



## **Planning Commission**

### **Short Term Rental Ordinance Research Report**

#### **Request**

Staff requests the Planning Commission to consider Staff's research findings on "Short Term Rentals" and recommend action for specific topics to be addressed via an ordinance amendment.

#### **Background**

Short Term Rentals, the renting of real property (portions thereof or in whole) for a period of less than 30 days, has become a national phenomena in the real estate market. Short Term Rentals impacts the real estate market of communities and the operations of local governments in different ways. Localities across the nation have written ordinances to address the benefits and impacts of Short Term Rentals within their community. There is no "one size fits all" ordinance that can apply, but with deliberate attention and discussion, an ordinance can be crafted to meet the needs of Colonial Heights.

Recent bills introduced to the state legislature, [HB1362](#) and [HB2271](#), both presented legislation that would restrict the City's ability to regulate Short Term Rentals that were "managed" by a licensed VA realtor since the City does not currently have a specific ordinance or regulation for the use. The primary objective of this task is to have an ordinance adopted by City Council to regulate Short Term Rentals.

As of April 21, 2023, there are approximately 7 listings of Short Term Rentals on the Airbnb platform and 1 listing on the vrbo platform. The Department of Planning and Community Development (DP&CD) receives about 1 to 2 inquiries a month about the regulations that apply to Short Term Rentals.

As a primer for discussion, a document entitled "How to Regulate Airbnb – A Guide for Local Governments" is attached. While this document is intended to persuade local governments to consider using OpenGOV software to address this issue, which is not the intent of this staff report, there are several key issues discussed within the OpenGOV document you may find educational and beneficial when considering your recommendation.

#### **Scope and Timeline for Ordinance Adoption**

Planning Commission's recommendation will serve as a framework for the drafting of a governing ordinance. The discussion will not be the ordinance itself but rather serve as a recommendation for City Council to consider and ultimately direct staff to proceed. Planning Commission's recommendation will be presented to the City Council, tentatively scheduled for June, where City Council can act on the recommendation so that Staff has clear guidance on the

desired outcome. Upon action by Council, Staff will begin preparing the ordinance using sample ordinance language and ordinance language from other Virginia localities. Staff will collaborate with other key City agencies that may be impacted by the use, such as Police Department, Utilities, Engineering and Public Works, Finance and Commissioner of Revenue to gain their input for the ordinance. Once general consensus is reached, a draft will be forwarded to the City Attorney for review. Prior to adoption, public hearings are required to be held before the Planning Commission and City Council, which is anticipated to be held late summer.

### **Similarities to Other Uses**

In many ways STRs are similar to a Hotel or a Bed and Breakfast depending on whether the host resides on the premises, the amenities provided, and the scale of the operation. However, in many ways, Short Term Rentals where the property owner resides on the premises also resembles Accessory Apartments with the exception being the duration of the stay is shorter, i.e. less than 30 consecutive days. The City's definition of a Hotel, Bed and Breakfast and an Accessory Apartment are attached to this report (Attachment 1). Bed and Breakfast uses are allowed in the RM (by SEP), RH, and BB zoning districts. Hotels are allowed in BB and GB zoning districts.

Accessory Apartments are currently allowed by City Code in all residentially zoned districts (RL, RM, RH and RO) so long as it meets certain criteria for the use. Such criteria specify the Accessory Apartment must be within the confines of the existing principal dwelling; if so, the use is allowed with zoning approval. If the Accessory Apartment is proposed to be located in an accessory structure, such as a garage, mother-in-law suite, etc., then the property owner must obtain approval from City Council in the form of a Special Exception Permit (SEP).

### **Key Definitions and Terminology**

The following are keyword definitions from State Code regarding this subject matter:

- "**Short-term rental**" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.
- "**Operator**" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

For ease of reference, Short Term Rental may be abbreviated as "STR" within this document and presentation materials. There are generally two (2) types of STRs: (i) "hosted" and (ii) "non-hosted".

1. "hosted" STR - A hosted STR is one where the homeowner resides on the premises during its operation as an STR
2. "non-hosted STR" - A non-hosted STR is a dwelling that is not occupied by the owner when rented to users. Typically these are managed by an off-site owner.

Other localities use different terms for a “hosted” STR (such as homestays, home sharing, etc.) to distinguish the difference between a “hosted” or “non-hosted” STR. These terms apply to “hosted” STRs to distinguish the difference between the two types of operations and to emphasize the expectation that the owner must reside on the premises for the type of short term rental.

### **Key State Code Provisions**

Chapter [15.2-983 of State Code](#) outlines some key provisions on what jurisdictions can specifically regulate for Short Term Rentals outside of the normal land use and zoning regulations; below are some key summary points:

- The locality is allowed to create a required registry of short-term rentals (STR).
- The locality can charge a fee to be on the registry.
- If an STR is not on the registry, a locality can charge a penalty of \$500 to the operator of the non-registered STR.
- If the operator continues to use the non-registered STR, the locality can prohibit that property for STR (at least 3x violations).
- A real estate agent (and others) who operates an STR doesn’t have to sign up for the registry.
- The authority for short-term rental is through general land use and zoning.
- This section does not supersede or limit agreements or contracts (ex. Agreements pursuant to the Va. Condo Act, HOA’s)

Several other Chapters of State Code address the appropriate means to tax STRs that include [§58.1-3510.4.](#), [§58.1-3510.6.](#), and [§58.1-605.](#)

A locality is authorized to adopt regulations regarding the processing and approval of the use in accordance with the authority to enact zoning provisions of State Code.

### **Key Benefits from STRs**

Below are some of the most common benefits cited by proponents of STRs:

- Supplemental income for homeowners who host
- Supplemental income can help make homeownership more affordable
- Generates additional tax revenue from transiency taxes
- Provides a different type of lodging from typical hotels that can meet different demands/needs
- Additional lodging can encourage tourism of the City and region
- Can serve to attract future residents if visitors enjoy their stay

### **Key Impacts from STRs**

Below are some of the most common impacts presented by the community regarding STRs and a few questions to consider:

- Parking for the use
  - is there enough off-street parking or will it rely on on-street parking?
  - Is there sufficient on-street parking?

- Parties in residential neighborhoods
  - If unruly how do neighbors and police address with a non-resident owner?
- Allowing non-hosted units spurs investors to acquire residential properties in neighborhoods and operate as a commercial revenue generating use, which can lead to a reduction of affordable housing for owner residents.
- Competition for non-hosted units can lead to bidding wars that can price out owner residents due to an increase in prices in comparison quotes for nearby dwellings.
- Excessive occupancy that may exceed safety ratings for structures intended for residential use.
- Change in demand for City services, such as police patrols, garbage disposal and recycling services, water and sewer usage
  - City Code requires the City to provide waste management services ([§244-13 \(A\)](#))

The attached Discussion Outline (Attachment 2) is intended to help facilitate feedback on many of these key issues.

### **Key Points to Remember**

Adding the STR use does not exempt the use from other City requirements. The property will remain subject to all City Codes and quality of life ordinances that apply to the property:

- Building Code
- Property Maintenance Code
- Zoning Ordinance
- Noise Ordinance
- Tall Grass Ordinance
- Exterior Storage and Clutter Ordinance

### **Trends and Oddities Among Other Jurisdictions**

Staff researched several localities and ordinances with a focus on Virginia localities due to the Dillon Rule that applies to Virginia jurisdictions. Staff researched the City of Charlottesville, City of Virginia Beach, City of Williamsburg, City of Richmond, City of Norfolk, City of Hopewell, Chesterfield County, Henrico County, York County, and Fairfax County.

The following are a few common observations from the localities researched:

- All localities require written consent from the property owner in some form (via letter, signature on permit application, etc.).
- Many localities allow STRs in neighborhoods where the property owner resides at the STR (“hosted STR”).
- Many localities allow hosted STRs by an administrative process (home occupation permit, zoning permit, short term rental application, etc.).
- All localities impose taxes on the use.
- All localities require some sort of zoning approval that must be obtained prior to operation regardless of hosting status.
- All localities enforce penalties for not obtaining approval for an STR or for repeated violations of Code of Conditions of Approval (includes prohibition to operate as an STR).

- Not all of localities mention the use of a registry or a registry fee (this may be because of the exemption for licensed realtors). However, many localities do charge an annual fee for the STR use.
  - Either by registry or by annual permit.
- For localities that allow non-resident STRs, many require the equivalent of a Special Exception Permit and contact information for the operator/authorized agent for the STR to be provided to the locality.

In addition to the trends, there were a few localities with unique regulations:

- Fairfax restricts activities allowed onsite by STRs and restricts types of structures allowed to be STRs.
  - [Link to Fairfax County STR webpage](#)
- VA Beach requires the equivalent of a Special Exception Permit for all non-hosted STRs and limits the neighborhoods allowed to have STRs. VA Beach has taken several legislative actions recently to include banning all new STRs in July 2021 except when 75% of the neighborhood supports the property to be a STR (excluding the Sandbridge neighborhood). Then in Sept. 2021, VA Beach City Council adopted new safety regulations that allowed the Oceanfront Resort District to have STRs with the approval of the equivalent of a Special Exception Permit. VA Beach's regulations were spurred by safety concerns involving a collapsing deck and unruly parties.
  - [Link to VA Beach STR webpage](#)
  - [July 2021 media report](#)
  - [Sept. 2021 media report](#)
- Williamsburg limits STRs to only single-family detached homes with approval of a SEP, limits the area of the home allowed to operate as an STR, and limits the occupancy for the STR.
  - [Link to Williamsburg STR webpage](#)
- York County considers Short-Term Rentals as either Tourist homes or Bed-and-Breakfast Inns (B&Bs). B&Bs require the owner to reside on the premises and provide breakfast. Colonial Heights does not require breakfast to be provided for a Bed-and-Breakfast. The equivalent of a Special Exception Permit is required for all non-hosted STRs.
  - [Link to York County STR Webpage](#)

### **Staff Recommendations**

Staff's research revealed a few consistencies between the many different localities that Staff recommends be implemented within the ordinance. Staff recommends Planning Commission recommend to City Council a requirement for the following:

- Written permission from property owner for property to operate as a Short-term Rental
- Zoning approval prior to operation of the STR;
- An inspection of the premises prior to operation;
- Tax collection for the use; and
- Penalties for non-compliance with City Code.

### **Key Issues to Discuss**

The following are key issues Staff is seeking Planning Commission feedback and recommendation to City Council. Staff has prepared a Discussion Outline for ease of reference and discussion as Attachment 2:

- Should the City distinguish between a homeowner operating a STR and living onsite?
  - If so, how should that use be allowed?
    - Should it be an administrative process with certain requirements to meet?
    - Or should it be a Special Exception Permit that requires public hearings, Planning Commission review and recommendation followed by City Council action for approval?
    - If you have specific issues, please identify those so that Staff can research appropriate safeguards with any recommendation.
  - If not, how should the use be allowed?
    - Should it be an administrative process with certain requirements to meet?
    - Or Should it be a Special Exception Permit that requires public hearings, Planning Commission review and recommendation followed by City Council action?
    - If you have specific issues, please identify those so that Staff can research appropriate safeguards with any recommendation.
- Should there be a limit on how many STRs are allowed within a specific residential neighborhood?
- Should there be an inspection process prior to approval?
- Any Planning Commission concerns with the proximity of STRs to other uses?
- Should advertising signage be allowed for STRs?
- Should there be a limit to the number of guests?
- Should there be regulations for pets with guests?
- Should STRs be allowed in commercially zoned districts?

### **Draft Motion**

Below is a draft motion for the Planning Commission consider for Recommendation:

- I move that the Planning Commission adopt a resolution recommending City Council amend the Zoning Ordinance Chapter 286 of City Code that will define the use known as Short Term Rental, and establish regulations that govern the operation of said use with the following recommendations: [proceed to list recommendations previously discussed].

### **Attachments:**

1. City Code Definitions of Similar Uses
2. Discussion Outline for PC Recommendation
3. Document: How to Regulate Airbnb – A Guide for Local Government produced by OpenGOV

**Links**

The following are links to webpages regarding the STR discussion:

[LIS > Bill Tracking > HB2271 > 2023 session \(virginia.gov\)](#)

[LIS > Bill Tracking > HB1362 > 2023 session \(virginia.gov\)](#)

[Fairfax County STR webpage](#)

[VA Beach STR webpage](#)

[Williamsburg STR webpage](#)

[York County STR Webpage](#)

[City of Norfolk STR Webpage](#)

[Henrico County STR Webpage](#)

City of [Charlottesville](#) STR Webpage

## **Attachment 1 - City Code Definitions of Similar Uses**

### **COMMERCIAL USE TYPES:**

**§286-202.10: HOTEL/MOTEL/MOTOR LODGE:** A building or group of attached or detached buildings containing lodging units available for rental or lease to transients for periods of less than 30 consecutive days. Such uses generally provide additional services such as daily maid service, restaurants, meeting rooms, and/or recreation facilities.

*Allowed in ZONING DISTRICTS: Boulevard Business (BB), General Business (GB)*

§286-518.18 PARKING FOR Hotel/motel/motor lodge: 1 space per guest room plus 1 space per employee, plus spaces as may be required for other uses on site

### **§286-202.10: BED AND BREAKFAST**

A dwelling, occupied by the owner, in which not more than five bedrooms are provided for overnight guests for compensation, on daily or weekly basis, with or without meals.

*Allowed in ZONING DISTRICTS: Residential Medium Density (RM) by SEP, Residential High Density (RH)*

### **§286-410.24 Bed-and-breakfast.**

- (1) The owner or owner's family shall reside on the same parcel occupied by the bed-and-breakfast establishment.
- (2) No more than five guest sleeping rooms shall be utilized for a bed-and-breakfast establishment. The maximum number of guest occupants shall not exceed 16 guests. These limits may be exceeded provided a special exception permit is approved by City Council.
- (3) Any building erected, enlarged, or modified to accommodate a bed-and-breakfast shall maintain the appearance of a single-family residence.
- (4) Guests may stay no more than 30 consecutive nights in any one calendar year.
- (5) Meals shall be provided only to overnight guests and no cooking shall be permitted in guest rooms.
- (6) Required parking areas for guests and employees shall be provided on-site.

### **§286-518.18 Minimum Parking required.**

Bed-and-breakfast 1 space per sleeping room available for guests

### **RESIDENTIAL USE TYPES:**

#### **§ 286-202.04 ACCESSORY APARTMENT**

A second dwelling unit within a detached single-family dwelling or within an accessory structure on the same lot as the detached single-family dwelling, which is clearly incidental and subordinate to the main dwelling unit.



**§ 286-404.04 Accessory apartments.**

A. Intent. Accessory apartments afford an opportunity for the development of small dwelling units designed to meet the housing needs of single persons, persons with fixed or limited income, and/or extended families who live or desire to live with a degree of privacy and independence. Accessory apartments provide a degree of flexibility for home owners with changing economic conditions and/or family structure, while providing a reasonable degree of protection for existing property values and neighborhood character.

B. General standards.

(1) Adequate parking, as determined by the Administrator, shall be provided.

C. Additional standards in the RL, RM and RH Districts.

(1) An accessory apartment shall only be considered as an accessory use to a detached single-family dwelling and no accessory apartment shall be located in any structure other than the principal structure on the lot, unless a special exception permit is approved for the accessory apartment.

(2) Only one accessory apartment shall be allowed on any one lot or parcel, and the owner of the property shall reside on the premises, and only members of the owner's family shall reside in the accessory apartment.

(3) No new exterior entrances to an accessory apartment within a detached single-family dwelling shall be allowed. Access to the accessory apartment must be through an existing exterior entrance.

(4) Upon completion of the construction, the accessory apartment shall not contain more than 50% of the finished floor area of the principal dwelling unit located on the same lot, but in no case shall the accessory apartment exceed 1,000 square feet.

D. Additional standards in the RO District.

(1) The accessory apartment shall be allowed only in the same structure as, and in conjunction with, an associated civic, office or commercial use type.

(2) The civic, office or commercial use type must occupy at least 50% of the gross floor area of the structure.

**Attachment 2 – Discussion Outline**

Q. No.	Questions that need PC feedback to draft a STR ordinance.	Responses	
		Yes	No
1	Should the City distinguish between a homeowner operating a STR and living onsite?	<input type="checkbox"/>	<input type="checkbox"/>
1A	If YES, how should that use being allowed?		
i	Should it be an administrative process with certain requirements to meet?	<input type="checkbox"/>	<input type="checkbox"/>
ii	Or should it be a Special Exception Permit that requires public hearings, Planning Commission review and recommendation followed by City Council action for approval?	<input type="checkbox"/>	<input type="checkbox"/>
iii	If you have specific issues, please identify those so that Staff can research appropriate safeguards with any recommendation.	<input type="checkbox"/>	<input type="checkbox"/>
1B	If NO, how should the use be allowed?		
i	Should it be an administrative process with certain requirements to meet?	<input type="checkbox"/>	<input type="checkbox"/>
ii	Or Should it be a Special Exception Permit that requires public hearings, Planning Commission review and recommendation followed by City Council action?	<input type="checkbox"/>	<input type="checkbox"/>
iii	If you have specific issues, please identify those so that Staff can research appropriate safeguards with any recommendation.	<input type="checkbox"/>	<input type="checkbox"/>
2	Should there be a limit on how many STRs are allowed within a specific residential neighborhood?	<input type="checkbox"/>	<input type="checkbox"/>
3	Should there be an inspection process prior to approval?	<input type="checkbox"/>	<input type="checkbox"/>
4	Any Planning Commission concerns with the proximity of STRs to other uses?		

**Attachment 2 – Discussion Outline**

5	Should advertising signage be allowed for STRs?	<input type="checkbox"/>	<input type="checkbox"/>
6	Should there be a limit to the number of guests?	<input type="checkbox"/>	<input type="checkbox"/>
7	Should there be regulations for pets with guests?	<input type="checkbox"/>	<input type="checkbox"/>
8	Do you have any concerns of proximity of STRs to other uses?	<input type="checkbox"/>	<input type="checkbox"/>