

**ORDINANCE NO # 8 - 2021**

**COUNTY OF FRANKLIN, KENTUCKY**

**AN ORDINANCE AMENDING THE FRANKLIN COUNTY CODE OF ORDINANCES CHAPTER 155, SECTION 155.010 (DEFINITIONS), SECTION 155.085 (TABLE OF PERMITTED USES) AND SECTION 155.089 (NOTED SPECIAL CONDITIONS) TO ADD SHORT TERM RENTAL NON-OWNER OCCUPIED AS A USE IN THE AGRICULTURAL, RURAL RESIDENTIAL, RESIDENTIAL A, RESIDENTIAL B, RESIDENTIAL C, SPECIAL RESIDENTIAL AND PLANNED RESIDENTIAL ZONING DISTRICTS**

**WHEREAS**, The Franklin County Fiscal Court, having heretofore enacted an Ordinance relating to zoning regulations and zoning district maps in accordance with a Comprehensive Plan and Kentucky Revised Statute Chapter 100; and

**WHEREAS**, the aforesaid Ordinance provides for amendments to the zoning ordinance text and maps and requires the Frankfort/Franklin County Planning Commission to forward their recommendations for approval or denial of the text amendment, along with their findings of fact, to the Franklin County Fiscal Court for action; and

**WHEREAS**, The Frankfort/Franklin County Planning Commission held a public hearing on March 11, 2021 and adopted a summary of the evidence and findings of fact on March 11, 2021 as required by K.R.S. 100; and

**NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF FRANKLIN, COMMONWEALTH OF KENTUCKY, THAT:**

SECTION I. The Code of Ordinances Chapter 155, Section 155.010 (Definitions), is hereby amended to read as follows:

**SHORT TERM RENTAL – NON-OWNER OCCUPIED: A residential dwelling unit that is not owner-occupied and is rented, leased, or otherwise assigned for a tenancy of less than 30 consecutive days duration for transient guests, where no meals are served. This term does not include hotel or motel rooms, bed and breakfast inns, or boarding and lodging houses.**

The Code of Ordinances Chapter 155, Section 155.085 (Table of Permitted Uses), is hereby amended to read as follows:

4.06 CHART OF PERMITTED USES																			
LAND USE	CODE	AG	RR	RA	RB	RC	RS	RD	RL	RH	RM	PO	CL	CG	CH	IC	IG	PR	
<b>RESIDENTIAL</b>																			
Single-family dwellings	01	3	P	P	P	P	P	P	P	P		P	P	C	P				
Two-family dwellings	02	3				C	4	P	P	P		C	P	C	P				
Three- or More Family	03,04,05								P	P		P	C	C	C				
Boarding, Rooming & Fraternity Houses	06							C	C	P		C	C	C	C				
Hotels, Motels	07													P	P				
Manufactured Home	08	P	P									P							
Mobile Home	08	P	P									P							
Short Term Rental-Non Owner Occupied		C	C	C	C	C	C											C	
<b>EXTRACTIVE &amp; INDUSTRIAL</b>																			
<b>NON-MANUFACTURING</b>																			
Field Crop Farms	101	P	1															P	P
Fruit, Tree Nut & Vegetable Farms	102	P	1															P	P
Livestock farms	103	P	2	2	2	2												2	2

The Code of Ordinances Chapter 155, Section 155.089 (Noted Special Conditions), is hereby amended to read as follows:

(26) To ensure compliance of short-term rentals, the following requirements shall be fulfilled:

- (a) The maximum stay for a short-term rental shall be 29 consecutive days for the same occupant.
- (b) The dwelling unit shall be limited to a single short term rental contract at a time.
- (c) The maximum number of persons residing in the short-term rental unit shall not exceed two times the number of bedrooms plus four individuals.
- (d) No food or alcoholic beverages shall be prepared for or served to the guest by the host.
- (e) Outdoor signage in conjunction with the short-term rental is prohibited.
- (f) If the short-term rental is not the primary residence of the host, they shall provide information on how to be contacted by phone, email, and address. This information shall be provided in a conspicuous location within the short-term rental.
- (g) Each short-term rental shall provide an evacuation plan and provide smoke detectors in compliance with the Kentucky Residential Code.
- (h) Parking for short term rentals shall be provided in accordance with Article 10 of the Zoning Ordinance.
- (i) All short-term rental hosts must submit an annual registration form to the Department of Planning and Building Codes to ensure that all requirements of the conditional use permit are being met, including smoke detectors, as well as obtain a Franklin County business license.
- (j) If the short-term rental ceases operations they shall notify the Planning and Building Codes Department in order to keep an up-to-date record of operating short-term rentals within the County.
- (k) The use is subject to all applicable taxes including state and local transient room tax and state sales tax.

