

MOTION

NO. M-22-467

CITY HALL: October 20, 2022

**BY: COUNCILMEMBERS MORRELL, MORENO, GIARRUSSO, HARRIS, KING,
GREEN AND THOMAS**

WHEREAS, the Council of the City of New Orleans has adopted Ordinance Calendar Nos. 32,685 and 32,691 to define, categorize, and regulate Short-Term Rentals (STR), which became effective December 1, 2019; and

WHEREAS, those ordinances were adopted pursuant to the City's police power to preserve the City's permanent housing stock, balance the economic opportunity created by STRs with the need to maintain a supply of long-term rental housing stock available at a range of prices, reduce any indirect negative effects on the availability of affordable housing that results from the dedication of long-term housing stock to STR use, create a level playing field for all parties engaged in the business of providing lodging, ensure the sufficient collection of tax revenue, mitigate the disruptive effects that unmonitored STRs can have on neighborhoods, and protect the livability and quality of life of the City's residential neighborhoods; and

WHEREAS, this Council enacted Motion No. M-22-382 directing the City Planning Commission ("CPC") to further study the impact of STRs, utilizing the City's existing regulations and STR data, to determine what amendments to existing laws are warranted or necessary, and how existing regulations should be modified to reduce any unintended secondary effects of STRs relative to the residential fabric of the City; and

WHEREAS, in light of this pending study and review, the Council adopted temporary zoning regulations that impose temporary prohibitions on certain STR classifications to protect the public health, safety, or welfare; and

WHEREAS, given the recent ruling by the United States Court of Appeals for the Fifth Circuit in *Hignell-Stark v. City of New Orleans*, Case No. 21-30643, the Council desires to continue its efforts to prevent nuisances, promote affordable housing, and protect neighborhoods' residential character, which were recognized as legitimate local purposes by the courts, while removing any distinctions regarding the ability to operate an STR based on a property's homestead exemption status;

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the City Planning Commission is hereby directed to conduct a public hearing to amend and reordain Ordinance No. 4264 M.C.S., as amended by Ordinance No. 26,413 M.C.S. (as amended from time to time, the "Comprehensive Zoning Ordinance") to amend Article 19 to establish a new Interim Zoning District (IZD) to be named the *Residential Short Term Rental Interim Zoning District*, the intent of which is to prohibit certain uses, for all zoning districts as indicated in the official zoning maps of the City. The prohibited uses are:

- a. Residential Short-Term Rental, Small
- b. Residential Short-Term Rental, Large
- c. Residential Short-Term Rental, Partial Unit

BE IT FURTHER MOVED, That the Council hereby waives the requirement for a Neighborhood Participation Program required by Ordinance Cal. No. 33,747 for purposes of this Interim Zoning District; and

BE IT FURTHER MOVED, That M-22-382 is hereby superseded in its entirety; and

BE IT FURTHER MOVED, That the citywide prohibition on residential STRs imposed herein shall supersede any provision of law that may be construed to permit residential STRs,

including without limitation Sections 20.3.LLL.3 through 20.3.LLL.6 of the Comprehensive Zoning Ordinance; and

BE IT FURTHER MOVED, That this Council further directs the CPC, in conjunction with the City Attorney, to review the Comprehensive Zoning Ordinance and make recommendations regarding the removal of any language that makes distinctions regarding the ability to operate an STR based on a property's homestead exemption status and to make recommendations regarding potential zoning changes that would lawfully mitigate the deleterious effects of STRs in residential neighborhoods; and

BE IT FURTHER MOVED, That in accordance with Article 19, Section 19.3.C.4 of the Comprehensive Zoning Ordinance, all appropriate agencies of City Government shall not accept any new applications for permits or licenses or issue any permits or licenses that are in conflict with the intent and provisions of the proposed Interim Zoning District for any property during consideration of this matter. The Interim Zoning District is to be in effect for a period of one (1) year and is subject to extension as provided by Section 3-126 of the City Charter. Applications to appeal this IZD shall be submitted to the Executive Director of the City Planning Commission, whose staff shall review and make recommendations relative to the appeal within sixty (60) days of receipt, utilizing the following review standards:

1. Is the requested appeal compatible with the surrounding land uses and structures?
2. Does the requested appeal provide for an efficient use of land?
3. Will granting the requested appeal increase traffic and safety hazards?
4. Does the requested appeal provide for an efficient parking layout?
5. Will the requested appeal increase community environmental impacts?

The Council shall have sixty (60) days from receipt of recommendation to approve, deny, or modify the appeal recommendation by motion. Any approved or modified appeal shall include use standards related to the property for which the appeal is being submitted which are recommended by the City Planning Commission staff and set by the Council and shall be eligible for a Type A – Special Appeal Permit under City Code Sec. 26-613, *et. seq.*; and

BE IT FURTHER MOVED, That in the process of reviewing this request, CPC staff is directed and granted the flexibility to make all appropriate changes to the proposed regulations and any existing corresponding regulations in the Comprehensive Zoning Ordinance, as amended, to establish consistency and continuity with the format of the existing zoning code, to add references wherever references are customary, needed and/or appropriate, to make the appropriate adjustments to clarify any ambiguities or mistakes, and to make adjustments deemed necessary in light of public testimony resulting from this review.

THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF, AND RESULTED AS FOLLOWS:

YEAS: Giarrusso, Green, Harris, King, Moreno, Morrell, Thomas - 7

NAYS: 0

ABSENT: 0

AND THE MOTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Lara W. Johnson
CLERK OF COUNCIL

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