

Short Term Rentals

Zoning Ordinance and Title 4 Amendments



Multiple Zoning Ordinance Amendments

- Definitions
- New SUP in multiple zoning districts
- New STR Regulations Article, which would consist of:
 - Purpose
 - General Use Regulations and Requirements
 - Suspension, Cancellation, or Revocation
 - Penalties

Title 4 Finance, Taxation, Procurement

- **2016 VA General Assembly Legislation for the “Limited Residential Lodging Act”**
 - Rent primary residences for less than 30 days.
 - Localities were preempted from adopting zoning ordinances to regulate STRs.
 - Required a minimum liability insurance.
 - Required registration.
 - Hosting platforms would have collected taxes on behalf of STR operators.
 - Reenactment Clause for the 2017 Session.
 - **October 2016 Staff Memo.**
- **During the 2017 Session, the 2016 Legislation was NOT reenacted, however, regulations were approved and are now codified in Section 15.2-983.**

§ 15.2-983. Creation of registry for short-term rental of property.

A. As used in this section:

"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

"Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

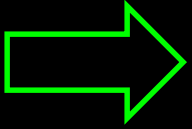
B. 1. Notwithstanding any other provision of law, general or special, any locality may, by ordinance, establish a short-term rental registry and require operators within the locality to register annually. The registration shall be ministerial in nature and shall require the operator to provide the complete name of the operator and the address of each property in the locality offered for short-term rental by the operator. A locality may charge a reasonable fee for such registration related to the actual costs of establishing and maintaining the registry.

2. No ordinance shall require a person to register pursuant to this section if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

C. 1. If a locality adopts a registry ordinance pursuant to this section, such ordinance may include a penalty not to exceed \$500 per violation for an operator required to register who offers for short-term rental a property that is not registered with the locality. Such 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. Upon repeated violations of a registry ordinance as it relates to a specific property, an operator may be prohibited from registering and offering that property for short-term rental.

2. Such ordinance may further provide that an operator required to register may be prohibited from offering a specific property for short-term rental in the locality upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

D. Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental of property through general land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§ 55-79.39 et seq.), the declaration of a common interest community as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55-508 et seq.).



Definitions

Registry

Exemptions
to Registry

Penalties

More
Penalties

Retain
Zoning
Authority

Began discussing and studying the matter, and by May 2017, a 1st draft of amendments was prepared and staff began internally debating the matter and discussing potential issues.

Should STRs:

- be allowed in the City;
- be taxed at the same rates as other lodging establishments;
- be allowed by right or by SUP;
- be owner or proprietor occupied at all times;
- be the principal residence of the owner;
- be allowed only within certain zoning districts;
- be allowed only within certain types of dwelling units;
- be allowed to operate only a certain number of days per year;
- have a maximum number of contracts, people, or bedrooms;
- have minimum parking requirements; or
- have signage regulations?

Researched other localities.

There is no “one size fits all” model.

Planning Commission discussed STRs at their March, April, May, July, and August meetings.

The proposed Zoning Ordinance amendments consist of allowing the short term rental of dwelling units only via approval of a special use permit while the modifications to Title 4 are to establish appropriate taxing of such uses.

Short Term Rental

A dwelling, where a room or space within the principal building or any related accessory building is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy. A short term rental shall neither contract with guests for longer than fourteen (14) consecutive days nor, in any way, circumvent the non-transient occupancy restrictions of the zoning district in which the use is located. Short term rentals include but are not limited to bed and breakfast facilities, hostels, and other similar services and operations.

Bed and breakfast facility

~~See "short term rental." A single-family dwelling (including the principal residence and related buildings), occupied by the owner or proprietor, in which accommodations limited to ten (10) or less guest rooms are rented for periods not exceeding ten (10) consecutive days per guest.~~

Home Occupation

Any occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within a main building or accessory building, other than business gardens as defined, by a member of a family or other legal occupant residing on the premises, in connection with which there is no advertising on the premises, and no other display or storage or variation from the residential character of the premises, and in connection with which no person outside the family or other legal occupant is employed and no equipment which is deemed to be in conflict with the intent of this definition. A home occupation shall not include beauty parlors, barber shops or doctors' offices for the treatment of patients. The foregoing notwithstanding, providing professional counseling services by appointment only for not more than ten (10) clients per week, and giving music lessons shall constitute home occupations.

Add: Minimum Off-Street Parking Regulations for STRs to Section 10-3-25:

- (27) Short term rentals shall provide one parking space for each guest room or accommodation space, or as may be more or less restrictive as conditioned by a special use permit.

Amend Multiple SUP Sections of the Zoning Ordinance:

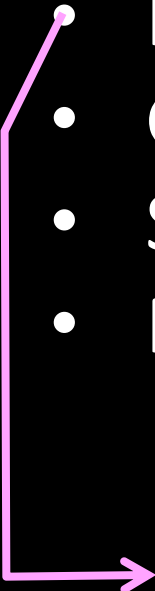
- R-1: 10-3-34
- R-2: 10-3-40
- R-3 Multiple Dwelling: 10-3-46
- R-3 Medium Density: 10-3-48.4
- R-4: 10-3-52
- R-5: 10-3-55.4
- R-6: 10-3-56.4
- R-7: 10-3-57.4
- MX-U: 10-3-58.4
- B-1: 10-3-85
- U-R: 10-3-180

➤ Short term rentals.

