

[Working from the draft zoning ordinance update document]

Zoning: Article III District Regulations

Section 3.2 Residential District R-1 3.2.C

Accessory Uses.

Add 6. Short-term Rental in accordance with Section 4.15

Section 3.3 Residential Mixed District R-2 Section

3.3.C Accessory Uses.

Add 9. Short-term Rental in accordance with Section 4.15

Section 3.4 Residential Multi-Family District R-3

Section 3.4.C Accessory Uses.

Add 6. Short-term Rental in accordance with Section 4.15

Section 3.5 Commercial Residential CR Section

3.5.C Accessory Uses.

Add 6. Short-term Rental in accordance with Section 4.15

Section 3.6 Commercial District C-1

Section 3.6.C Accessory Uses

Add 3. Short-term Rental in accordance with Section 4.15

Section 3.7 Commercial District C-2

Section 3.7.C Accessory Uses

Add 2. Short-term Rental in accordance with Section 4.15

Section 3.8 Commercial District C-3

Section 3.8.C Accessory Uses

Add 2. Short-term Rental in accordance with Section 4.15

Section 3.9 Harbor District

Section 3.9.D Accessory Uses

Add 3. Short-term Rental in accordance with Section 4.15

Note that the draft Harbor District's permitted uses include condominium dwellings and cooperative dwellings, while second floor single-family and multi-family dwellings require CUP. With STRs classified as an accessory use, this will allow all dwellings, once approved, to become STRs by-right.

Section 3.12 Planned Unit Development (PUD)



Section 3.12.C Accessory Uses

No Change 1. Accessory uses as permitted in the R-1, R-2, and R-3 districts.

Section 3.16 Bay Crossing Planning Unit Development (Bay Crossing PUD) **Change**
to B. Permitted Uses.

B. Permitted Uses. The following uses shall be permitted by right, subject to the yard, height, coverage and density requirements contained herein: all uses permitted by-right and as accessory uses in the R-3 District ~~except short-term rentals,~~ and Electric Vehicle Charging Station(s). Notwithstanding the foregoing, the following items from the Zoning Ordinance shall be not applicable (i) Item #35 from the C-1 District (any use allowed in the S-C District) and (ii) Item C from the C-1 District.

Explanation: R-3 proposal is to include STRs by-right under accessory uses. However, within the Bay Crossing PUD, STRs are conditional uses as shown below in C.

No changes to C. Conditional Uses.

C. Conditional Uses. Subject to the Conditional Use Permit application process, the following conditional uses may be allowed: all uses in the C-1, C-2 and C-3 Districts, conditional uses within the R-3 District, short term rentals including subletting of units (said unit's square footage will be less than 1,000 square feet and the short-term rental is defined as 30 days or less for rent), and any other commercial or professional use which is compatible in nature with the allowed uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.

Zoning: Article IV General Regulations Applicable to All Districts

Section 4.2 Exceptions to the Regulations

Section 4.2.J Accessory Dwellings

Change 2. Occupancy characteristics 2.

Occupancy characteristics.

~~a. Transient Occupancy (also referred to as Short-Term Rentals [STRs]) means any person(s) who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, lodges or obtains lodging at any hotel, motel tourist home, or other facility. Accessory Dwelling Units may not be rented on a Transient Occupancy basis.~~

~~b~~ a. Length of stay – Accessory Dwelling Units may not be rented as a short-term rental. An accessory dwelling unit may be occupied by any person or persons for a period no less than thirty (30) consecutive calendar days either paying a fee for such occupancy at his own expense or at the expense of another (30-day rental or greater). Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles, the owner of the subject lot of record upon which the accessory dwelling



unit sits shall provide occupancy documentation and/or information as requested in writing.

€ b. The property owner where the Accessory Dwelling Unit (ADU) is located may utilize the ADU as overflow residential space for members of their family and guests.

