.

**Reason for Request:** The City Commission initiated this text amendment to the Land Development Code at their [February 20, 2018 meeting](#) to consider defining and adding this short-term rental unit use to certain zoning districts.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None received

**ATTACHMENTS**

- Attachment A: Revised Land Development Code sections
- Attachment B: Background material on short-term rental units

**BACKGROUND**

Short-term rental units provide sleeping accommodations on a short-term basis (less than 30 days) where the property owner may or may not be present during the stay. While these have been around for some time, improvements in technology and the expansion of the sharing economy has drastically increased the frequency in which they are used and made available. There are a number of companies providing a web-based platform to locate and use short-term rental units. Most often, people associate this type of use with certain online platforms such as Airbnb, VRBO, HomeAway, FlipKey, and other similar companies. Short-term rental units differ from bed and breakfast uses in that short-term rental units must adhere to the occupancy limits of Section 20-601(d): *Occupancy Limits*, if the recommended language is approved.

There are a number of potential benefits that short-term rental units provide a community. They bring in additional revenues through sales tax and transient guest tax. They also provide hosts with an additional income source. This additional income may be applied towards mortgages, property

improvements, property taxes, and other items. Short-term rental units also give visitors an alternative option to traditional accommodations and the ability to 'live like a local' while visiting Lawrence.

There are a number of potential concerns that short-term rental units impose on a community. This particular use is a transient accommodation, which does place it in competition with hotel/motel uses. By their very nature, they can cause neighbors to wonder who is staying next door, which can often lead to safety concerns. These safety concerns may be present for hosts, guest, and neighbors. Some communities also have seen impacts to affordable housing. Finally, there is often a concern that short-term rental units may be used as a party house.

Currently, short-term rental units are not a permitted land use within the Land Development Code. While the code does enumerate a variety of transient accommodation uses, such as Bed and Breakfast, Campgrounds, Elderhostel, and Hotel, Motel, Extended Stay uses, this new type of use does not fit within their definitions. Additionally, some of the other Land Development Code requirements and regulations for those existing uses could be burdensome to apply to short-term rental units. The enforcement of short-term rental units is a complaint driven process.

City Staff held a [public meeting](#) on September 26, 2017 to meet with stakeholders and community members outlining the process for developing some code language for short-term rental units. Additionally, a survey was available through *Lawrence Listens* from September 26, 2017 to October 13, 2017. During that time frame, staff received a number of letters and written testimony. This public input has been used to help guide the development process. The City Commission held a work session on [November 14, 2017](#) to discuss various aspects of a possible ordinance and provided guidance on some of the higher level aspects of this text amendment.

The guidance and discussion by the Lawrence City Commission included:

1. Licensing and inspection protocols for short-term rental units based on the current rental licensing and inspection program with the required inspection of short-term rental units to occur on a three-year rotation.
2. Remove the local contact person requirement for owner-occupied units because the owner of the property will serve as the contact person for owner-occupied Short-term rentals.
3. All non-owner occupied properties will be subject to the existing Special Use Permit (Section 20-1306) process at which point conditions can be included.
4. Require notice to neighbors within 200 feet of the short-term rental unit. For non-owner occupied short-term rentals, notice to neighbors shall be provided in the normal application and notification process for the Special Use Permit.
5. Develop recommendations regarding properties that are currently receiving City incentives and include language about affordable units within incentivized projects.

Based on the City Commission's discussion and direction, this text amendment addresses those aspects related to the Land Development Code. Other portions of the City Code will be revised and updated to match the intent and direction provided by the City Commission. When this item is forwarded to the City Commission, it will be paired with the other code amendments to implement the complete program.

## **OVERVIEW OF PROPOSED AMENDMENT**

Based on the City Commission's discussion and direction, the proposed text amendment establishes two tracked based on the whether short-term rental unit is or is not owner occupied. As written, this amendment considers a short-term rental unit an accessory use when the unit is concurrently owner-occupied since the principal use would be a Household Living use. This means that the owner of the property lives within the unit a majority of the time. This does not require the owner to be present at the time the unit is being used as a short-term rental unit. The owner may or may not be present when the unit is in use as a short-term rental unit.

The following is a summary listing of the proposed changes:

1. Article 4: Use Table
  - a. To add "Short-Term Rental Unit" as a use into Section 20-402: "Residential District Use Table."
  - b. To add "Short-Term Rental Unit" as a use into Section 20-403: "Nonresidential District Use Table."
2. Article 5: Use Regulations
  - a. Create Section 20-522 "Short-Term Rental Unit" use standards establishing that owner occupied units are permitted by right and non-owner occupied units are permitted only with the approval of a Special Use Permit. All short-term rental units would adhere to the occupancy limits of Section 20-601(d): *Occupancy Limits*.
3. Article 9: Parking, Loading and Access
  - a. To establish the minimum amount of vehicle parking required in Section 20-902: "Off-Street Parking Schedule A" for "Short-Term Rental Unit: Non-Owner Occupied" (Parking for owner-occupied short-term rentals is enumerated in proposed Section 20-552 "Short-Term Rental Unit" use standards.
4. Article 17: Terminology
  - a. Defining "Short-Term Rental Unit" in Section 20-1781.

