

AN ORDINANCE OF THE NIXA CITY COUNCIL AMENDING THE CITY'S REGULATIONS AS THEY RELATE TO CHAPTER 117 ARTICLE IV SHORT-TERM RESIDENTIAL RENTALS

Background:

The City of Nixa first established a short-term residential rental ordinance in August of 2019. The purpose of the ordinance at that time was to address the impacts of a growing short-term rental (STR) industry. The enactment of Missouri House Bill 1662 in June of 2022 minimized local government's ability to regulate home occupations, which in turn necessitated a rewriting of this ordinance.

Analysis:

The current ordinance only allows for STRs to be operated in a primary residence, with a special use permit approved by City Council. This use is effectively a home occupation which was granted protections via HB 1662. The language in the current code language restricted non-primary residences from being used as STRs all together. Additionally, this process yielded excessive lead times and expenses to obtain the proper permit.

In order to differentiate between home occupation and investment property this ordinance would establish definitions for two categories of short term rentals; Primary Residence Rental and Non-Primary Residence Rental. The only use standard allowable for a primary residence rental (home occupation) is the acquisition of a business license from the City of Nixa. This ordinance would however impose minimal use standards upon non-primary residence rentals (investment properties): Accessory structures cannot be used as rentals, rental property must pass an annual rental inspection, and a minimum distance requirement of 150 feet between STRs. The intent is to disencumber the process of operating a STR while still providing sensible regulations for the general welfare of the City of Nixa.

Planning and Zoning Commission:

A public hearing in front of the Planning and Zoning Commission on May 5th. No one approached the Commission to express concerns or approval of the agenda item. With all things considered, the P&Z Commission voted unanimously (6-0) to recommend approval to Nixa City Council.

Recommendation:

This ordinance update would address current conflicts established from the passage of HB 1662 regarding home occupations. It would also provide a simplified path for these types of businesses to operate within the City of Nixa. Staff recommend approval of this code amendment.

MEMO SUBMITTED BY:

Scott Godbey | Director of Planning and Development

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1 AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER
2 117, ARTICLE IV, SECTION 117-102 & SECTION 117-99 OF THE NIXA CITY CODE
3 FOR THE PURPOSE OF MODIFYING THE CITY’S REGULATIONS RELATED TO
4 SHORT-TERM RESIDENTIAL RENTALS.

5 _____
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7 WHEREAS the City first established short-term residential rental regulations in
8 August of 2019; and

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10 WHEREAS the City’s current regulations only allow for the operation of short-term
11 residential rentals in a primary residence; and

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13 WHEREAS this Council Bill, if approved, would modify the City Code to authorize
14 non-primary residence residential short-term rentals; and

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16 WHEREAS the Planning and Zoning Commission held a public hearing to consider
17 the amendments contained herein at their, regular meeting; and

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19 WHEREAS after said public hearing, the Commission recommended approval of
20 said amendments; and

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22 WHEREAS the City Council desires to modify the City Code as set forth herein.

23
24 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
25 NIXA, AS FOLLOWS, THAT:

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27 SECTION 1: Chapter 117, Article IV, Section 117-102 of the Nixa City Code is
28 hereby amended by repealing said Section in its entirety and adopting in lieu thereof a
29 new Section 117-102, which said Section shall read as follows (Explanation: Language
30 in bold-face type (e.g., **thus**) is language to be to be added. Language in bold-faced
31 brackets (e.g., **[thus]**) is not enacted and is intended to be omitted or deleted.):

32
33 Sec. 117-102. Short-term residential rental uses.

34
35 (a) Purpose. The purpose of this section is to preserve and promote the health, safety,
36 and general welfare of the public~~[-Promoting]~~ **by promoting** compatibility among land
37 uses within the community through regulations intended to minimize the harmful or
38 nuisance effects resulting from noise, location, traffic, and other objectionable
39 activities associated with ~~[the]~~ short-term residential rental **uses** ~~[industry]~~.

40
41 (b) Definitions. The terms set forth below shall be defined as follows for purposes of this
42 section:

43
44 (1) Short-term residential rental: The renting of an entire **residential** dwelling **unit**,
45 or any portion thereof, for a period of not more than 30 consecutive days. ~~[te~~

46 ~~overnight guests, where the owner is engaged in a contract for the rental of that~~
 47 ~~specific dwelling or any portion thereof.]~~

48
 49 **(2) *Primary residence rental:* A short-term residential rental consisting of a**
 50 **residential dwelling unit which is the owner or lessor’s domicile.**

51
 52 **(3) *Non-primary residence rental:* A short-term residential rental consisting**
 53 **of a residential dwelling unit which is not the owner or lessor’s domicile.**

54
 55 ~~[(2) *Permanent resident:* A permanent resident is a property owner or lessee who~~
 56 ~~maintains a dwelling as a primary residence as documented by at least two of~~
 57 ~~the following:]~~

58
 59 ~~[(i) Motor vehicle registration]~~

60
 61 ~~[(ii) Driver’s License]~~

62
 63 ~~[(iii) Voter registration]~~

64
 65 ~~[(iv) Tax return]~~

66
 67 ~~[(v) Utility bill]~~

68
 69 **(c) *Primary residence rental use standards.* The operation of a [A person operating a**
 70 **short-term residential rental out of his or her permanent residence] *primary***
 71 **residence rental use shall comply with the following use standards be allowed**
 72 **subject to the following regulations:**