Section 4.5 Off-Street Parking and Loading Standards

Table on Minimum Parking Space Requirements

Change 9. Bed and breakfasts, ~~other temporary residences renting by the day or week~~

New Section: 4.15 Short-Term Rental (STR) Regulations

A. Purpose and intent

1. Short-term rentals (STRs) are common in America today, including in the town. However, given that they are commercial uses which must co-exist with residential uses, and often in neighborhoods not designed for commercial activity, limits and regulations are needed. This article is intended to provide the requirements to allow these certain limited commercial uses in town zoning districts containing residential uses per Article III.
2. The regulations for short-term rentals are designed to accommodate an STR operator's limited commercial use in a way that is safe for the guest, meets town requirements, does not change the character of the town, and fits in with the districts in which STRs operate.
3. This ordinance is intended to work in tandem with the town's short-term rental zoning permitting requirements and the town's business license requirements, as a measure for the town to monitor the number of STRs and enforce regulations.

B. Permitting Requirements

1. No owner shall operate a short-term rental unit or advertise a residential property for short-term rental use without the owner first receiving an annual business license from the town, issued in accordance with Town Code Chapter 18, Article II by the Finance Department.
2. No owner shall operate a short-term rental unit or advertise a residential property for short-term rental without having first obtained an approved short-term rental zoning permit from the Planning Department. The application for a zoning permit will require, as a minimum, the following:
 - a. Name of owner of the short-term rental property
 - b. Address of the short-term rental property
 - c. Town business license number
 - d. For operators that are a lessee or sublessee, an attestation that the property owner has granted permission for use of such property as a short-term rental
 - e. Contact information for all owner(s) and property management companies (if applicable), to include: names, telephone numbers, mailing addresses, and e-mail addresses. If ownership is via partnership or corporation, a list of all partners, officers, and shareholders (as appropriate) must be provided with the same contact information



- f. Contact information, that will be publicly available, for a 24 hour/7 day a week contact who is the responsible party to address immediate concerns associated with a short-term rental, and who has the authority to act as the owner's agent
- g. If the property is governed by a homeowners' association, proof that authorization to operate the short-term rental was provided by the homeowners' association

3. Short-term rental zoning permits will be valid for one year and will automatically renew each subsequent year, if in good standing, and upon approval of the associated annual business license and re-inspection.

4. Any change to information on the short-term rental zoning permit application will require notification to the Planning Department within 10 business days.

5. Any change in property or short-term rental ownership will require a new application for the business license, short-term rental zoning permit, and inspection within 20 business days.

6. An owner (which includes, but is not limited to, corporations or partnerships, and entities or individuals listed in connection with corporations or partnerships) may only operate up to five shortterm rental units within the entire town.

7. An operator is not prohibited from offering a property as a short-term rental solely on the basis that such operator is a lessee or sublessee, provided that the property owner has granted permission for such property's use as a short-term rental. However, a lessee or sublessee is limited to one short-term rental within the town. An operator will be required to meet any subleasing requirements, if any, from any applicable homeowner's association.

C. Additional Requirements

1. Every short-term rental is required to submit transient occupancy tax (TOT) in accordance with Town Code Chapter 18, Article V.

2. Short-term rentals are only permitted in those residential districts as specified in Article III.

3. Simultaneous rentals under separate contracts are prohibited for short-term rentals.

4. Commercial gatherings providing direct or indirect compensation, including but not limited to luncheons, banquets, parties, weddings, charitable fund-raising, commercial or advertising activities, or other similar occurrences are prohibited.

5. Occupancy: There shall be no more than two lodgers per bedroom; with the maximum number of all overnight lodgers per rental being no greater than ten (excluding children five years of age or younger).



Occupancy of greater than 10 lodgers per STR may be approved through a Conditional Use Permit, provided the structure possesses more than five qualifying bedrooms and the property can accommodate sufficient off-street parking.

The town retains the right to investigate complaints of proposed violations to this section and/or to periodically contact STR lodgers to determine occupancy. If town investigators determine that a violation of this section has occurred, notice of such violation will be provided to the short-term rental zoning permit holder or agent who will be responsible to cure the violation.

Pertinent example in Virginia code:

§ 36-105.4. Occupancy standards for residential dwelling units.

*The owner or managing agent of a residential dwelling unit may develop and implement occupancy standards restricting the **maximum number of occupants permitted to occupy a dwelling unit to two persons per bedroom**, which is presumed to be reasonable. For purposes of Chapter 5.1 (§ 36-96.1 et seq.), such occupancy standard is subject to the provisions of applicable state and federal laws and regulations. Under the Uniform Statewide Building Code, each bedroom shall contain at least 70 square feet of floor area, and each bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each occupant. Reasonable occupancy standards of an owner or managing agent shall not be enforceable under the provisions of the Uniform Statewide Building Code.*

Regardless of what UBC offers for occupancy, we are regulating a business and can put restrictions on that are more restrictive than UBC.

