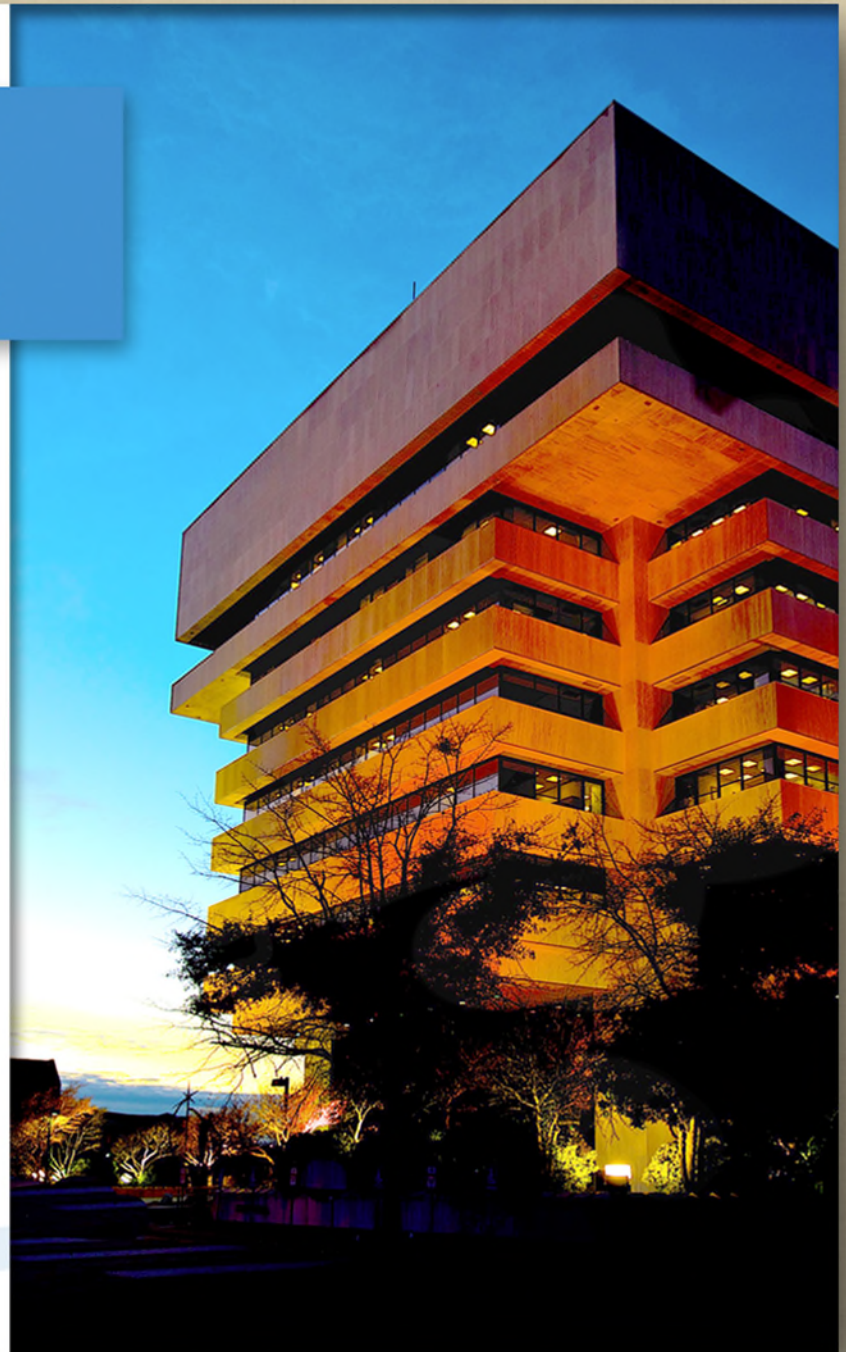


# HAMPTON VA

## **Zoning Ordinance Amendment No. 22-00322 & No. 22-00323**

***Chapter 2 and Chapter 3  
for Short-term Rental Use***

**City Council  
December 14, 2022**



# Amendments

To amend Section 2-2 entitled  
“Definitions” to add “Short-term rental”