➤ ~~Bed and breakfast facilities in which (a) food service shall be limited to breakfast and light fare for room guests only and (b) having space available on premises for one parking space for each guest room.~~

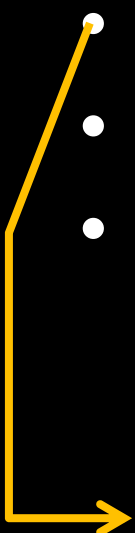
Article DD. – Short Term Rentals

- Purpose
- General Use Regulations and Requirements
- Suspension, Cancellation, or Revocation
- Penalties

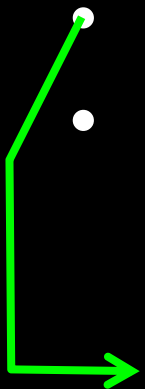


The regulations set forth in this article are to regulate short term rentals as defined in Section 10-3-24. Definitions. These regulations are to provide opportunities to allow property owners and occupants to rent dwellings to persons on a transient basis with minimal negative impact to the community.

Article DD. – Short Term Rentals

- Purpose
 - General Use Regulations and Requirements
 - Suspension, Cancellation, or Revocation
 - Penalties
 - obtain a SUP;
 - obtain an annual business license;
 - have an annual inspection performed (at a rate of \$50.00 per year) to ensure compliance with the Virginia Maintenance Code, current Virginia Statewide Fire Prevention Code, and any other applicable regulations or conditions that might have been approved as part of the SUP;
 - limit food service to STR guests;
 - ensure the STR is not used for weddings, receptions, or similar events, occasions, or happenings unless approved as part of the SUP;
 - prominently post dates for trash and recycling collection;
 - ensure the principal guest is at least 18 years of age; and
 - when applicable, prove that the location of the STR is the primary residence of the operator.
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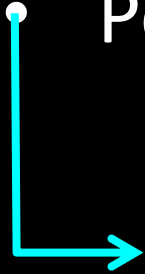
Article DD. – Short Term Rentals

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 - Penalties
 - failure to obtain a business license;
 - failure to collect and/or remit the transient occupancy tax;
 - obtaining three or more substantiated complaints within a 12-month period;
 - failure to schedule the yearly inspection or failure to comply with corrections identified resulting from the inspection; and
 - when applicable, failure to maintain the property as his or her principal residence.
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Article DD. – Short Term Rentals

- Purpose
- General Use Regulations and Requirements
- Suspension, Cancellation, or Revocation

• Penalties

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- \$250 first offense and must cease operation or rectify the violation.
 - \$500 for each subsequent offense within any time period and must cease operation or rectify the violation.
 - Upon three or more substantiated violation occasions, the City may pursue criminal charges.

Proposed Amendments to Harrisonburg City Code Title 4 – Finance, Taxation, Procurement related to Short Term Rental properties

Sec. 4-2-76.1. - Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) *Commissioner of revenue*: The commissioner of revenue of the city or any of his duly authorized deputies or agents.
- (2) *Hotel*: Any public or private hotel, inn, apartment hotel, hostelry, tourist home or house, motel, short term rental, or other lodging place within the city ~~offering lodging for four (4) or more persons at any one time~~, and the owner and operator thereof, who, for compensation, furnishes lodging to any transients as hereinafter defined.
- (3) *Room or space rental*: The total charge made by any hotel or travel campground for lodging or space furnished any transient. If the charge made by such hotel or travel campground to transients includes any charge for services or accommodations in addition to that of lodging, and the use of space, then such portion of the total charge as represents only room and space rental shall be distinctly set out and billed to such transient by such hotel or travel campground as a separate item.
- (4) *Transient*: Any natural person who, for any period of not more than thirty (30) consecutive days either at his own expense or at the expense of another, obtains lodging or the use of any space in any hotel or travel campground as ~~hereinabove~~-defined in this section, for which lodging or use of space a charge is made.
- (5) *Travel campground*: Any area or tract of land used to accommodate two (2) or more camping parties, including tents, travel trailers or other camping outfits.

What is a Special Use Permit?

Special permit uses are those which, if not specially regulated, may have an undue impact on or be incompatible with other uses of land within or adjacent to a given zoning district. These uses either have unusual characteristics, or have characteristics which may be different from those of their immediate surroundings. Upon the granting of a special use permit by city council, these uses may be allowed to locate or expand within designated zoning districts under the standards, controls, limitations, performance criteria, restrictions and other regulations of this article.

A SUP... shall be consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted in the district.

