



**TOWN COUNCIL
Regular Meeting
Cape Charles Civic Center
November 21, 2024
6:00 PM**

At approximately 6:00 p.m. Mayor Adam Charney, having established a quorum, called to order the Regular Meeting of the Cape Charles Town Council. In addition to Mayor Charney, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Butta and Grossman, and Councilwomen Ashworth and Holloway. Councilman-elect Clayton Newman was also in attendance. Staff in attendance were Town Manager John Hozey, Project Manager Bob Panek, Treasurer Marion Sofield, Police Officer Billy Lewis, Planner/Zoning Administrator Katie Nunez, Code Official Jeb Brady, Assistant to the Town Manager Courtney Neale and Town Clerk Libby Hume. There were 14 members of the public physically in attendance, and 18 viewers on Facebook.

A moment of silence was observed followed by the recitation of the Pledge of Allegiance.

RECOGNITION OF VISITORS / PRESENTATIONS/RECOGNITIONS:

A. There were no visitors, presentations or recognitions this evening.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

Donna Olney Kohler, resident/business owner

Ms. Kohler addressed the council regarding short-term rentals (STRs). (Please see attached.)

Ed Wells, resident

Mr. Wells stated that the first goal in the town's Strategic Plan was to retain the small-town character of Cape Charles. This was not the right ordinance for the town. We have hundreds of STRs at this time. How many more did we want? The committee working on this issue never pursued the density issue. A proposed by-right ordinance gave unlimited access to the historic district. What would happen to the small-town charm and quality of life? The Town needed to have control of the district. This ordinance did not serve the best interest of the Town.

Sam Jones, resident

Mr. Jones addressed the Council regarding STR regulations. (Please see attached.)

Walter Bronson, resident

Mr. Bronson began by congratulating those who were recently elected to the Town Council. He went on to state that he agreed with the comments so far that allowing STRs by-right was a mistake. The Town needed to maintain some degree of control. Hundreds of STRs had been allowed to operate illegally. If Council wanted to grandfather them, it was fine, although he was not in favor of it. New applications should be permitted by conditional use, not by-right. He heard at nauseum the impact of STRs on communities. Limiting occupancy to 10 was a nice number and could help, but it would not end things. A conditional use permit process was needed for all new applications.

Elise McMath, resident

Ms. McMath began by congratulating Tara Ashworth on her appointment to the Town Council. She went on to address Council regarding STR regulations. (Please see attached.)

Town Clerk Libby Hume read comments submitted by Bonnie Moore, Patricia Cobb, Jason Mann, William and Karen Lowe, and Raffaele Allen. (Please see attached.)

There were no other comments to be heard, nor any other comments received in writing prior to the meeting.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to approve the agenda format as presented. The motion was approved by unanimous vote.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to approve the minutes from the October 3, 2024 Town Council Public Input Session, October 17, 2024 Town Council Public Hearings & Regular Meeting, October 23, 2024 Town Council Work Session, November 7, 2024 Town Council Special Meeting, and November 7, 2024 Town Council Work Session as presented, and to approve the October 21, 2024 Planning Commission/Town council Joint Public Hearing & Planning Commission Special Meeting minutes after it was truncated for the public hearing portion only. The motion was approved by unanimous vote.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to approve the September 30, 2024 Financial Report as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

There was no unfinished business for review.

NEW BUSINESS:

A. *Short-Term Rental Regulations:*

Councilman Butta disclosed that he owned a STR in Cape Charles and he would act in the best interest of the Town.

Mayor Charney disclosed that he managed 4 STRs and that he would act in the best interest of the Town.

Planning & Zoning Director Katie Nunez stated that the Cape Charles Town Council and Planning Commission held a joint public hearing on October 21, 2024 on Zoning Text Amendment (ZTA) 2024-01 – Short Term Rental Zoning Ordinance and significant public input was received during the meeting. Katie Nunez reviewed the Planning Commission recommendation and noted a possible conflict with the Building Code regarding occupancy limits.