&

To amend Section 3-2 entitled “Table of  
Uses Permitted” and Section 3-3 entitled,  
“Additional Standards On Uses,” to add  
“Short-term rental” as a use

# History

- Prior to December 2013, the ordinance did not address short-term rentals (STRs) hosted on online platforms such as Airbnb or VRBO
- **December 2013 Zoning Interpretation**
  - STRs are permitted by-right as an accessory use to single family dwellings
  - If the primary use is STR rentals, then it is a bed & breakfast, which requires a use permit
- **November 2019 Zoning Interpretation**
  - The STR location must be the primary residence of the applicant
  - Primary residence = where applicant lives 6+ months of a year
  - Thus, only 1 STR is permitted per person within the City

# Current Status

- **Short Term Rentals are permitted by Zoning:**
  - City-wide
  - By-right
    - As an accessory use in conjunction with a primary use of a property as a single family dwelling, which can include townhomes
    - Provided that the owner lives there 6+ months out of a calendar year (may only have 1 STR) and STR stays are 30 days or less
  - With a Use Permit
    - As a Bed & Breakfast
- **Building Code Regulations**
  - When occupied by more than 10 people, additional building code requirements apply
  - E.g., Fire alarm systems, sprinklers, and fire extinguishers
- **Virginia Department of Health (VDH) Regulations**
  - STRs in single family dwellings do not require a VDH permit unless they are offering food service or meals



# Enforcement

- **Current Enforcement Issues**
  - Difficult to prove existence of STR
    - STR platforms do not give a precise address
  - Difficult to prove residency violation
    - Relying on neighbor testimony, which requires them to keep records and come to court
- **Complaints addressed on case-by-case**
  - Zoning review has gotten more detailed
  - Each case requires staff time and resources
  - Many contacts with neighbors and review of evidence is ongoing
    - COR, website searches, contacts with neighbors

# Legal Context

- **State law has preserved local zoning authority to regulate STRs**
  - General Assembly is expected to act next session on bills that may restrict local regulatory authority
  - City's immediate goal: amend zoning ordinance before G.A. acts
    - Amendments would supersede 2013 and 2019 zoning interpretations
- **State law also specifically allowed STR “registries” – 15.2-983**
  - Localities may establish “a short-term rental registry and require operators within the locality to register annually” with name and address of each property
  - May include a \$500 penalty for not registering
  - “Ordinance may provide that unless and until an operator pays the penalty and registers such property, the operator may not continue to offer such property for short-term rental.”

# Neighboring Localities

- **Norfolk**

- Permitted in certain areas
- Annual registration requirement – Host Compliance platform
- OK in apartments but limit on number of units used as STLRs
- Additional conditions - security cameras, noise monitors, trash collection, parking, liability insurance
- Use permit required if more than 4 bedrooms

- **Virginia Beach**

- Permitted in certain areas
  - Annual registration requirement – Host Compliance platform
  - Additional conditions – signage, balcony inspections, parking
  - Use permit required in Oceanfront Resort district
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# Neighboring Localities

- **Newport News**
  - Permitted in certain areas
  - Annual registration requirement
  - No more than 10% of units in multifamily developments may be SLRs
  - Owner must live on-site 185 days per year
  - Additional conditions – no more than 6 guests, maximum of 2 people per bedroom
- **Some Common Themes**
  - Distinction between “homestays” and “vacation rentals”
    - Homestay – owner remains on-site and rooms are rented
    - Vacation rental – entire home is rented out to guests
  - Regulations vary by geographic area
  - Some use permit and some by-right
  - Various conditions placed on use



# Proposed Definitions

- Adopt State definition of short-term rental with minor tweak to align with City definition of transient
  - Term not to include hotels which have 10 or more rooms
  - Term not to include bed and breakfast
- Update the bed and breakfast definitions to require both lodging and food or beverage
  - Prevents overlap in terms, and better aligns with expectations