6. The business license and emergency information must be conspicuously posted inside each rental, including the 24/7 contact information for the STR responsible party.
7. Signage is to comply with Article IV, Section 4.1.
8. Refuse requirements: one and two bedroom dwelling units used as short-term rental units will require one trash receptacle; three or more bedroom units will require two receptacles.
9. Lodgers and their guests will be required to observe noise requirements contained in Town Code Chapter 20, Article I, Section 20-3.
10. Safety Equipment: Operable smoke detectors, fire extinguishers, and carbon monoxide detectors shall be present in compliance with the Virginia Uniform Statewide Building Code.
11. Under no circumstances shall the issuance of a certificate of zoning compliance (permit for shortterm rental) by the Administrator (town) be construed as abrogating, nullifying or invalidating any other provision of Federal, State or local law: any deed covenant or property right; or any property owners' association bylaw.

D. Inspections



1. An initial inspection will be required for all short-term rentals in accordance with Town Code Chapter 8, Section 8-4.
2. An annual re-inspection by the Code Official or designee is required when filing for a short-term rental business license renewal.
3. The Building Code Official or designee maintains the right to inspect a short-term rental, with adequate notice, based on complaints or reasonable suspicion, to verify that the rental is being operated in accordance with the Virginia Uniform Statewide Building Code and other regulations set forth within this section.

E. Violations

1. A short-term rental zoning permit may be denied for the following calendar year for any of the following violations:
 - a. Failure to obtain/maintain a town business license
 - b. Failure to pay all town real property taxes
 - c. Failure to pay all business or transient occupancy taxes due the town from the prior year
 - d. Falsifying town forms or applications
 - e. Other applicable town zoning violations
 - f. Failure to provide responsive actions to issues raised to the 24/7 contacts, as determined through town investigations
 - g. Three or more violations of safety/building code requirements within the same calendar year, following reasonable notice
 - h. Three or more violations of occupancy limits within the same calendar year, following reasonable notice

Reasonable notice is satisfied when an authorized town official notifies the zoning permit holder or agent of a condition violating requirements of this section, and 24 hours pass without resolution of the violation.

Note: individual nuisance or noise violations will be issued directly to the offending party in addition to any consequence to the zoning permit holder.

Violations may be investigated by the Treasurer, Zoning Administrator, Building Code Official, or Police Chief as appropriate. Once investigated, violations pursuant to this section will be issued by the Zoning Administrator.

2. An operator whose short-term rental zoning permit has been denied for the following calendar year pursuant to this section, shall not be eligible to obtain another short-term rental zoning permit for the subject short-term rental for the entire succeeding calendar year. Thereafter, the owner/operator will be required to apply for a new business license, short-term rental zoning permit, and an inspection.



Examples of localities that discuss violations and suspension/cancellation: Leesburg, Waynesboro – remaining year and next calendar year.
Newport News – 2 years
Lexington, Virginia Beach, Onancock, Botetourt Co., Lynchburg, Front Royal, Ashland, Blacksburg, Abingdon, Christiansburg, Arlington – not specified
Alexandria – prohibit from offering a specific property for STR

3. Before the denial of short-term rental zoning permits for the following calendar year is made effective, the town shall give written notice to the short-term rental owner/operator as noted on the STR zoning permit. The notice of permit renewal denial for the following calendar year issued under the provisions of the section shall contain:
 - a. A description of the violations constituting the basis of the suspension or revocation;
 - b. If applicable, a statement of acts necessary to correct the violation(s); and
 - c. A statement that if no response is made by the owner/operator within 30 calendar days from the date of notice, denial of the short-term rental zoning permit for the following calendar year will be effective.

Appendix X Definitions

Delete existing definition, not used in zoning

~~Dwelling Seasonal is a dwelling unit not used as a principal residence that may be occupied weekends and for brief periods during the year.~~

Add [without code reference]

Operator means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a shortterm rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity. [§15.2-983]

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. [§15.2-983] It does not include a hotel, motel or bed and breakfast.

