

# STAFF EVALUATION

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**Case No.:** Zoning Ordinance Amendment, ZOA24-0175

**Planning Commission Date:** May 16, 2024

**City Council Date:** June 12, 2024

## General Information

Description of Proposal	The amendment proposes to permit short-term rentals via a zoning administrator permit if certain conditions are met, establish a set of additional standards for short-term rentals, and add an additional standard for multifamily dwellings in all districts where the use is permitted.
Relevant Existing Zoning Definitions	<p>Short-term rental. The provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes to transient residents in exchange for a charge for the occupancy. This term does not include hotel, bed and breakfast 1, or bed and breakfast 2, as defined within this ordinance.</p> <p>Multi-family dwelling. A dwelling containing two (2) or more dwelling units.</p>
Current Regulations	<p>Chapter 3 – Uses Permitted</p> <p>Sec. 3-2. – Table of uses permitted.</p> <p>The “Table of uses permitted” indicates that “short-term rental” requires approval of a Use Permit in the R-LL, R-43, R-R, R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-4, MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, LFA-5, RT-1, BB-1, BB-2, BB-3, DT-1, DT-2, DT-3, PH-1, PH-2, PH-3, FM-1, FM-2, and FM-3 zoning districts.</p> <p>The “Table of uses permitted” indicates that “multifamily dwelling” requires approval of a Use Permit in the MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, RT-1, [DT-1, DT-2, DT-3 if not meeting certain additional standards], and FM-3, and approval by-right in the BB-2, BB-3, BB-4, BB-5, [DT-1, DT-2, DT-3 if meeting certain additional standards], PH-1, PH-2, PH-3, and FM-2 zoning districts.</p> <p>...</p> <p>Sec. 3-3. – Additional standards on uses.</p> <p>...</p> <p>(29) Short-term rentals in the R-LL, R-43, R-R, R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-4, MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, LFA-5, RT-1, BB-1, BB-2, BB-3, DT-1, DT-2, DT-3, PH-1, PH-2, PH-3, FM-1, FM-2, and FM-3 zoning districts are subject to obtaining a use permit by city council and shall comply with the following additional standard:</p> <p>(a) Short-term rentals for which a business license was issued and zoning compliance was confirmed pursuant to Sec. 18.1-12 of the City Code prior to December 14, 2022 may operate continuously in the same location until December 31, 2024 provided that the short-term rental maintains compliance with all applicable City Code and Zoning Ordinance provisions during</p>

that time. After December 31, 2024, the short-term rental must obtain approval of a use permit by city council in order to continue operation.

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(42) Multifamily dwelling in MD-2, MD-3, MD-4, R-M, C-2, RT-1, DT-1, DT-2, and DT-3 districts shall comply with the following:

(a) In the MD-2, MD-3, MD-4, R-M, C-2, RT-1 districts, the use permit requirement shall not apply to buildings and structures used as multifamily dwellings if they were legally established on October 13, 2021 or to those for which a significant affirmative governmental act, as defined by section 15.2-2307 of the Code of Virginia, as amended, has been obtained and remains in effect as of October 13, 2021, which allows development of the specific project, including but not limited to, having obtained an approved site plan for the building or structure. Such buildings and structures shall be grandfathered and considered permitted uses—as opposed to legal nonconforming uses—as long as the multifamily use continues and the buildings or structures remain in their then structural condition. The requirements of this section shall apply, however, to any alterations of such buildings or structures in a manner not approved prior to October 13, 2021, and upon the cessation of the multifamily use for a period longer than two (2) years.

(b) In the DT-1, DT-2, and DT-3 districts, the following additional standards shall be required. In the event of a mixed-use development proposal involving a multifamily dwelling use, the requirements for multifamily dwellings shall supersede any conflicting standards that apply more generally to the development.

(i) The standards in this subsection (b) shall not apply to buildings and structures used as multifamily dwellings if they were legally established on October 13, 2021 or to those for which a significant affirmative governmental act, as defined by section 15.2-2307 of the Code of Virginia, as amended, has been obtained and remains in effect as of October 13, 2021, which allows development of the specific project, including but not limited to, having obtained an approved site plan for the building or structure. Such buildings and structures shall be grandfathered and considered permitted uses—as opposed to legal nonconforming uses—as long as the multifamily use continues and the buildings or structures remain in their then structural condition. The requirements of this section shall apply, however, to any alterations of such buildings or structures in a manner not approved prior to October 13, 2021, and upon the cessation of the multifamily use for a period longer than two (2) years.

(ii) The minimum residential development density shall be thirty (30) units per buildable acre.

(iii) The primary entrance for all multifamily dwelling buildings abutting any public street shall face a public street. The primary entrance is not permitted from the parking area or alley.

(iv) Off-street parking shall be prohibited in the front yard.

(v) There shall be a fifteen (15) foot deep façade zone along the front lot line. Ninety (90) percent of the length of the façade zone

shall be occupied by the multifamily dwelling building, except that required drive aisle(s) with associated sidewalks to access required off-street parking areas shall not be counted toward this percentage.