# Proposed Districts

- Require a Use Permit in all proposed districts
- Allow only in districts that would currently allow STR via existing interpretation
  - One and Two Family Residential (R-LL, R-43, R-R, R-33, R-22, R-15, R-13, R-11, R-9, R-8, and R-4),
  - Multifamily (MD-1, MD-2, MD-3, MD-4, and R-M),
  - Commercial (C-1 and C-2),
  - Langley Flight Approach Limited Residential (LFA-5),
  - Residential Transition (RT-1),
  - Buckroe Bayfront (BB-1, BB-2, and BB-3),
  - Downtown (DT-1, DT-2, and DT-3),
  - Phoebus (PH-1, PH-2, and PH-3), and
  - Fort Monroe (FM-1, FM-2, and FM-3)

# Proposed Additional Standard

- All **current** STRs operating **with** a business license provided a grace period of two years before requiring the Use Permit to continue operations
- Note:
  - All **current** STRs operating **without** a business license would need a Use Permit prior to continuing operations
  - All **new** STRs would need a Use Permit before operating

# Impacts


- This amendment would supersede previous zoning interpretations
- Additional workload for business owners, City staff, and City Council
- Much simpler and effective enforcement process
- Clear requirement for potential operators
- Site-specific conditions can be applied as part of the Use Permit
- Expands where short-term rentals can operate, i.e. apartments



# Potential UP Conditions

- Recommended conditions will be tailored as appropriate for the site but stakeholder group discussed potentials to include:
  - Only legal dwellings and bedrooms may be rented
  - Compliance with Building & Fire Code capacity limitations, as well as other laws, ordinances, licenses, STR registry, and taxes (noise, solid waste, etc.)
    - May not have more than 5 rentable bedrooms, and may not rent to more than 10 people at one time without changing building use group
  - Floor plan provided which indicates locations of rentable bedrooms, fire extinguishers, smoke & CO detectors, and exit plan
  - Post applicable license, UP conditions, floor plan, and other restrictions in dwelling (including information about parking on lawns)
  - Limitation on events
  - Guest log (names, addresses, contact, arrival and departure) available to Zoning Administrator on request
  - Local contact person (with required response time)
  - Trash management plan
  - Proof of liability insurance
  - Notification of any change in local contact person, information to be publicly available
  - Nullification and revocation terms

# Option for Future Phase

- After more extensive stakeholder engagement, staff would recommend determining how some STRs can be allowed with a zoning administrator permit with set conditions
  - Need to have set conditions that are proven and adequate
  - Also potentially refinement on zoning districts and density of STRs in the City
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# Resources to Implement

- Example floor plan and how to make one
- Example liability insurance policy
- Registry with mapping capability for display
  - Local contact information on public website and available by 311
- Outreach to existing legal STRs during grace period
- Update 311 complaints to track short-term rentals

# Planning Commission Discussion

- Desire to have Use Permit requirement removed and add proposed future UP conditions within the ordinance
  - This would require re-advertising to a future City Council meeting
- Potential to delay effective date or expand grace period
  - Adopting now with a June 30 effective date would align with timeline for rollout of the registry
  - Staff does not recommend expanding grace period to those without zoning approval as they would not have any conditions or restrictions on operation during the grace period



# Current Status

- **Hampton statistics**
  - **370** STRs actively advertised across all platforms (**as of 8/25/22**)
    - 86% of 370 rent the entire house (vs. rooms only)
    - 85% of 370 rent a single family dwelling (15% multifamily)
    - Overall a 60% growth over last calendar year
  - **91** STR operators have contacted the Commissioner of Revenue for a business license (**as of 12/8/22**)
    - 48 approved (requires zoning approval)
    - 29 of those denied are paying lodging tax

# Recommendation

Staff and Planning Commission  
recommend **approval** of  
Item No. 22-00322  
&  
**approval** of  
Item No. 22-00323