



## Legislation Text

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File #: 24-0175, Version: 2

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Ordinance to Amend and Re-Enact the Zoning Ordinance of The City of Hampton, Virginia by Amending Chapter 3 Entitled “Uses Permitted” to Modify the Use “Short-term rental” to be Permitted with a Zoning Administrator Permit if Certain Additional Standards are Met, Add Additional Standards on the Operation of the Use “Short-term Rental”, Reflect the Combination of the “Bed and breakfast 1” and “Bed and Breakfast 2” Uses, and Add Additional Standards for the “Multifamily Dwelling” Use

### **Background Statement:**

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 have 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.

**Recommendations:**

Staff Recommendation:

Approve with an effective date of July 1, 2024

Planning Commission Recommendation:

Approve with an effective date of July 1, 2024

**WHEREAS**, the public necessity, convenience, general welfare and good zoning practice so require;

**BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Chapter 3 of the Zoning Ordinance of the City of Hampton, Virginia, be amended and re-enacted as follows:

**Chapter 3 - USES PERMITTED**

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**Sec. 3-2. - Table of uses permitted.**

(a) Table of Uses Permitted in Standard Zoning Districts.

[See attached use table for changes.]

(b) Table of Uses Permitted in Special Zoning Districts.

[See attached use table for changes.]

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**Sec. 3-3. - Additional standards on uses.**

...

(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 standards:

- (a) Notwithstanding the foregoing, a short-term rental may be approved by obtaining a zoning administrator permit if the following additional standards are met:
  - (i) The short-term rental shall not offer for lodging more than five (5) bedrooms, and shall not allow more than ten (10) overnight lodgers;
  - (ii) The short-term rental shall not include any events as defined within Chapter 2 of the zoning ordinance; and
  - (iii) The short-term rental shall provide for all of the required parking entirely on-site on an improved surface without use of any parking credit as otherwise permitted within Chapter 11 of the zoning ordinance.
- (b) In order for a zoning administrator permit to be approved, the short-term rental must comply with the following additional standards at the time of application and throughout operation:
  - (i) A floor plan of all levels of the dwelling to be used for the short-term rental shall be posted in a conspicuous location within the dwelling and be visible at all times to transient guests and lodgers. The floor plan shall be reviewed for approval prior to operation, and shall depict the exit plan, location(s) of rentable bedrooms, fire extinguishers, smoke detectors, carbon monoxide detectors, and any other life safety or operational details as may reasonably be required by the Zoning Administrator. Any alteration or renovation that modifies the floor plan shall comply with all provisions of this Sec. 3-3(29) and shall be subject to review and approval by the Zoning Administrator and the Building Official or their designees;
  - (ii) In addition to the floor plan referenced in Sec. 3-3(29)(b)(i), the document titled "Short-term Rental Fact Sheet", as provided by the City and completed by the operator, shall be posted in the same conspicuous location as the floor plan within the dwelling and be visible at all times to overnight lodgers and guests. In the event that the document is amended or modified by the City, City staff will provide an updated copy to the property owner(s), operator, and responsible local person who shall replace the previous version;
  - (iii) The number of bedrooms offered for overnight lodging and the number of overnight lodgers shall not exceed that which is indicated on the approved floor plan; however, in no case shall a short-term rental offer for lodging more than five (5) bedrooms and shall not allow more than ten (10) overnight lodgers.
  - (iv) The maximum number of overnight lodgers shall be based upon Sec. 404.4.1 of the Virginia Property Maintenance Code (VPMC), as amended, and will be reviewed and approved prior to operation. The maximum number shall be indicated on the approved floor plan per Sec. 3-3(29)(b)(i), and the "Short-term Rental Fact Sheet" per Sec. 3-3(29)(b)(ii);
  - (v) The maximum number of people on the property between the hours of 10:00 PM and 7:00 AM shall not exceed that authorized by the approved floor plan for overnight lodging. The maximum number of people on the property between the hours of 7:00 AM and 10:00 PM shall not exceed twice the number authorized by the approved floor plan for overnight lodging;
  - (vi) Sufficient parking shall be provided at all times to meet the minimum required parking for all uses at the property pursuant to Sec. 11-2 of the zoning ordinance. All parking within the street frontage yard shall be on an improved surface, as defined in Chapter 2 of the zoning ordinance;
  - (vii) Exterior signage in conjunction with a short-term rental shall be prohibited at all times;
  - (viii) The short-term rental shall not include any events as defined within Chapter 2 of

the zoning ordinance;

(ix) The operator of the short-term rental must provide the name and contact information of a responsible local person. The responsible local person shall:

(a) Be responsible for addressing complaints related to the use of the property as a short-term rental, including but not limited to, noise, capacity, suspected criminal activity on the property, unpermitted parking, events, and other similar violations, as soon as reasonably practicable;

(b) Reside in the Commonwealth of Virginia;

(c) Respond to any call from the City of Hampton regarding any notification of an issue related to the operation of the short-term rental within one (1) hour of the notification by the City;

(d) Be considered a responsible party under Sec. 1-11 of the zoning ordinance, shall accept service of any notices of violation and summonses upon request of the City, and shall be responsible for abating any violation of these conditions; and

(e) In the event the responsible local person's contact information needs to be updated or changed, the responsible local person shall contact and inform the Zoning Administrator, in writing, and shall also update the "Short-term Rental Fact Sheet", as required by Sec. 3-3(29)(b)(ii), to include the appropriate contact information.