(vi) A minimum of twenty (20) percent of the first floor street-adjacent building façades shall be comprised of glass windows and/or glass doors.

(vii) There shall be at least one first floor window on all façades of all buildings containing residential dwelling units.

(viii) All buildings containing residential dwelling units shall be a minimum of two (2) stories.

(ix) The minimum ceiling height of the first floor of a building containing residential dwelling units shall be ten (10) feet.

(x) For any building with residential dwelling area on the ground floor and which faces a public right-of-way, the first finished floor of the dwellings shall be a minimum of thirty-six (36) inches above the grade of the public sidewalk at the primary entrance to the building.

(xi) Sixty (60) percent of all residential dwelling units part of the development shall have access to an open space amenity either in the form of individual space for the unit's use, or shared common space which is sized in such a way to accommodate all of the required units as further described below. In the event that the requirement causes a fraction of a unit, the requirement shall be rounded up to the nearest whole number.

(aa) Individual open space amenities shall have a minimum dimension of four (4) feet by six (6) feet.

(bb) Shared common space may only be used as an open space amenity when accommodating more than four (4) units. Such shared common space must be sized to provide at least sixteen (16) square feet per each unit. The shared common space shall have a minimum dimension of eight (8) by eight (8) feet.

(xii) When the development has fifty (50) or more residential dwelling units, at least one (1) of the following active recreation amenities shall be provided on the same lot: swimming pool, clubhouse or similar common room, lighted tennis court, lighted basketball court, shuffleboard area, dock, pier, boat ramp, dog park, or other similar active recreation amenity as approved by the Zoning Administrator. The amenity required by this subsection shall not be counted towards the requirement of section 3-3(42)(b)(xi).

(c) Multifamily dwellings which do not meet the by-right optional incentive standards set forth under subsection (b) are subject to obtaining a use permit. When considering a use permit, the city will follow the criteria for use permit review set forth in chapter 14, as amended, in order to determine suitability of the development for the proposed location.

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## Analysis

The amendment proposes to amend how short-term rentals and multifamily dwellings are permitted within the City.

In December 2022, the City adopted a zoning ordinance amendment which required all short-term rentals to obtain a Use Permit in order to operate within the City. That amendment provided a 2-year grace-period to those forty-five short-term rentals which had previously obtained the required business license with zoning approval, to give them time to receive approval on the newly-required Use Permit while continuing to operate.

This proposal would amend that Use Permit requirement for those short-term rentals that have sufficient parking provided entirely on the property, that do not operate events, that do not rent more than 5 bedrooms, and that do not allow more than 10 overnight lodgers. If these criteria are met, then the short-term rental may be approved via a zoning administrator permit, if they comply with a set of standard conditions. The conditions address operation of the short-term rental to ensure that the use will not negatively impact surrounding properties and that the use will operate safely for all. One such condition establishes a maximum occupancy based upon the number and size of the bedrooms in the rental, with only that maximum number of people permitted on the property during overnight hours. During the daytime hours, twice the number of overnight people would be permitted on premises. Another condition establishes a responsible local person who will manage the operation, respond to calls from the City within one hour of such call, and will be responsible for any violations of the zoning administrator permit conditions. There are additional conditions which can be found within the proposed ordinance.

During preparation of this amendment, staff became aware that some larger apartment complexes maintain a number of vacant dwelling units to provide as an amenity for guests of long-term residents in the complex. In review of this use, staff does not consider this as part of the short-term rental use, but rather an accessory to the multifamily dwelling use. Therefore, staff proposes in this amendment new additional standards for all districts where the multifamily dwelling use is permitted to clarify that these 'amenity apartments' are permitted. The proposed conditions would allow those complexes which have at least fifty dwelling units and on-site management to utilize no more than 10% of the total units in this way as 'amenity apartments' to their residents.

This item is being brought forward in conjunction with Zoning Ordinance Amendments No. 24-0173, No. 24-0174, No. 24-0176, and No. 24-0177 which will together establish new restrictions on how and where short-term rentals can operate within the City, and will clarify other similar uses. The amendments establish density maximums within proposed short-term rental zones, require a minimum separation between short-term rentals which are within single-family dwellings, establish required operating conditions for those short-term rentals who meet all of the requirements to obtain a zoning administrator permit, and further distinguish uses which are not meant to be regulated as short-term rentals.

In preparing these amendments, staff worked with a group of stakeholders representing various neighborhoods within the City, short-term rental operators, realtors, a bed and breakfast operator, and others. In crafting the proposal, staff sought to balance protection of neighborhoods and community cohesion with the economic, tourism, and recreational benefits short-term rentals can provide the City. Staff has presented these proposed amendments to the group of stakeholders, as well as numerous interested organizations within the City of Hampton.

**Staff recommends approval of ZOA 24-0175.**