Not to be added

Transient – not used in zoning.

Transient Occupancy – not used in zoning. However, used in town code and definition is included in Article V, Transient Occupancy Tax.

Town Code Sections (non-zoning)

Chapter 8 - BUILDINGS AND BUILDING REGULATIONS

Modify Sec. 8-4. - Rental certificates of occupancy.



There is hereby adopted an inspection process and certificate of occupancy issuance for residential rental properties ~~within the town limits of the town~~ within R-1, R-2, R-3, Harbor, C-1, C-2, C-3, CR, or the Accawmacke Plantation PUD. No owner, agent, or person in charge of a dwelling unit in the town shall allow any person to occupy the dwelling unit as a tenant or lessee or for a valuable consideration unless such dwelling unit shall have been inspected immediately prior to occupancy and shall have been determined to be in compliance with the provisions of this article and the Virginia Uniform Statewide Building Code (USBC). Failure to obtain such inspection shall be considered a violation of this article and shall result in a penalty, as set out in section 8-5. Each day in which the owner, agent, or person in charge fails to obtain an inspection after occupancy shall be considered a separate offense. Such compliance shall be evidenced by a rental certificate issued by the town. No such inspection shall be required within 365 days of the date of the last rental certificate of occupancy. A new certificate of occupancy may be required every two calendar years in the event the same tenant remains for two or more years.

Dwellings used as short-term rentals will require an inspection annually.

Modify Sec. 8-5. - Penalty for violation.

(a) A violation of the requirements in section 8-4 is punishable by a civil penalty as indicated in this section.

- (1) Failure to obtain rental certificate of occupancy:
 - a. First offense: \$100.00.
 - b. Each subsequent offense: \$150.00.

(b) Each 10 days during which a violation is found to exist shall be a separate offense; however, ~~in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten-day period and~~ in no event shall a series of such violations result in civil penalties of more than \$3,000.00.

Modify Sec. 8-6. - Issuance of certificates.

(a) In order to implement the provisions of section 8-4, the owner, agent or other person authorized to rent a dwelling unit (hereinafter referred to as the applicant) shall request in writing from the code official a prompt inspection of such dwelling or dwelling unit. This inspection shall be conducted within five twenty business days of the written request unless a temporary waiver is granted to the applicant. If such inspection establishes that the dwelling or dwelling unit complies with all of the provisions of this article, there shall be issued a rental certificate of occupancy indicating the maximum number of occupants who may lawfully occupy it under the provisions of this article. One copy of such certificate shall be given to the applicant and a second copy shall be posted by the inspector inside the main entrance door of the certified premises or in a conspicuous place nearby and shall not be removed by or at the direction of anyone other than the tenant.

(b) A request for inspection for a dwelling unit used as a short-term rental will occur upon initial application of a business license and short-term rental zoning permit or for an annual business license renewal.

~~(b)(c)~~ Failure on the part of the building official to award a certificate due to specific violations of this article is not inclusive evidence that a violation of Virginia Residential Landlord and Tenant Act (Code of Virginia, § 55.1-1200 et seq.) has occurred.



Sec. 8-7. - Reinspection.

If a dwelling or dwelling unit fails to comply with the provisions of this article, the building code official shall furnish the applicant with a written list of specific violations. The violations will be corrected prior to issuance of a certificate of occupancy and the premises being occupied.

Chapter 24 - SOLID WASTE

ARTICLE II. – Collection by Town

Modify Sec. 24-47. - Collection charges. **(Black bold highlighted for awareness only)**

(a) The charges for the collection of refuse and bulky refuse by the town shall be such as are prescribed from time to time by the town council. A copy of the current collection rate schedule shall be available at the town office.

Our current fee schedule: Trash Collection Fee \$20.80 per month per receptacle

(b) The occupant of **any dwelling**, mobile home, or any other structure or building, **or, where such dwelling**, mobile home, structure, or building **is unoccupied**, may request removal of their collection receptacle and cancelation of service charges. If such service is reactivated within nine months of cancelation, the owner shall be retroactively liable for the charges imposed by the town for the collection of refuse and bulky refuse during that intervening time.

