



# City of Denton

City Hall  
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Denton, Texas  
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## AGENDA INFORMATION SHEET

**DEPARTMENT:** Department of Development Services

**ACM:** Cassey Ogden

**DATE:** March 20, 2024

### **SUBJECT**

Hold a public hearing and consider making a recommendation to City Council regarding amending the Denton Development Code; amendments include but are not limited to Table 5.2-A: Table of Allowed Uses, Section 5.3.1 Use-Specific Standards - Generally, Section 5.3.5: Commercial Use-Specific Standards, Table 7.9-I: Minimum Required Off-Street Parking, and Section 9.2: Definitions related to the regulation of Short-Term Rentals. (DCA23-0002d, Short-Term Rentals, Angie Manglaris)

### **BACKGROUND**

#### *February 28, 2024, Planning and Zoning Commission Update:*

The Planning and Zoning Commission considered the Short-Term Rental Code amendments at their February 28, 2024 meeting and voted [5-0] to continue the public hearing to the March 20, 2024 meeting in order to allow staff time to update the proposed amendments based upon discussion held during work session. During work session, the Commission noted areas in the proposed amendments which could be further refined to clarify the intent of the regulations and to eliminate conflicting text. The recommended changes included: update the regulations to use consistent language when referring to registered /permitted short-term rentals, update the regulations to be consistent in describing the length of time a short-term rental registration is valid for, and update the regulations to include additional standards regarding change in ownership for a registered short-term rental.

Below are the updates staff has made to the draft regulations following the February 28, 2024 meeting:

- Updated Section 5.3.5.T.2 to remove references to the issuance of a short-term rental permit and instead utilize the term “registration certificate”. Registration certificate is consistent with the remainder of the short-term rental regulations, which require each short-term rental to be registered to operate.
- Updated Section 5.3.5.T.6a to reflect all short-term rental registrations shall expire at the end of the calendar year.
- Updated Section 5.3.5.T.3e to require all registration materials be updated within 30 days if there is a change in Local Emergency Contact, property ownership, or property management company for a registered short-term rental.

#### *Project History:*

At the beginning of 2023, City staff began reviewing the standards set forth in the Denton Development Code (DDC) regarding Short-Term Rental uses in response to the 5<sup>th</sup> Circuit Court’s decision in the case of *Hignell-Stark v. City of New Orleans*. In this case, the 5th Circuit held that the City of New Orleans’

regulation requiring Short-Term Rental applicants to demonstrate that the Short-Term Rental dwelling unit was their primary residence was unconstitutional under the dormant federal Commerce Clause. In reviewing this court decision, staff determined that a DDC requirement that a Short-Term Rental be the applicant's primary residence could be legally challenged and initiated the Code amendment process to remove this requirement from the DDC; this change was adopted by City Council on July 25, 2023.

During that same time, staff reviewed the City's requirements against other recent legislation as well as how other cities regulate the land use. In addition to the change noted above as a result of the 5<sup>th</sup> Circuit's decision, staff identified several areas where there was a need for clarification and consolidation of existing language in the DDC relating to Short-Term Rentals including addressing the Use-Specific Standards due to the potential for application or enforcement challenges. While many of these changes began with the intent to clean up and clarify items within the Code, throughout the process additional legislative issues came to light through court cases involving the cities of Arlington, Fort Worth, and Dallas that helped inform staff recommended changes. The history of the process as well as a summary of the proposed changes are provided below.

On March 13, 2023, staff presented to the Development Code Review Committee (DCRC) their findings regarding the City's current regulations related to the Short-Term Rental land use, discussed reasons why the Code amendments are needed, shared how other cities regulate Short-Term Rental uses, and recommended proposed Code amendments. Throughout the Spring of 2023, the DCRC discussed the proposed Code amendments related to Short-Term Rental uses at a series of meetings, which are all noted in the Prior Action/Review table below. In review of the DDC's regulations surrounding Short-Term Rentals, the following areas were identified as requirements which could be refined for clarity in Code language and improved administration of City procedures:

- Removing the requirement that the Short-Term Rental must be the applicant's primary residence (this amendment was adopted by City Council July 25, 2023),
- Providing clarification as to what classifies as a Short-Term Rental (dwelling units, bedrooms, permanent structures),
- Refinement of the definition for Local Emergency Contact,
- Refining notification requirements for Short-Term Rentals to neighboring properties,
- Revision of advertisement requirements for Short-Term Rentals,
- Additional regulations added to clarify enforcement and revocation processes of Short-Term Rental permits, and
- Consideration of maximum densities for STRs.

After completing their review and providing staff direction on proposed Code amendments, the DCRC and staff determined it necessary to prepare a Public Engagement Plan in order to receive input from the community related to many aspects of the proposed Short-Term Rental regulations before initiating the formal public hearing process associated with DDC amendments. As part of the Public Engagement Plan, staff held two Town Hall Meetings (one in person and one virtually) in August 2023 and conducted an online survey regarding Short-Term Rentals.