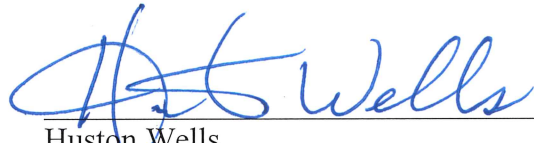
SECTION II. CODIFICATION. The provisions of Section I of this Ordinance shall be published as appropriate in the Franklin County Code of Ordinances as soon as practicable.

SECTION III. SEVERABILITY CLAUSE. If any section, part of provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the Franklin County Fiscal Court in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

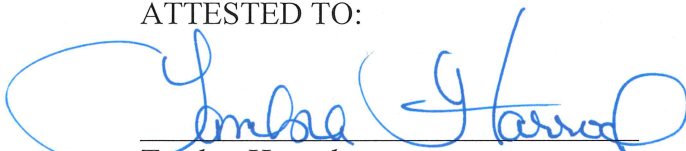
SECTION IV. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

**INTRODUCED AND GIVEN FIRST READING IN SUMMARY** at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky, held on the 30<sup>th</sup> day of June, 2021.

**GIVEN SECOND READING AND APPROVED** at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky, held on the 23 day of July, 2021 and of record in Fiscal Court Order Book 31, Page 409

  
\_\_\_\_\_  
Huston Wells  
Franklin County Judge/Executive

ATTESTED TO:

  
\_\_\_\_\_  
Tandra Harrod  
Fiscal Court Clerk

**SUMMARY**

This ordinance amends Chapter 155, Section 155.010 (Definitions), Section 155.085 (Table of Permitted Uses) and Section 155.089 (Noted Special Conditions) to add “Short Term Rental Non-Owner Occupied” as a use in the Agricultural, Rural Residential (RR), Residential A (RA), Residential B (RB), Residential C (RC), Special Residential (RS) and Planned Residential (PR) Zoning Districts.

**FRANKFORT/FRANKLIN COUNTY PLANNING COMMISSION**

**March 11, 2021  
5:30 PM**

**SHERRON JACKSON, CHAIRMAN -- PRESIDING**

The meeting was called to order at 5:30 p.m.

Chairman Jackson asked the Secretary to Call the Roll.

MEMBERS PRESENT:

David Boggs  
Patti Cross  
Keith Lee  
Paul Looney  
Timothy Luscher  
William I. May, Jr.  
Darrell Sanderson  
Charles Stewart  
Russell Wright  
Sherron Jackson, Chairman

(10)

Also Present:

Edwin Logan, Commission Attorney  
Eric Cockley, Director, Frankfort Department of Planning & Community Development  
Robert Hewitt, Director, Franklin County Planning & Building Codes Department  
Ben Judah, Planning Supervisor, Franklin County Planning & Building Codes Department

There being a quorum, the meeting was called to order.

Chairman Jackson asked for a motion to approve the minutes. Mr. Boggs made the motion to approve the minutes. The motion was seconded by Ms. Cross. Chairman Jackson asked the Recording Secretary about two items in the minutes. One appeared to be an incomplete sentence and the second was a typographical error. Ms. Sewell explained that she had needed to review the tape of the meeting to complete that sentence and had failed to insert the information into the sentence and that the typographical error should have been the word "contingent." She stated that she would make the addition and correction and send the corrected minutes to the members. After a voice vote, the motion passed unanimously.

Chairman Jackson asked for a motion to approve the payment of bills. Mr. Luscher made a motion to approve the following bills:

Edwin Logan (Legal Fee, February, 2021)	\$1,500.00
Vickie Sewell (Secretarial – PC – Feb. 11, 2021)	300.00
State Journal (Legal Advertising)	774.84
Dawn McDonald (BZA 2/9/2021)	75.00

Dawn McDonald (BZA 3/9/2021)

75.00

The motion was seconded by Mr. Looney and passed unanimously.

Under Staff Items, Mr. Cockley stated that the RFP for the Comprehensive Plan update had been advertised and posted on the Kentucky Planning Association's website and the City's website. He stated that responses will be due by March 15, 2021.

There were no Reports of Standing Committees.