Potential conditions could be, but are not limited to:

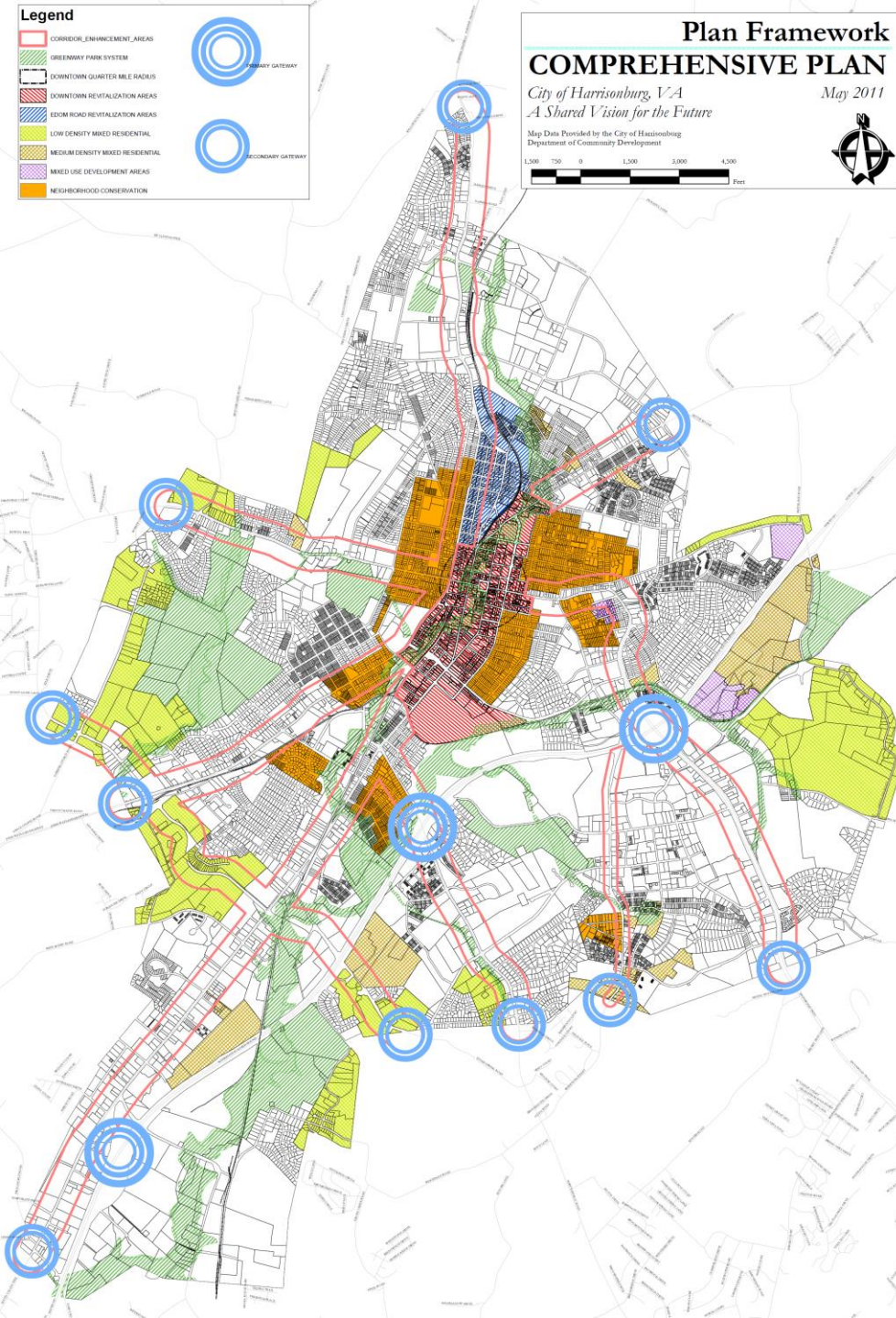
- The STR must be the principal residence of the owner or tenant
- Requiring additional parking spaces or allowing less parking spaces.
- Limiting the number of lodgers allowed on the site at one time.
- Allowing PC or City CC to revoke the special use permit if violations are found or if the STR becomes a nuisance.

Staff focused on allowing STRs in the City and concentrated our efforts and concerns on the desires of the Comprehensive Plan with regard to **affordable housing** and **protecting and conserving neighborhoods**.

Goal 3: To strengthen existing neighborhoods and promote the development of new neighborhoods that are quiet, safe, beautiful, walkable, enhance social interaction, and offer a balanced range of housing choices.

Goal 4: To meet the current and future needs of residents for affordable housing.

Objective: To promote home ownership so as to increase the proportion of owner-occupied units in the City.



- Programs to facilitate home ownership and improve the quality of rental housing.
- Programs to reduce pressures to convert single family houses and lots to other uses.

Recommendation

Staff and Planning Commission (6-0) recommended to approve the Zoning Ordinance amendments as presented.

Staff recommends approving the amendments to Title 4 Finance, Taxation, Procurement.

Enforcement

1. During the pro-active code enforcement program.
2. When complaints are received (which may be submitted anonymously), properly investigated, and substantiated.
3. When properties are under scrutiny for any kind of project or development proposal (i.e. subdivision, rezoning, special use permit, street closing, and others).

If STRs are to be enforced proactively, staff suggests a 30-day grace period from the enactment of the ordinance to allow for the community to learn about the approved regulations and to cease any illegal operations so that they may prevent themselves from receiving a \$250 fine.