The online survey was published on Discuss Denton on Friday, August 18, 2023, and closed on Monday, September 11, 2023, and a total of 224 individuals participated. The survey consisted of 20 questions, which ranged from general questions related to Short-Term Rentals, to specific questions related to possible DDC amendments. The survey gathered information from a variety of individuals, and when asked to describe themselves the most common responses were as follows (note this response allowed for multiple answers):

- 164 respondents indicated they own and reside at a residential property in Denton,
- 80 indicated they own a Short-Term Rental in Denton,
- 35 stated they owned a business in Denton,

- 34 stated they managed a Short-Term Rental in Denton, and
- 16 stated they reside outside of Denton but visit often.

The full survey results report is provided in Exhibit 4, and a summary presentation of the results is provided in Exhibit 5

During the DCRC meeting on September 25, 2023, staff provided an overview of the Short-Term Rental Survey Results. Staff sought direction from the DCRC on how to proceed with maximum densities/distance separations for Short-Term Rentals given the survey results indicated a desire in respondents to maintain the integrity of single-family areas while allowing higher densities of Short-Term Rentals within certain areas of the City. Discussion centered around exploring different density thresholds for Short-Term Rentals, considering allowing higher density concentration in certain areas of the City (near universities and downtown), and considering imposing a maximum number of allowable Short-Term Rentals within the City. The DCRC directed staff to bring examples of the discussed policies and procedures along with estimates on how they would be applied, if adopted.

On October 23, 2023, November 13, 2023, and December 11, 2023, the DCRC revisited the density limitation and distance separation discussions considering the survey responses and explored various options for implementation. Over the course of these discussions, staff presented the potential implementation of a maximum number of Short-Term Rental permits issued per year in residential zoning districts. Conversations related to a maximum number of Short-Term Rental permits issued in residential zoning districts focused on the appropriate number of allowable units, separation distances between registered units, and a maximum allowable number of units that may be registered within multifamily buildings.

The DCRC directed staff to move forward with a maximum number of Short-Term Rental permits which may be issued per year in residential zoning districts and agreed upon a cap of 1,000 permits. It was also agreed that there should be a limitation on the number of units allowed to be registered as Short-Term Rentals within multifamily buildings, and the Committee agreed to a cap of 10% of all units within an individual multifamily development. In addition, a minimum distance separation of 100 feet between registered Short-Term Rentals in residential zoning districts, measured property line to property line, was agreed upon to further address the density concerns in single-family residential areas.

On January 8, 2024, after consensus was reached on proposed amendments, and due to the continually evolving litigation surrounding Short-Term Rentals, staff presented research on the City of Arlington's Short-Term Rental regulations, including a summary of their adopted regulations and a comparison of Arlington's regulations versus the proposed amendments being considered for Denton. Following discussion, the DCRC directed staff to bring the proposed amendments before the Planning and Zoning Commission and City Council for public hearing and consideration.

#### Proposed Amendments:

To address the concerns identified in the project history above, the DCRC recommended the below Code amendments related to Short-Term Rental uses be presented to the Planning and Zoning Commission and City Council. A summary of the proposed modifications is included below; a redline draft of the relevant DDC Sections with further discussion can be found in Exhibit 3:

- Amend Table 5.2.A Table of Allowed Uses to allow Short-Term Rentals as a permitted use in any Zoning District that allows residential uses by right or by Specific Use Permit; new districts being added include Mixed-Use Regional (MR), Suburban Corridor (SC), Highway Corridor (HC) and General Office (GO).
- Amend Section 5.3 Use-Specific Standards by amending Subsection 5.3.1.D Maximum Persons Occupying a Dwelling Unit to include Short-Term Rentals as an exempt land use from this

regulation. This amendment is consistent with recent court rulings as in the case of Zaatari v. City of Austin, 615 S.W.3d 172, 199 [Tex. App. 2019]).

- Amend 5.3.5 Commercial Use Specific Standards, Subsection T. Short-Term Rentals as follows:
  1. *Registration Requirements* – amendments to this Section include: clarification that a single bedroom or a unit may be listed as a Short-Term Rental, requirements to provide management company information (when applicable), clarifies Local Emergency Contact is a defined term in the DDC, and adds additional detail regarding registration submittal requirements.
  2. *Registration Certificates* – this section is a proposed addition to the Short-Term Rental Use Specific Standards to address the results of the short-term rental preference survey, reflecting a desire in residents to maintain the integrity of single-family areas while allowing higher densities of short-term rentals within certain areas of the City. The proposed amendments are differentiated between properties that are within residential versus non-residential zoning districts, which are less likely to be disrupted by the presence of Short-Term Rentals due to current density, and therefore, provide adequate opportunities for this use to operate outside the City’s residential neighborhoods. These differences are outlined below:

*Registration Certificates in Residential Zoning Districts (RR-R7):*

- One thousand (1,000)- Permit Limit. The Department of Development Services shall issue a maximum of one thousand (1,000) short-term rental (STR) registration certificates per calendar year in Residential Zoning Districts (RR-R7). *Note for clarification: registration certificates are per STR unit, and the registration certificate cap applies to all residential use types (single-family, duplex, three-and four-plexes, multi-family, etc.) within the RR-R7 zoning districts.*
- The Department of Development Services shall process applications in the order of receipt and shall issue new registration certificates in the order that complete applications are received.
- If the number of registration certificates reaches the one thousand (1,000)- registration certificates limit, then the Department of Development Services shall stop processing applications and add applicants to a waiting list.
- A maximum of two (2) STR registration certificates may be issued per parcel.
- A short-term rental unit cannot be within 100 feet of an existing short-term rental unit, measured at the property boundary. This does not apply to units on the same parcel.