73
 74 **(1) A business license shall be obtained prior to engaging in a primary residence**
 75 **rental use.**

76
 77 ~~[(1) Short term residential rentals may only be offered by a permanent resident within~~
 78 ~~the permanent resident’s principal residential structure. No detached building or~~
 79 ~~structure will be approved as a short-term residential rental unit.]~~

80
 81 ~~[(2) A permanent resident must obtain a business license from the City of Nixa prior~~
 82 ~~to offering their residence as a short term residential rental. Business license~~
 83 ~~information can be found in the City of Nixa Code of Ordinances under chapter 12~~
 84 ~~article II – Business Licenses.]~~

85
 86 ~~[(3) Prior to offering a short term residential rental, the permanent resident must obtain~~
 87 ~~a special use permit from the City of Nixa to operate a short term residential rental.~~
 88 ~~The special use permit is renewed on an annual basis from the date of issuance~~
 89 ~~and a condition of approval is the residence must pass a rental inspection per the~~
 90 ~~City of Nixa Rental Inspection Program.]~~

91

92 ~~[(4) Prior to issuance of a permit for short-term residential rentals, the owner/operator~~
93 ~~of the short-term residential rental unit must provide, in writing, the name and~~
94 ~~telephone number of the permanent resident and the name and telephone number~~
95 ~~of a local contact person that will be available 24 hours per day, seven days per~~
96 ~~week, for the purpose of responding within 45 minutes to complaints regarding the~~
97 ~~operation of the short-term residential rental or the conduct of the overnight~~
98 ~~guests.]~~

99
100 ~~[(5) Short-term residential rentals can only be rented out for 14 consecutive days per~~
101 ~~stay and can only be rented for 180 days in a calendar year.]~~

102
103 ~~[(6) If the owner/operator of the short-term residential rental is present on the premises~~
104 ~~during the entire stay of the guest, there is no limit on the number of rental days~~
105 ~~per year the unit can be rented, however, the unit can only be rented for up to 30~~
106 ~~consecutive days per single stay.]~~

107
108 ~~[(7) The owner of the short-term residential rental shall maintain records and keep~~
109 ~~them for a period of three years, available for inspection, which includes the~~
110 ~~following information: dates the dwelling was rented, the name of the renter,~~
111 ~~contact information, vehicle description and license plate information for each~~
112 ~~overnight guest.]~~

113
114 **(d) *Non-primary residence rental use standards.* The operation of a non-primary**
115 **residence rental use shall comply with the following use standards:**

116
117 **(1) No detached building or structure shall be used as a non-primary residence**
118 **use.**

119
120 **(2) A business license and use permit shall be obtained prior to engaging in a**
121 **non-primary residence rental use.**

122
123 **(3) Prior to the issuance of a business license and use permit, a certificate of**
124 **occupancy shall be acquired.**

125
126 **(4) Prior to the issuance of a certificate of occupancy, the non-primary residence**
127 **rental use shall pass a rental inspection conducted pursuant to Section 103-**
128 **31 of the Nixa City Code.**

129
130 **(5) No non-primary residence rental use shall be located on a lot which is within**
131 **150 feet of another lot with an approved non-primary residence rental use.**
132 **Said 150 feet distance shall be measured from property line to property line**
133 **of each lot.**

134
135 ~~[(e) *Permit required.* No short-term residential rental shall operate within the boundaries~~
136 ~~of the City of Nixa without first obtaining a business license from Nixa City Hall and a~~
137 ~~special use permit approved by city council.]~~

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~~[(f) *Violations:*]~~

~~[(1) Nixa City Council may immediately revoke or suspend the license or deny either the issuance or renewal thereof if the owner is found in violation of the rules and requirements set forth in this ordinance.]~~

~~[(2) It shall be a violation of this section for an owner to advertise, promote or to use a third party intermediary to advertise or promote a short term rental which is not in compliance with the provisions of this section.]~~

SECTION 2: Chapter 117, Article IV, Section 117-99 of the Nixa City Code is hereby amended as set forth herein:

(1) The following use descriptions are modified as follows:

- a. The “short-term residential rental” use shall be added to the “I. Residential,” “E. Miscellaneous, rooms for rent situations,” section of the table of approved uses and such use shall be authorized as a permitted use within the R-1, R-3, and R-4, zoning districts.

SECTION 3: Aside from the modifications described in Section 2, all other portions of Section 177-99 of the Nixa City Code shall remain unmodified.

SECTION 4: The City Attorney, when codifying the provisions of this Ordinance, is authorized to provide for different section numbers, subsection numbers, and different internal citation references than those provided herein when such section numbers, subsection numbers, or internal citation references are in error or are contrary to the intent of this Ordinance.

SECTION 5: Savings Clause. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired, or liability incurred nor any cause or causes of action occurred or existing, under any act or ordinance repealed hereby.

SECTION 6: Severability Clause. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 7: This Ordinance shall be in full force and effect from and after its final passage by the City Council and after its approval by the Mayor, subject to the provisions of section 3.11(g) of the City Charter.

184 **ADOPTED BY THE COUNCIL THIS 28th DAY OF May, 2024.**

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ATTEST:

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PRESIDING OFFICER

CITY CLERK

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APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2024.

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ATTEST:

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MAYOR

CITY CLERK

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APPROVED AS TO FORM:

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CITY ATTORNEY

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