(c) Not withstanding paragraph (b) above, a short-term rental zoning permit holder who is required to have two receptacles, may request removal of one receptacle provided that short-term rental is not offered or used as a short-term rental for the entire period for which the second receptacle would be absent.

Chapter 18 - LICENSES, TAXATION, AND MISCELLANEOUS REGULATIONS

ARTICLE II. - BUSINESS AND PROFESSIONS LICENSE TAX

DIVISION 1. – GENERALLY **No change, black highlighted for awareness only**

Sec. 18-41. - Application.

(a) Application for a license required by this chapter shall be filed in the office of the town treasurer. The treasurer shall complete the application form fully, including all such information as the town treasurer may require.

(b) All applications for licenses must be filed by January 31 of each year.

(c) Every applicant for a license to conduct any business, profession, trade or occupation under the provisions of this chapter shall furnish the town clerk, in writing, with the applicant's correct residence address, the nature of the business, profession, trade or occupation to be pursued, the name of the business, the place where it is to be pursued and, where specified in this chapter, a



record of gross receipts or expenditures or gross purchases, verified by oath, for the next preceding year, on forms prescribed by the town treasurer. In the event of a failure or refusal to file with the town clerk the information necessary to enable the town clerk to assess a license tax on the basis provided by this chapter, the town clerk shall not issue the license or assess the tax until all necessary information has been filed to enable the town clerk to assess the tax.

Sec. 18-42. - License as personal privilege.

Every license issued under this chapter shall be deemed to confer a personal privilege to transact, carry on or conduct the business, profession, trade or occupation in the town, and such privilege shall not be exercised except by the person licensed. Transfer of such license, except as authorized in this chapter, shall be invalid and shall not relieve the transferee from the obligation of procuring a license in accord with the provisions of this chapter.

Sec. 18-43. - Display or carrying of license.

(a) **The license form or sign issued to show payment of the license taxes imposed by any section of this chapter shall be displayed in a conspicuous place at the regular place of business of the licensee** and shall be produced by the licensee on the request of any authorized enforcement officer of the town. (b) Any licensee who maintains no regular place of business shall carry, on or about said licensee's person, the license form or sign issued to show payment of the license tax, which license form shall be produced by the licensee on request of any authorized enforcement officer of the town.

Sec. 18-44. - Tax year.

The license tax year shall run from January 1 to December 31 of each calendar year.

DIVISION 2. - LICENSE TAX SCHEDULE

Modify Sec. 18-84. - Financial, real estate and professional services.

(a) The license tax imposed on a person engaged in a financial, real estate or professional service is as established by the town.

(b) Any person rendering a service for compensation in the form of a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is specifically provided for under another section of this article, is engaged in a financial service, for the purposes of this section. Those deemed to be engaged in rendering financial services include, but are not limited to, those engaged in the following:

- (1) Buying installment receivables.
- (2) Chattel mortgage financing.
- (3) Consumer financing.
- (4) Credit card services.
- (5) Factors.
- (6) Financing accounts receivable.
- (7) Industrial loan companies.
- (8) Installment financing.
- (9) Loan or mortgage companies.
- (10) Loan or mortgage brokers.
- (11) Safety deposit box companies.
- (12) Security and commodity brokers and services.



- (13) Stockbrokers.
- (14) Working capital financing.

Any person, other than a national bank or bank or trust company organized under the laws of the state, or a duly licensed and practicing attorney at law, who engages in the business of buying or selling for others, on commission or for other compensation, shares in any corporation or bonds, notes or other evidences of debt is a stockbroker. The fact that orders are taken subject to approval by a main office does not relieve the broker from license taxation under this section. Also, an insurance company engaged in selling mutual funds is a broker as to that portion of its business.

(c) For the purposes of this section, any person rendering a service for compensation as lessor, buyer, seller, agent or broker, is providing a real estate service, unless such service is specifically provided for under another section of this article. Those deemed to be rendering real estate services include, but are not limited to:

- (1) Real estate agents, brokers and managers.
- (2) Appraisers of real estate.
- (3) Escrow agents, real estate.
- (4) Fiduciaries, real estate.
- (5) Rental agents for real estate.
- (6) Real estate selling agents.
- (7) Lessors of real property.
- (8) Owners operating short-term rentals