*Registration Certificates in Non-Residential Zoning Districts:*

- Registered Short-Term Rentals (STR) in Non-Residential Zoning Districts do not count toward the 1,000- registration certificates cap, regardless of what type of residential dwelling the STR is located within.
  - For multifamily developments, no more than 10% of the units within a given development may be registered as a Short-Term Rentals.
  - At least two (2) Short-Term Rentals shall be registration certificates per multifamily development.
  - Short-Term Rentals within Non-Residential Zoning Districts are not subject to the 100-foot separation rule.
3. *Operation* – amendments to this section include: clarification of parking requirements for Short-Term Rentals, specification that Short-Term Rentals may not be advertised as party venues, refinement of language to provide reference to enforcement regulations within the DDC, clarification that a Short-Term Rental may only be operated in a permanent structure, and consolidates existing language.
  4. *Writing Briefing and Safety Features* – amendments to this section are to clarify an owner’s or management’s responsibilities to provide safety information to guests in writing.

5. *Notification of Approval of Short-Term Rental Registration* – amendments to this section are to clarify when notification of an approved Short-Term Rental shall occur and what information shall be included within the notification.
  6. *Registration Term, Fees, and Revocation* – amendments to this section are to revise and clarify the circumstances under which the Director may revoke a Short-Term Rental permit and specify the appeals procedure for such revocation.
  7. *Right to Inspect Premises* – amendments to this section are to specify the circumstances under which a inspection of a Short-Term Rental may occur.
- *Table 7.9-I: Minimum Required Off-Street Parking* – amendments to this section are to specify the maximum number of vehicles allowed on premise for a Short-Term Rental shall be based upon the number of spaces available on-site.
  - *Section 9.2 Definitions* – amendments to this section are to revise definitions for Short-Term Rental and Local Emergency Contact:
    - Short-Term Rental – this definition is amended to clarify the duration of stay for a Short-Term Rental shall be not less than 24 hours and not greater than 29 consecutive days, as well as allow for a bedroom to be a Short-Term Rental.
    - Local Emergency Contact – this definition is amended to clarify and consolidate the requirements for Local Emergency Contact.

An analysis of this request based upon the DDC’s criteria for approval for code amendments is provided in Exhibit 2.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

<b>Date</b>	<b>Council, Board, Commission</b>	<b>Request</b>	<b>Action</b>
April 23, 2019	City Council	Consider 2019 DDC Update	Approved with an effective date of October 1, 2019
March 13, 2023, March 27, 2023, April 10, 2023, and April 24, 2023	Development Code Review Committee	Consider amendments related to Short-Term Rental uses	Continued discussion at next meeting
June 12, 2023	Development Code Review Committee	Consider amendments related to Short-Term Rental uses	DCRC instructed staff to prepare a Public Engagement Plan in order to receive input from the community
July 19, 2023	Planning and Zoning Commission	Consider amendments related to Short-Term Rental uses removing the primary residency requirement	Recommended approval
July 25, 2023	City Council	Consider amendments related to Short-Term Rental uses removing the primary residency requirement	Approved

September 25, 2023	Development Code Review Committee	Review proposed amendments and results of Public Engagement Survey	Continued discussion to next meeting
October 23, 2023 November 13, 2023, and December 11, 2023	Development Code Review Committee	Consider amendments related to Short-Term Rental Uses	Continued discussion to next meeting
January 8, 2024	Development Code Review Committee	Consider amendments related to Short-Term Rental Uses	DCRC directed staff to proceed with amendments as presented
February 28, 2024	Planning and Zoning Commission	Consider amendments related to Short-Term Rental Uses	Continued public hearing to March 20, 2024

**OPTIONS**

1. Recommend Approval
2. Recommend Approval with conditions
3. Recommend Denial
4. Postpone Item

**RECOMMENDATION**

Staff recommends **approval** of the amendments related to Short-Term Rentals as the proposed amendments meet the established criteria for approval for Code Text Amendments as outlined in Section 2.7.4D of the DDC.

See Exhibit 2 for Staff Analysis.

**EXHIBITS**

1. Agenda Information Sheet
2. Staff Analysis
3. Redline Markups
4. Short-Term Rental Preference Survey Results
5. Survey Summary Presentation
6. Draft Ordinance

Respectfully submitted:  
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Planning Director

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