



Owner Occupancy of Short Term Rentals Where Permitted

Note: As authorized by § 8.5.2.C.1 (p. 401), this interpretation is provided at the initiative of the Zoning Administrator for the purpose of providing clarification to property owners and improving administration of the Ordinance. Capitalized terms are defined in § 9.3 of the Ordinance. This interpretation may be appealed to the Board of Zoning Appeals per § 8.5.17 of the Ordinance.

Summary

The Principal Use Table at 4.3.9.A-1 permits Short Term Rentals (STRs) in some districts subject to limited use standards. The Limited use standards at §4.3.9.E.6.ah require that STRs be owner-occupied where they are permitted. This administrative interpretation clarifies what constitutes owner-occupancy and how it is verified.

Rationale

Limited Use Standard

The limited use standard for Short Term Rentals listed in §4.3.9.E.6 of the Zoning Ordinance require, among other things, that the “the owner, defined as Single-Family Dwelling, of such Short-Term Rental Unit must reside on the premise[s].” Although it is awkwardly placed in the middle of the sentence, the phrase “defined as a Single-Family Dwelling” is informative.

Definitions from the Ordinance

The distinguishing feature of owner-occupancy is permanence combined with a property interest in the premises. Section 9.3 of the Ordinance defines a Single-Family Dwelling as a home for “permanent occupants” (p. 523). The occupants can be an individual, a Family, or the functional equivalent of a Family (a group of people who have established not-for-profit housekeeping, p. 493). The Ordinance defines Ownership as the “proprietary interest of a Landholder.” In other words, an owner-occupant is a person who both holds a proprietary interest in the subject property (e.g. fee simple absolute) **AND** actually occupies the premises on a permanent non-transient basis.¹

Examples from Other Jurisdictions

¹ The proprietary interest does not have to be fee simple.

Other jurisdictions in Middle Tennessee distinguish owner-occupied properties from non-owner-occupied properties to regulate Short Term Rentals (STRs). Specifically, Nashville-Davidson permits owner-occupied STRs in some districts where non-owner-occupied STRs are prohibited.² Nashville's ordinance does not provide a precise definition for owner-occupancy as it relates to STRs, but it has been defined administratively (see below). Owner-occupancy is a commonly used concept in land use regulations more broadly. The phrase and its variants (e.g. *domicile*, *permanent residence*) occur repeatedly in the Planners Dictionary.³

Documenting Owner Occupied Status

Administratively, Nashville establishes owner-occupied status by obtaining documentation from operators of STRs. Each owner-occupant must provide two documents showing that the owner-occupant occupies the property as their primary residence. Acceptable documents include a driver's license, voter registration card, or other documentation showing a primary residence address that matches the deed.⁴ The City of Columbia will accept similar proof of owner-occupancy, or a signed statement from the owner attesting to the fact that they occupy the home as their primary residence on an indefinite basis, provided the records of the Maury County Assessor show matching owner and property addresses.

²https://library.municode.com/tn/metro_government_of_nashville_and_davidson_county/codes/code_of_ordinances?nodeId=CD_TIT17ZO_CH17.08ZODIL AUS_17.08.020ZODIDE

³ <https://www.planning.org/publications/report/9026853/>

⁴ <https://www.nashville.gov/departments/codes/short-term-rentals/permit-types>