There were no Reports of Special Select Committees.

Chairman Jackson asked the Secretary to introduce the next item:

**CONTINUATION OF PUBLIC HEARING: Finn Glenn Farm, LLC is requesting approval of a zone map amendment from Rural Residential District "RR" to Agricultural District "AG" for 205-acres of property at 2100 Harvieland Road. The tract is more specifically identified as PVA Map Number 046-00-00-007.00. (County item)**

Mr. Lee made a motion to take the item from the table, to adopt the Summary and include written information and emails received from interested parties and to take action on the item. The motion was seconded by Chairman Jackson and passed unanimously.

Mr. Lee made a motion to approve findings of fact one and two that were contained within the staff report. The motion was seconded by Chairman Jackson and passed unanimously.

Chairman Jackson made a motion to cease the making of findings of fact. The motion was seconded by Mr. Luscher. and passed unanimously.

Mr. Lee made a motion to recommend to the Franklin County Fiscal Court that the Zone Map Amendment request by Finn Glenn Farms, LLC to rezone from Rural Residential District "RR" to Agricultural District "AG" for 205 acres of property at 2100 Harvieland Road be approved. The motion was seconded by Ms. Cross and passed unanimously.

Chairman Jackson asked Mr. Logan if the first two public hearings could be heard at the same time because they were basically the same item. Mr. Logan stated that the Planning Commission could consider the items together, but that the record needed to stay clean and recommended that they be heard separately.

Chairman Jackson asked the Secretary to introduce the next item:

**PUBLIC HEARING: Text Amendment to the City of Frankfort Zoning Ordinance to establish Small Cell Tower System Regulations.**

The Secretary swore in Eric Cockley, Frankfort Planning & Community Development

Director.

Mr. Logan asked Mr. Cockley to provide a brief summary of the Text Amendment. Mr. Cockley stated that the existing cell towers do not provide the functionality to provide for the 5G technology. The existing regulations did not contemplate this need. Mr. Cockley stated that in order to achieve the 5G network it was necessary for Cell companies to “augment” the more typical cell tower with these smaller cell tower systems. Mr. Cockley stated that the small cell towers cannot be regulated in the same manner as the large cell towers.

Mr. Cockley stated that the Zoning Update Committee had met on numerous occasions to consider the proposed regulations. At their January 27, 2021 meeting, the committee had recommended consideration by the Planning Commission.

Under Commission questioning, Chairman Jackson asked Mr. Cockley if the proposed regulations had been sent to companies like ATT and Bellsouth for their review. Mr. Cockley stated that he had shared the regulations with them. He stated that the companies had worked with staff to prepare the changes. He stated that the companies have no problems with the amendment.

Mr. Looney asked how the cell towers would be reviewed in the historic districts. Mr. Cockley stated that the historic district guidelines currently do address utilities. He stated that he envisioned that these smaller towers would be on roofs of buildings in the downtown area or in some other means that would not be an issue in the historic districts. Mr. Luscher stated that he wanted to make sure that the downtown and historic districts were protected.

Ms. Darrell Sanderson entered the meeting.

After further discussion, Mr. Lee made a motion to close the public hearing, adopt the staff report as the summary and to recommend to the Frankfort City Commission that the proposed Small Cell Tower text amendment be approved. The motion was seconded by Ms. Cross and passed unanimously.

Chairman Jackson asked the Secretary to introduce the next item:

**PUBLIC HEARING: Text Amendment to the Franklin County Zoning Ordinance to establish Small Cell Tower System Regulations.**

The Secretary swore in Mr. Robert Hewitt.

Mr. Logan qualified Mr. Hewitt. Under questioning, Mr. Hewitt testified that he had prepared the proposed text amendment. He stated that he had no additions or deletions to the staff report or to the proposed ordinance change. Mr. Logan asked Mr. Hewitt to provide a brief summary of any differences between the City version and the county version of the text amendment. Mr. Hewitt stated that the County does not have an historic district zoning. He stated that the County’s text amendment does not contain the historic district language. Mr. Hewitt stated that the remaining regulations were the same as the City’s version.

Mr. Hewitt stated that the Zoning Update Committee had met on numerous occasions to consider the proposed regulations. At their January 27, 2021 meeting, the committee had recommended consideration by the Planning Commission.

Mr. Logan asked that the Staff Report be filed into the record. Without objection, Chairman Jackson ordered the report to be filed into the record.