Town Manager John Hozey stated that when the Planning Commission changed the age of children excluded from the occupancy count from 5 to 12 years of age, it opened up other issues that impacted the Building Code. He recommended adding language to C.5 stating that “*occupancy shall not exceed any limit set by the Uniform Building Code or local building official.*”

Councilman Grossman added that when he read the staff report, he met with Code Official Jeb Brady and Katie Nunez and generated changes to occupancy.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adopt the Short-Term Rental Ordinance as shown in the staff report which included the Planning Commission recommendations.

Council went on to review the document section by section. There was much discussion. (Please see attached for the updated ordinance based on the evening’s discussion.)

Occupancy: i) Code Official Jeb Brady stated that the building code did not address age and expressed his concern of exempting children 12 years and younger from the occupancy count, adding that if a house had a third floor attic, bunk beds could be packed in the area for children, which could be a safety issue in case of fire. He did not feel comfortable with exemptions based

on age; ii) John Hozey stated that item C.5 had been updated with language suggested by Councilman Grossman addressing this issue *"There shall be no more than two lodgers per bedroom, plus two; with the maximum number of overnight lodgers per dwelling being no greater than ten. Occupancy shall not exceed any limit set by the Uniform Building code or local building code official. Occupancy of greater than the above per STR may be approved through a Conditional Use Permit, provided the property can accommodate sufficient off-street parking, the property meets any other life safety requirements as may reasonably be required for such higher occupancy, and the property does not exceed the Uniform Building Code or local building code official limitations."*

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to amend item C.5 adding the suggested language as discussed. The motion was approved by majority vote with Councilwoman Ashworth opposed.

Violations: i) John Hozey stated that an issue was identified this afternoon by Councilwoman Ashworth related to the number of violations. Although the committee recommended that a maximum of three violations would be allowed before action was taken, Council had previously made the change to no more than two violations. Items E.1.h and E.1.i would be corrected to reflect this; ii) Councilwoman Holloway expressed her concern with item E.1.f and asked what it meant. She noted that this was also a question brought up by Ms. Lowe in her comments. Katie Nunez responded that this covered any violations under the zoning ordinance such as installing a shed without a permit. Once reported or noticed by staff, the property owner would be contacted and provided with time to submit their application or otherwise resolve the violation. If the property owner did not respond, that would be considered as failure to resolve the violation and the process would move forward to potentially revoke the STR permit. Vice Mayor Bennett asked why this needed to be included in the STR ordinance; iii) There was some discussion about item E.1.g. and the issue with nuisance or noise violations. These violations would be issued to the offending party, but would there be any impact to the STR owner? It was agreed that the Town could not hold the STR owner liable for something they were unaware of. John Hozey stated that there was still work to do on the process once Council made their decision regarding the ordinance. Councilman Butta asked if the number of nuisance/noise complaints could be added to the weekly reports so everyone could see the issues. John Hozey responded that noise ordinance violations could be broken out in the weekly reports.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to amend items E.1.h and E.1.i removing "or more" from the language. The motion was approved by unanimous vote.

Motion made by Vice Mayor Bennett, seconded by Councilwoman Holloway, to strike item E.1.f from the ordinance. The motion was approved by majority vote with Councilman Grossman opposed.

Other: Councilman Holloway brought up the possibility of requiring all registered STR owners and property managers to participate in an annual learning panel hosted by the Town. The session would be recorded so all new STRs registered throughout the year could view the session prior to obtaining their business license/STR permit. The panel could include i) the zoning official discussing zoning components such as occupancy, trash cans, etc.; ii) the code official discussing the inspection process and items that they looked for; iii) someone from the insurance industry discussing the importance of having the right insurance for operating an STR; iv) a representative from the vacation homeowners group discussing the "good neighbor" policy and ways to help visitors understand the parking limitations and community standards; v) a representative from the treasurer's office explain how to submit transient occupancy taxes (TOT), obtaining a business license, etc.; vi) a police officer to explain noise concerns, etc. John

Hozey agreed that this was a great idea and the STR owner or property managers would certify that the training material had been reviewed.

