

# STAFF EVALUATION

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**Prepared By:** Allison Jackura, Deputy Zoning Administrator (757) 728-5233  
**Reviewed By:** Mike Hayes, Planning Division Manager (757) 728-5244  
Bonnie Brown, Deputy City Attorney

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**Case No.:** Zoning Ordinance Amendment, ZOA22-00009

**Planning Commission Date:** November 17, 2022     **City Council Date:** December 14, 2022

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## General Information

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*Description of Proposal*     This amendment, if approved, would add a definition of short-term rental, and amend the existing definitions for "bed and breakfast 1" and "bed and breakfast 2".

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*Relevant Existing Zoning Definitions*     *Bed and breakfast 1.* A building or portion thereof containing not more than nine (9) sleeping rooms, in which room and board or room are offered to transient residents.

*Bed and Breakfast 2.* A building or portion thereof containing not more than nine (9) sleeping rooms, in which room and board or room are offered to transient residents, and in which events may be held.

*Hotel.* A facility offering transient lodging accommodations to the general public for compensation and having ten (10) or more sleeping rooms, that may also have additional accessory services, such as meeting rooms, restaurants, and recreational activities.

*Transient.* Occupancy for periods of not more than thirty (30) days.

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*Current Regulations*     The current ordinance does not address short-term rentals, but an existing Zoning Administrator interpretation allows them as an accessory use only to a single-family dwelling. In order to be accessory to the single family use, the owner must live in the home for more than half the year. Operations not meeting that accessory use allowance would be categorized as a bed and breakfast and therefore would require obtaining approval of a use permit from City Council in the districts they are permitted.

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## Analysis

This amendment, if approved, would add a definition of short-term rental, and amend the existing definitions for "bed and breakfast 1" and "bed and breakfast 2". The General Assembly is expected to consider legislation in the next session that could either inhibit or prohibit a locality's ability to regulate short-term rentals, especially if the locality does not currently regulate short-term rentals. Given the circumstance, staff recommends clarifying how the City regulates short-term rentals before that time.

There is a current Zoning Administrator interpretation which addresses the use short-term rental. The interpretation permits the use as an accessory to single-family residences, which is not clear to the general public or easy to enforce, as the short-term rental must be incidental and subordinate to the single-family residential use. This amendment would codify regulations which supersede the current interpretation and add clarity to related definitions.

The City's existing zoning definitions for bed and breakfasts allows an operation which provides room and board or just room; meaning providing food and beverage is not necessary to be considered a bed and breakfast. In order to align with the general understanding of a bed and breakfast and to prevent overlap or confusion with the proposed term of "short-term rental", this amendment would strike the allowance for just room to be considered a bed and breakfast.

The proposed definition of short-term rental would then capture rentals for stays less than 30 days for just lodging. It would also align in large part with the State code, with a minor deviation to utilize the term "transient", which is defined and used elsewhere in Hampton's Zoning Ordinance, and to clarify what operations do not qualify as a short-term rental. The definition would make clear that it is not to include hotel, another defined term in the ordinance, or bed and breakfasts. Short-term rentals which were only a portion of the home while the owner was also staying there, frequently referred to as "homestays" and also whole home rentals, frequently referred to as "vacation homes" would fall within the definition of a short-term rental in this proposed definition. The accompanying proposed amendment would add the newly defined term to the "Table of Uses Permitted" for a set of districts with an approved Use Permit.

Staff met with a group of stakeholders while preparing this amendment to discuss how short-term rentals should be permitted within Hampton. A range of perspectives were represented in the group, including those of a realtor, an investor, a short-term rental operator and owner, neighborhood commissioners, a bed and breakfast owner, and a hotel operator. The group reached consensus on some recommended conditions for how short-term rentals should operate, and agreed that a future amendment should address how some short-term rentals might be permitted as an administrative function by City staff.

***Staff recommends approval of ZOA 22-00009.***