After further discussion, Ms. Cross. made a motion to close the Public Hearing, adopt the Staff Report as the Summary and to recommend to the Franklin County Fiscal Court that the proposed Small Cell Tower text amendment be approved. The motion was seconded by Mr. Boggs and passed unanimously.

Chairman Jackson asked the Secretary to introduce the next item:

**PUBLIC HEARING: Text amendment to the Franklin County Zoning Ordinance, Table of Permitted Uses relating to the addition of Dance Halls, Studios & Schools (Reception Assembly Hall) in the Agriculture and Rural Residential zoning Districts.**

It was noted that Mr. Hewitt had been previously sworn.

Mr. Logan qualified Mr. Hewitt. Under questioning by Mr. Logan, Mr. Hewitt stated that he had prepared the staff report and the proposed text amendment. He stated that he had no additions or deletions to the proposed text amendment or his staff report. Mr. Logan asked Mr. Hewitt to provide a brief summary of the text amendment.

Mr. Hewitt stated that he has had requests for business licenses for these uses, but that the County's Zoning Ordinance does not currently allow for them. Mr. Hewitt stated that in recent years barns have become a unique entertainment venue for dances, weddings, receptions, etc. He stated that he had contacted surrounding counties to determine how each had handled the land use. He stated that the use will require a Conditional Use Permit in Agriculture and Rural Residential Districts due to the fact that they are located in a non-commercial location.

Under Commission questioning, Mr. Looney asked why the Limited Commercial and General Commercial zone districts were not considered. Mr. Hewitt responded that the Limited Commercial district provided more of a neighborhood type service and the assembly hall use is too intense for the zone district. He stated that General Commercial is more of a transitional zone district between residential uses and more intense commercial uses and may not be appropriate, as well.

Mr. Luscher asked if the Assembly Halls could be attached to hotels. Mr. Hewitt responded that the regulations proposed applied only to County properties.

Under public comment, Charles Jones stated that he had been approached by a couple who wanted to have an Assembly Hall on their property. He stated that he got in touch with Mr.



Hewitt and found that he was already working on the text amendment to allow the use. He stated that he hoped the Commission would support the Text Amendment.

Mr. Sanderson stated that he was concerned with where the uses would be permitted and if rural roads would be able to handle the additional traffic and the necessary commercial truck traffic. Mr. Jones stated that that was the reason they are being recommended as a Conditional Use Permit so that those issues could be looked at in a case by case manner.

Mr. Hewitt identified the Zoning Ordinance section for Conditional Uses and outlined what each use had to be reviewed by, which includes adequate capacity for the increased traffic on the roadways.

Mr. Logan stated that he felt the Conditional Use Permit classification for these uses was the most appropriate category because it would allow for a review of each request to ensure compliance with the regulations.

After further discussion, Ms. Cross made a motion to close the Public Hearing, adopt the Staff Report as the Summary of the hearing and to recommend to Franklin County Fiscal Court that the proposed Text Amendment to include Reception/Assembly Halls be approved. The motion was seconded by Mr. Lee and passed unanimously.

**PUBLIC HEARING: Text amendment to the Franklin County Zoning Ordinance, Table of Permitted Uses relating to the addition of Mini-warehouse/self-storage facilities in the General Commercial and Highway Commercial zoning districts.**

It was noted that Mr. Hewitt had been previously sworn in.

Under questioning by Mr. Logan, Mr. Hewitt stated that he had prepared the staff report for the text amendment. He stated that there were no additions or deletions to the staff report. Mr. Hewitt stated that the Zoning Ordinance Update Committee had recommended consideration by the Planning Commission and that he was recommending approval to the Commission. Mr. Logan then asked Mr. Hewitt to provide a brief summary of the Text Amendment.

Mr. Hewitt stated that currently those uses are not permitted within the General Commercial and Highway Commercial zoning districts. He stated that the City of Frankfort's regulations permits the storage facilities in the Highway Commercial and Planned Commercial districts. He stated that he is proposing to add self-storage facilities to the Highway Commercial district with several special noted conditions.

Mr. Logan asked that the staff report be entered into the record. Without objection, Chairman Jackson entered the report.

Under public comment, Ms. Melanie Van Houten stated that she wished to speak to a possible location of storage buildings next to her farm. Mr. Lee asked Mr. Logan if this was a public hearing on the text amendment only and not for a specific location. Mr. Logan responded that that was correct and that no specific properties would be considered.

Mr. Joe Grider stated that he felt the 100' buffer should be reduced to be consistent with the city's 30' buffer. Mr. Hewitt stated that he would not object to that change.