Motion made by Councilwoman Holloway, seconded by Vice Mayor Bennett, to add a new item requiring annual certification of town-prepared training information. The motion was approved by unanimous vote.

Conditional Use Permit: i) Councilman Grossman reintroduced the possibility of requiring a CUP for STRs. He noted that a requirement for a CUP was included in the ordinance for occupancy greater than the 10 person limit up to what was permitted by the building code, but he felt that after hearing comments from the citizens a requirement was needed to have all STRs go through the CUP process or at least, requiring all new STRs be approved by CUP. A CUP forced the Town to go through public hearings to obtain input from the residents and other processes. There were other jurisdictions that required CUPs for STRs, but the committee decided not to take this route. Vice Mayor Bennett added that he heard the residents tonight and that all current STRs could be grandfathered with all new STRs required to obtain CUPs. He asked what actually would be grandfathered. John Hozey stated that the only way to consider CUPs was for new STRs only as it would be impossible for the Town to push through 300+ STRs through the CUP process. If Council wanted to require CUPs, the ordinance needed to be amended changing the process from by-right to CUP along with a grandfathering clause that would set parameters to what actually would be grandfathered in. The current requirements for an STR permit were that the STR had a current business license and remittance of TOT within the last 12 months; ii) Jeb Brady suggested a third requirement be a rental occupancy certificate; iii) Councilman Butta expressed his concern about the Harbor District which currently had two existing STRs. Those could be grandfathered, but he was hesitant with including the Harbor Area in this ordinance since the Town did not have a current Harbor Development Master Plan. After the development of a plan, Council could revisit this ordinance related to the Harbor District; iv) Councilwoman Holloway stated that an implementation date needed to be determined noting that the Town had never approved anything such as this with an immediate effective date. John Hozey stated that section 4.12.A.4 provided a one-year grace period from the adoption date of the ordinance to come into compliance; v) Councilman Grossman stated that in Article III, all items should be moved from "Accessory Uses" to "Conditional Uses."

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to amend Article III moving all Short-Term Rentals from accessory uses to conditional uses. The motion was approved by majority vote with Councilwoman Ashworth and Councilman Buchholz opposed.

John Hozey reviewed the STR Regulation Implementation & Enforcement estimated costs, explaining that a robust software package was needed.

Mayor Charney asked for a vote on the motion to adopt Ordinance 20241121 Amending Cape Charles Zoning Ordinance to Add a New Section in Article IV Creating Short-Term Rental Zoning Ordinance and Amend Certain Sections of the Zoning Ordinance to Address Short-Term Rentals with the revisions to the zoning ordinance as amended this evening.

The motion was approved by majority vote. Roll call vote: Ashworth, no; Bennett, yes; Buchholz, yes; Butta, yes; Grossman, yes; Holloway, yes.

B. *Waste Collection and Disposal Services Contract Award:*

John Hozey stated that an invitation for bids for Waste Collection and Disposal Services was advertised on October 17, 2024 with a bid submittal deadline of November 7th. One bid was received from Davis Disposal Co., Inc which was our current service provider. The base bid came in at \$19.52 per container for once a week collection and disposal which was the same as our current contract. The price for two dumpsters behind the library building were \$300 for a four-

yard dumpster and \$326 for an eight-yard dumpster. There was sufficient funds budgeted to cover the increase for the remainder of the fiscal year. The contract was for one year with three one-year renewal options.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to award the Waste Collection and Disposal Services contract to Davis Disposal Company and authorize the town manager to execute the contract. The motion was approved by unanimous vote.

C. December 19, 2024 Town Council Meeting Time Change Resolution:

John Hozey stated Town elections were held on November 5, 2024 for three Council seats. For previous elections, Northampton County Circuit Court Clerk Traci Johnson attended the December Town Council meeting to officially swear in the new Council members. Ms. