

## Short Term Lodging/Rental Discussion Group

Summary Minutes from Meeting #4: November 8, 2022

**Attendees:** Kathy Rodgers, Lynn Howard, Joyce Blair, Greg Garrett, Susan Gaston

**Absent:** Denean Reyes (Denean has withdrawn from the group due to time/work conflicts), Kevin Steele

**Staff:** Terry O’Neill, Mike Hayes, Allison Jackura, Mary Fugere, Steve Shapiro

***(Note: The information listed below in items #1-9 reflect discussion from previous meetings on key discussion points)***

### **1) Should we require a registry? (10/11/22)**

It was the general consensus of the group that a registry was a good idea. This would provide a necessary data base to assist in enforcement and payment of taxes. It was questioned whether a registry was duplicative of the use permit requirement. It was explained that the registry is yet another means of helping to ensure effective enforcement from both a zoning perspective as well as assisting the Commissioner of Revenue. It was asked if the registry could distinguish between different types of short term rentals? City staff will explore this question.

### **2) Should STRL units be allowed city wide or only in certain districts? (10/11/22)**

There was some debate as to why some residential districts would allow short term rentals and others would not. It was discussed that not all neighborhoods have the same “character” and while a beachfront community, for example, might be a logical location for short term rentals, a neighborhood in the northwest part of Hampton may not be as appropriate. It was mentioned that what most neighborhood residents fear is large gatherings of people at a short term rental for a party of other “event.” These “events” often cause disruption from noise, parking concerns, litter etc. It was stated that well-run short term rentals that typically house families or vacationers hardly get noticed in a neighborhood. It was suggested that perhaps “events” should not be allowed at a short term rental without some additional type of permit. It was also discussed that we might want to consider putting a limit on the number of people who can physically be on the property versus any limitations on the number of people who can occupy the residential unit (which to some degree is already regulated through the building code). This might be another way to eliminate large gatherings of people who are not actually staying at the property.

**3) Should we limit the number or percentage of STRL units within a multi-family building or complex? (10/19/22)**

One of the key questions that surfaced in the group discussion was: “When does the number and/or frequency of short term rentals in an apartment building/complex essentially make it a hotel?” This would be a fundamental use change. It was suggested that staff explore further the Building Code implications between a multi-family residential use (i.e. apartments etc.) and a hotel. There was some consensus that perhaps an upper limit on short term rentals could be a reasonable regulation. An initial suggestion was made that maybe something like the 10-15% range. Staff will give this some more thought and analysis. It was also pointed out that we should not follow the Newport News model (straight 10% cap in multi-family developments). It was further suggested that if a complex or building has less than 10 units we should allow 1 short term rental (assuming in this scenario the cap is 10% of the total units) and if, for example, the complex had 19 units we should allow 2 short term rentals. Essentially this approach would suggest that we round up if we are using a percentage type calculation.

**4) Should we limit the number or percentage of STRL units within a certain geographic area or unit of a neighborhood? (10/19/22)**

The key concern regarding STRL’s in neighborhood was to make sure there are enough year-round residents to maintain the social fabric of a neighborhood. We want to make sure the “neighborly” attributes that make people “neighbors” are maintained. You can’t really be a neighbor and do “neighborly” things if you are in a place for a few days or weeks. This sense of community that comes from neighbors knowing one another is important to protect. You will not get the same support network and civic pride if a neighborhood is largely made up of short term rentals. Most of the group agreed that trying to figure out how to protect this sense of being a “neighborhood” rather than just a bunch of houses was an important aspect to protect. Another point was made in favor of some sort of cap that centered on the impact that too many STRLs could have on limiting available housing options for full time residents. It was also discussed (but no consensus yet) that perhaps “host occupied” STRL’s might have a higher cap. Since the owner lives in the unit, these do operate more like a year-round resident. Staff will explore options with respect to the possibility of having different “types” or “categories” of STRLs. Lastly, perhaps the “cap” might vary by the character of the neighborhood. For example, a beachfront neighborhood might deserve to have a higher percentage of STRL’s than perhaps a neighborhood that may not be located in proximity to an amenity that would typically attract tourists, vacationers etc.

**5) Should there be occupancy limits beyond what is already in the building code? (Virginia Uniform Statewide Building Code 2018 Section 310.4.2 allows no more than 10 occupants( 10/11/22)**

The group wanted some clarification relative to the Building Code section listed above. They were generally unfamiliar with this section. City staff will try to get the Building Official to attend and/or help clarify. In general, the group did not support additional limitations on the number of occupants over what appears to be governed by the Building Code. The discussion again refocused on the group's larger concern for the impact "events" (i.e. parties, wedding receptions etc.) can have more so than a concern over "typical" short term rental occupants. It was mentioned that an important element to the entire process will be to make sure we have an effective and fair means of enforcement. The group also resurfaced the idea of requiring some sort of additional permit if "events" were to be held at a short term rental and/or limiting the number of people on the property. It was mentioned, as a point of reference, that Bed & Breakfast establishments that host events are classified in the Zoning Ordinance as a distinct use and have to obtain a separate type of use permit. As such, there is already a precedent for identifying the activity of hosting "events" as a means to distinguish certain use types. Staff and the group will explore these ideas further.

**6) Should we require all STRL units to identify a local property manager or local responsible contact for the property? Should we require identification and contact information for a person staying at the property for each stay? (10/19/22)**

There was general agreement that the City should require a registry and presumably that would also require a local contact. Most were opposed to requiring contact information for a person actually staying on the property. It was felt that this would be redundant and not necessary if the registry already contained a local contact.

**7) What types of enforcement penalties should be in place if an STRL property fails to comply with adopted regulations and/or if a property has a specified number of violations/police calls? (10/19/22)**

The first point made was to make sure that complaints or violations are substantiated and verified. They can't just be a disgruntled neighbor calling the City over and over. We need to strike a balance between penalties that will deter bad behavior but not be so onerous that we put people out of business for simple unintended mistakes. It was referenced to look at the Hall County, South Carolina ordinance. This ordinance has some good ideas – maybe a bit more heavy handed than is ideal but still some good options to consider. Staff will review this ordinance in more detail. It was suggested that maybe the approach should be something like: first offense – a fine; second offense – a more severe fine; third offense might mean shutting them down for maybe 6 months; any further offense may mean revoking their permit for a year.

**8) Should we distinguish between “homestays” and “vacation” rentals? (10/19/22)**

There was some sense (but not unanimous) that we should distinguish between STRL’s which our owner occupied and those that are not. Since the presumption is that an owner occupied STRL can function as a part of the neighborhood fabric, the question was posed regarding how many STRL properties can one person own and still “function” as a true neighborhood resident. Could an owner of two STRL’s have enough presence in each of the two neighborhoods to be a true contributor to both neighborhoods?

**9) Should we distinguish between short term rentals/lodging that provides no services versus those that do provide services (i.e. food and beverage etc.) (10/19/22)**

There was a short conversation on this topic as we ran out of time so additional conversation is probably warranted. Initial thoughts seem to move in the direction that a STRL that provides food and beverage should be classified as a B&B.

***(Note: The information below represents a summary discussion from the meeting held on November 8, 2022)***

There was a brief discussion with acting Building Official, Steve Shapiro, regarding relevant regulations within the Building Code. Section 310.42 of the Virginia Uniform Statewide Building Code is the applicable section referencing “lodging houses” and allows no more than 10 occupants and no more than 5 guest rooms within the R-3 or R-5 classification. Exceeding these numbers would require additional building code requirements such as a fire alarm system, sprinklers etc. It was clarified that this provision would not limit occupancy in any guest room to no more than 2 people.

City staff provided the group with a draft presentation of the recommendation that will go to the Planning Commission on November 17, 2022. The presentation was provided to each member of the group via email. Based upon this draft presentation the following key points were discussed:

- Some members believe there are many good aspects to the staff proposal but they are fundamentally opposed to the use permit process. Other members either support the use permit process or are “on the fence.” Staff indicated that if we had more time to work on this with the group, we may be able to carve out certain conditions under which a short term rental permit might be able to be an administrative process such as a Zoning Administrator Permit.
- The fundamental concern over the use permit process is the perceived undue influence a few “angry neighbors” could have on whether a short term rental will or will not be approved. Those opposed to the use permit process don’t see this as always a fair process while those in favor like the idea that neighbors would have an opportunity to voice their opinion.
- There was some concern over the proposed two-year grace period for those short term rentals who have business licenses but no zoning approval. Some indicated they would prefer that all

short term rentals who currently are operating with a business license be grandfathered. Staff indicated that there is a Supreme Court case which ruled that just because a business license is issued, it does not mean they are exempt for compliance with applicable zoning regulations. Obtaining the required use permit (if that is the approach City Council adopts) would be the process to bring those short term rentals who currently operate with a business license into compliance with zoning regulations. When these short term rentals have to renew their annual business license would they be given the full two years? The answer was “yes” they will still have two years from the date established by City Council.

- The group discussed notification. It was generally agreed that some form of notification should be provided on some regular basis to neighbors once a short term rental is established.
- The group discussed the suggested condition requiring a local contact person. All agree it will be essential to have a local responsible contact so neighbors and the City can reach out to work with these individuals to correct any issues. The merits of having a professional realtor or property manager were discussed. The general conclusion on this topic was that professional licensed realtors or property managers certainly provide a wealth of benefits but it was also stated that some very good property managers are not realtors.
- The general sense of the group is there is more work to be done and a more in-depth “second phase” of this work would be beneficial. The general sentiment was that this process was productive, collaborative and generated some very good ideas for ways to reasonably regulate short term rentals. The use permit process seems to be the primary recommendation where there was not general consensus. The group feels like additional effort and collaboration could really make Hampton’s short term rental regulations the benchmark for other communities.

Staff reminded the group members of the upcoming schedule for this item to be heard at the Planning Commission and City Council (dates below). They are more than welcome to come to these public hearings and share their views. The group will not meet again until at least sometime in 2023 pending the decision of City Council in December and probably pending any action by the Virginia General Assembly at their upcoming session.

Reminders:      Planning Commission Meeting – November 17, 2022 at 3:30 pm, City Council Chambers  
                         City Council Meeting – December 14, 2022 at 6:30 pm, City Council Chambers