After further discussion, Mr. Lee made a motion to table the item. The motion was seconded by Ms. Cross and passed unanimously.

Chairman Jackson asked the Secretary to introduce the next item:

**PUBLIC HEARING: Text amendment to the Franklin County Zoning Ordinance, Definitions, Table of Permitted Uses and Noted Special Conditions relating to the addition of Short-term rentals in Agriculture, Residential and Commercial zoning districts.**

It was noted that Mr. Hewitt had been previously sworn in.

Mr. Logan qualified Mr. Hewitt. Under questioning, Mr. Hewitt testified that he had prepared the proposed text amendment and staff report for the item. He stated that he had no additions or deletions to the staff report or to the proposed ordinance change.

Mr. Hewitt stated that currently, those uses are not permitted in the County. He stated that these non-owner short term rentals are becoming increasingly popular. He stated that without licensing these uses, transient room tax cannot be collected. He stated that Tourism Director Robin Antenucci was present and could discuss how that affects her operations.

Mr. Logan asked that the staff report be entered into the record. Without objection, Chairman Jackson entered the report.

Under Commission questioning, Mr. Lee stated that limiting the uses to less than 29 days might affect campgrounds. Mr. Hewitt responded that these regulations are not intended to regulate campgrounds. Mr. Hewitt stated that the County does not have the same rental inspection program as the City and keeping these uses to less than 29 days makes sure that these short-term rentals are treated differently than long term rentals.

Ms. Antenucci stated that she is the Executive Director of the Frankfort/Franklin County Tourist Commission. She stated that she agreed with Mr. Hewitt and stated that the passage of this ordinance would be an important step for collection of the transient room tax.

Mr. Wright asked if the use would allow for an apartment on top of a grocery to be used. Mr. Hewitt stated that the use would be allowed where residential uses are permitted.

After further discussion, Mr. Looney made a motion to close the public hearing, to adopt the Staff Report as the Summary and to recommend to the Franklin County Fiscal Court that the proposed text amendment to allow Short Term Rentals in Agriculture, Residential and Commercial Zoning Districts be approved. The motion was seconded by Ms. Cross and passed 9-0, with Mr. Lee abstaining.

There being no further business, Mr. Lee made a motion to adjourn the meeting. The motion was seconded by Mr. Wright and passed unanimously.

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Sherron Jackson, Chairman

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Vickie Sewell, Recording Secretary

## STAFF REPORT



**TO: FRANKFORT-FRANKLIN COUNTY  
PLANNING COMMISSION**

**FROM: Robert Hewitt, Director**

**SUBJECT: Amendment to the Franklin County Zoning Ordinance: Articles 3.01,  
4.05 & 4.06 (short term rentals)**

**MEETING DATE: March 11, 2021**

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### **Staff narrative**

Short term rental of personal residences to vacationers has become popular. These rentals differ from a Bed and Breakfast in that the owner of the dwelling is not generally present during the rental or meals are not served to the guests. Staff is aware that this activity is occurring in the community. These short-term rentals are subject to the Transient Room Tax. Staff recommends that the activity be regulated by the Zoning Ordinance as a conditional use in the Agriculture (AG) district as well as the following residential districts that permit single-family residences: Rural Residential (RR), Residential A (RA), Residential B (RB), Residential C (RC), Special Residential (RS) and Planned Residential (PR).

### **Proposed definition**

**SHORT TERM RENTAL – NON-OWNER OCCUPIED:** A residential dwelling unit that is not owner-occupied and is rented, leased, or otherwise assigned for a tenancy of less than 30 consecutive days duration for transient guests, where no meals are served. This term does not include hotel or motel rooms, bed and breakfast inns, or boarding and lodging houses.

### **Proposed conditions**

To ensure compliance of short-term rentals, the following requirements shall be fulfilled.

- A. The maximum stay for a short-term rental shall be 29 consecutive days for the same occupant.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. The maximum number of persons residing in the short-term rental unit shall not exceed two times the number of bedrooms plus four individuals.
- D. No food or alcoholic beverages shall be prepared for or served to the guest by the host.

### 3.01 Definitions

#### Rural Residential Density

Any residential unit which is not connected to an approved sewage treatment facility shall be considered a rural residential density. No more than one (1) unit per 1.5 acres shall be permitted. All rural residential densities shall be compatible with any agricultural land use. Should any rural residential density become accessible to a sewage treatment facility, a subdivision plat shall be presented to the Planning Commission prior to any density increases.