(x) The short-term rental shall maintain compliance with all applicable federal, state, and local laws, including but not limited to, the provisions of the zoning ordinance and City Code relating to noise, setbacks, and building code requirements;

(xi) The short-term rental shall obtain and maintain all applicable licenses prior to operating the short-term rental use, including but not limited to, obtaining a business license with the Commissioner of Revenue;

(xii) Upon the City implementing a short-term rental registry, the operator of the short-term rental shall, within thirty (30) days of notice given by the City, register the property and keep registration up-to-date;

(xiii) The operator of the short-term rental shall keep records of all rentals showing the date(s) rented, the name of the primary person(s) who booked the reservation, the number of overnight lodgers featured in the reservation, and all listings associated with the short-term rental. This list shall be available to the Zoning Administrator or their designee upon request within one (1) day;

(xiv) Prior to operation of a short-term rental, the operator of the short-term rental shall schedule an inspection and provide the City consent to inspect the dwelling to ascertain compliance with all applicable standards and codes;

(xv) In the second calendar year after receiving approval, and every two (2) years thereafter, the City shall notify the responsible local person and short-term rental operator that a re-inspection is required to verify the continuation of the short-term rental use and compliance with all conditions. The short-term rental operator shall schedule, pay for, and pass said inspection within the notice period as prescribed by the City. Failure to do so will be a violation of this ordinance and result in revocation of the zoning administrator permit;

(xvi) The short-term rental shall not be advertised to operate in a manner that contradicts the standards and conditions of the zoning ordinance; and

(xvii) The short-term rental operator shall comply with all reasonable requests by the City for information to verify compliance with the conditions of this Sec. 3-3(29).

(c) The following additional standards shall be met by all short-term rentals:

(i) The short-term rental shall comply with the provisions of the Short-term Rental Overlay District in Chapter 9 of the zoning ordinance, as amended;

(ii) The short-term rental shall only be permitted in a dwelling unit which was previously legally established for a use other than short-term rentals; and

(iii) Only one short-term rental zoning administrator permit or Use Permit shall be issued for a property. Such short-term rental permit shall not exceed more than 9 bedrooms offered for overnight lodging on the property.

(d) Notwithstanding Sec. 1-10.1(7) of the zoning ordinance, a permittee aggrieved by the decision of the Zoning Administrator to revoke their zoning administrator permit issued under this Sec. 3-3(29) shall appeal that decision to City Council.

(e) Short-term rentals for which a complete Use Permit application, as determined by the Zoning Administrator, was submitted prior to June 30, 2024 shall be approved as a zoning administrator permit if the proposed operation complies with the requirements of Sec. 3-3(29)(a) and all other provisions of the zoning ordinance. Use Permit applications which have a pending public hearing date as of June 30, 2024 may request to be considered as a zoning administrator permit if the proposed operation complies with the requirements of Sec. 3-3(29)(a).

(f) 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 that time. After December 31, 2024, the short-term rental must obtain approval as required by this section in order to continue operation.

(g) Regulations governing the operation of all short-term rentals, including the requirement for a Use Permit, were originally effective December 14, 2022. Sections 3-3(29)(a) - (e) shall have an effective date of September 1, 2024.

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(42) Multifamily dwelling in MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, RT-1, BB-2, BB-3, BB-4, BB-5, DT-1, DT-2, DT-3, PH-1, PH-2, PH-3, FM-2, and FM-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.

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(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.

(d) In the MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, RT-1, BB-2, BB-3, BB-4, BB-5, DT-1, DT-2, DT-3, PH-1, PH-2, PH-3, FM-2, and FM-3 districts, multifamily dwellings may utilize dwelling units for short-term lodging of guests of long-term residents as an accessory to the multifamily dwelling use and not considered a short-term rental primary use, provided that:

(i) The short-term lodging of guests of long-term residents is an amenity dictated in the long-term resident's lease;

(ii) The multifamily dwelling complex must have at least fifty (50) units;

(iii) The multifamily dwelling complex must have on-site management; and

(iv) No more than ten (10) percent of dwelling units, rounded down, may be utilized for the short-term lodging of guests of long-term residents.

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[The attached Chart/Table/Graphic, entitled, "Table of Uses Permitted in Standard Zoning Districts" and "Table of Uses Permitted in Special Zoning Districts" is hereby declared to be a part of this ordinance as if fully set forth herein.]