



City of Harrisonburg, Virginia

Department of Planning & Community Development

409 South Main Street
Harrisonburg, Virginia 22801
(540) 432-7700 / FAX (540) 432-7777
www.harrisonburgva.gov/community-development

Building Inspections
Engineering
Planning & Zoning

July 1, 2019

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider modifying the Zoning Ordinance Section 10-3-13 Penalties. This section specifies the penalties for violations of the Zoning Ordinance. Currently, this section states that operating a short-term rental in violation of Section 10-3-205, which is associated with general regulations for short term rentals, shall be punishable by a civil penalty. The proposed amendments would eliminate the reference to Section 10-3-205 and replace it with the phrase “the Zoning Ordinance” so that any short-term rental operating in violation of the Zoning Ordinance shall be punishable by a civil penalty. In addition, an amendment is proposed to remove the requirements for short term rental operators to annually register the use and to pay a registration fee as currently described in Section 10-3-204, which is associated with registering the short term rental operation. This amendment would not eliminate the requirement for all short-term rental operators to obtain a one time special use permit for properties on which they want to operate.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: June 12, 2019

Vice Chair Colman read the request and asked staff to review.

Ms. Dang said that on March 26, 2019, City Council adopted new Zoning Ordinance regulations associated with short-term transient lodging commonly referred to as “Airbnbs,” which is associated with the webservice www.airbnb.com. Although known as Airbnbs, operators may use other services including but not limited to VRBO, HomeAway, and FlipKey to advertise their properties. These operations, unless previously approved by the City as a bed and breakfast, have been illegal in the City of Harrisonburg. A short-term rental (STR) is defined as “[t]he provision of a dwelling unit, a bedroom or accommodation space within the dwelling unit, or any accessory building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.”

City Council granted a grace period where enforcement of the ordinance would not occur until August 1, 2019. Therefore, while staff has sent notices to property owners who have been identified as operating a STR without an approved SUP, no violations will be issued until August 1.

Staff proposes two amendments related to short-term rental (STR) regulations. The first is to amend the Zoning Ordinance (ZO) Section 10-3-13 Penalties and the second is to remove the requirements for STR operators to annually register the use and pay a registration fee as currently described in Section 10-3-204.

Section 10-3-13 Penalties specifies the penalties for violations of the ZO. Currently, this section states that operating a STR in violation of Section 10-3-205 shall be punishable by a civil penalty. Section 10-3-205 currently reads as follows:

Sec. 10-3-205. – General regulations.

- (1) Lodging contracts shall be limited to a period of fewer than 30 consecutive nights.
- (2) Any food service offered shall be limited to guests.
- (3) Short term rentals shall have the dates for trash and recycling collection posted prominently.
- (4) Short term rentals shall not be marketed and used for weddings, receptions, or events, unless approved, and as may be conditioned during the special use permit process.
- (5) Operators shall comply with the Uniform Statewide Building Code and Virginia Statewide Fire Prevention Code.

The proposed amendment would eliminate the reference to Section 10-3-205 and replace it with the phrase “the Zoning Ordinance” so that any STR operating in violation of the ZO, including, but not limited to, operating without an approved SUP, not providing the required minimum off-street parking requirements, and not meeting conditions placed on the approved SUP shall all be punishable by a civil penalty. Section 10-3-13(2)a.i. would be amended as follows:

Operating a short-term rental in violation of ~~Section 10-3-205~~ [the Zoning Ordinance](#).

The second amendment proposed by staff is to remove all of Section 10-3-204, which is associated with the registration of the STR operation. Presently, Section 10-3-204 requires STR operators to annually register the use and to pay an annual registration fee of \$50. One of the initial reasons for establishing the annual registration process was to track and maintain the number of legally operating STRs in the City. Since the City’s STR regulations ended up requiring that all STR operators obtain a one-time SUP for properties on which they want to operate, and because STR operators are required to obtain an annual business license from the Commissioner of Revenue’s Office, staff believes future inquiries into the number of legally operating STRs can be gathered through existing processes and systems and that an annual registration is not necessary. Had the ordinance allowed some type of STR operation as a by right use, a \$50 registration fee would have been an appropriate amount to require to track and maintain such files.

Staff recommends in favor of the Zoning Ordinance amendment as presented.

Vice Chair Colman asked if there any questions for staff.

Commissioner Finnegan said that line (7) states that “[a]ny person, firm, or corporation found in violation of any provision of this chapter, upon conviction shall be guilty of a class 1 misdemeanor, unless designated as a civil penalty under subsection (2).” Can you describe what conditions would trigger a class 1 misdemeanor?

Mr. Russ said that any violation of any ordinance, that does not explicitly say otherwise, is a class 1 misdemeanor. In zoning ordinances, unless we specify that we have civil penalties, the only enforcement mechanism is the class 1 misdemeanor.

Vice Chair Colman opened the public hearing and asked if there was anyone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Whitten moved to recommend approval of the zoning ordinance amendment as presented.

Commissioner Ford-Byrd seconded the motion.

All members voted in favor of recommending approval of the zoning ordinance amendment. The recommendation will move forward to City Council on July 9, 2019.

Respectfully Submitted,

Alison Banks

Alison Banks
Senior Planner