#### Sewers

Public sewers or any other approved sewage treatment facility.

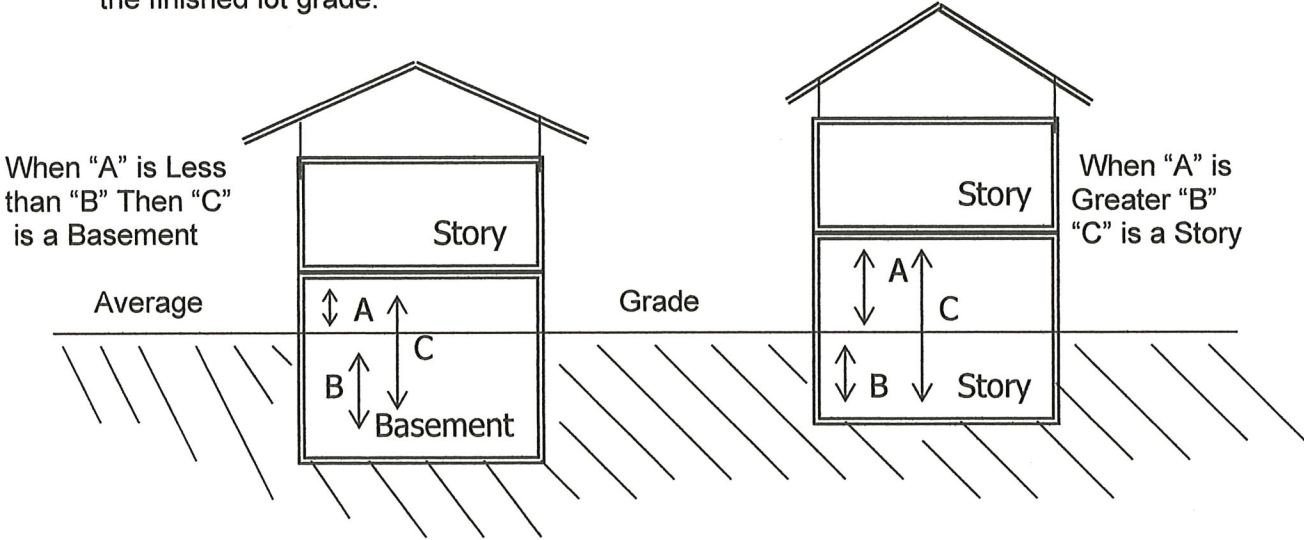
**Short Term Rental – NON-OWNER OCCUPIED:** A residential dwelling unit that is not owner-occupied and is rented, leased, or otherwise assigned for a tenancy of less than 30 consecutive days duration for transient guests, where no meals are served. This term does not include hotel or motel rooms, bed and breakfast inns, or boarding and lodging houses.

#### Single Family Dwelling

A building occupied exclusively for residential purposes by one family or one housekeeping unit, including manufactured/mobile homes or modular homes.

#### Story

That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; also, any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless the height surface of the first story is fifty percent (50%) above the average elevation of the finished lot grade.



## Article 4.05

28. To ensure compliance of short-term rentals, the following requirements shall be fulfilled:

- a. The maximum stay for a short-term rental shall be 29 consecutive days for the same occupant.
- b. The dwelling unit shall be limited to a single short term rental contract at a time.
- c. The maximum number of persons residing in the short-term rental unit shall not exceed two times the number of bedrooms plus four individuals.
- d. No food or alcoholic beverages shall be prepared for or served to the guest by the host.
- e. Outdoor signage in conjunction with the short-term rental is prohibited.
- f. If the short-term rental is not the primary residence of the host, they shall provide information on how to be contacted by phone, email, and address. This information shall be provided in a conspicuous location within the short-term rental.
- g. Each short-term rental shall provide an evacuation plan and provide smoke detectors in compliance with the Kentucky Residential Code.
- h. Parking for short term rentals shall be provided in accordance with Article 10 of the Zoning Ordinance.
- i. All short-term rental hosts must submit an annual registration form to the Department of Planning and Building Codes to ensure that all requirements of the conditional use permit are being met, including smoke detectors, as well as obtain a Franklin County business license.
- j. If the short-term rental ceases operations they shall notify the Planning and Building Codes Department in order to keep an up-to-date record of operating short-term rentals within the County.
- k. The use is subject to all applicable taxes including state and local transient room tax and state sales tax.