Due to the number of housing options permitted by the Land Development Code, there are certain scenarios that may potentially involve Short-Term Rental Unit(s):

- A Short-Term Rental Unit would be considered an Accessory Use when located within a registered Accessory Dwelling Unit. (Note: the Land Development Code requires that the property owner reside in either the primary residence or the Accessory Dwelling Unit, and that the occupancy is limited to amounts listed in Section 20-601(d).
- A Short-Term Rental Unit would be considered an Accessory Use when the property is owned by a corporation, and an agent of that corporation resides in the property. An agent of the ownership group can stand as the property owner in this instance.
- A Short-Term Rental Unit also would be considered an Accessory Use when located within a duplex or multi-dwelling property when the Short-Term Rental Unit is located within the same dwelling unit in which the owner resides.
- If the Short-Term Rental Unit exists within another unit within the duplex or multi-dwelling in which the owner does not reside, the Short-Term Rental Unit would require a Special Use Permit to be eligible as a Short-Term Rental.

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## **CRITERIA FOR REVIEW AND DECISION-MAKING**

Section 20-1302(f) provides review and decision-making criteria on proposed text amendments. It states that review bodies shall consider at least the following factors:

### **1. Whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition;**

This text amendment originates from a changing condition in both the community and in the larger economy. Short-term rental units are not a new type of use. However, their prevalence has increased in recent years with the implementation of better technology, making the marketing and booking of short-term rentals more convenient than previously possible.

Homesharing existed at the time of the Land Development Code's adoption, but it was not as easily accessible as it has become. With the creation and popularity of peer-to-peer rental websites expanding, this has lowered transaction costs, allowing homeowners and tenants to share available spaces cheaper and easier than previously possible and on a much larger scale. This proposed text amendment would update the Land Development Code to align it with the recent changes in the way that transient accommodations are now operating in today's economy. Other city code chapters also will be updated to implement the associated aspects for licensing and inspection.

### **2. Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Code (Sec. 20-104)**

The comprehensive plan does not specifically address these amendments. *Horizon 2020* categorizes uses very broadly; generally aggregating more specific uses into the broader categories such as residential, commercial, and industrial.

This proposed amendment clearly defines what a "Short-Term Rental Unit" is, and it would allow spaces to be reviewed and approved to perform these functions in a manner that is consistent with their immediate surroundings and ensure more adequate compatibility with surrounding neighborhoods. These amendments carry out the plan's goal of using zoning standards to create compatible neighborhoods and efficient development processes, as noted in chapters 3, 4, 5, and 6 of *Horizon 2020*.

*Horizon 2020* Policy 3.2c addresses, "Use[ing] innovative planning and financing to minimize or eliminate conditions causing decline" (p. 5-15). During the public input process, many stakeholders noted that they chose to make space available for short-term rental uses as a means to generate additional income. This additional income may go towards mortgages, property improvements, property taxes, and other means to help bolster their property and their neighborhood.

Similarly, Policy 3.5 aims to minimize encroachments of nonresidential uses into the neighborhoods by asking the City to, "Carefully consider and evaluate transition areas between different land uses with differing densities, building types and intensities of use to ensure compatibility of uses." While this could be considered an introduction of a non-residential use into neighborhoods, it is similar in many ways to establishing a home occupation in a residential area, which is a permitted use in the Land Development Code.

Short-term rental units would differ in process where the residence is not owner-occupied. Staff feels that by requiring non-owner occupied short-term rental units to obtain a Special Use Permit allows for

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the careful consideration and evaluation of this potential use on a case-by-case basis and in the larger context of the overall neighborhood. Utilizing the Special Use Permit process also allows conditions to be placed on the use at that time to help alleviate the effects, if any, in each instance.

The comprehensive plan generally promotes compatible land use activities, which, “The character and appearance of existing residential neighborhoods should be protected and enhanced.” (p. 5-1) Staff believes that allowing short-term rental units would both permit owners to take advantage of a new and innovative way to permit people to use their properties and make available a potential new income stream that is developing with recent technological advancements.

## **Conclusion**

The Land Development Code currently does not permit short-term rental units as a permitted land use within the City of Lawrence. The inclusion of this text amendment would permit the use, while providing guidance and regulations to protect both the operator and the neighboring residents. By making short-term rental units accessory to an owner-occupied unit, this allows for a quicker review and licensing process, making it reasonable for those individuals who would like to pursue this use.

For the properties where the owner is not a resident, requiring a Special Use Permit would allow for the use while providing assurances to the surrounding owners and residents. A Special Use Permit is a discretionary approval process that allows conditions to be placed on the use at that time to help alleviate the effects, if any, in each instance. The associated procedure entails public review and evaluation of a use’s operating characteristics and site development features, and is intended to ensure that proposed Special Uses will not have a significant adverse impact on surrounding uses or on the community at-large.

Staff recommends the Planning Commission forward the proposed amendment to Articles 4, 5, 9, and 17 of the Lawrence Land Development Code permitting short-term rental unit uses to the Lawrence City Commission with a recommendation for approval.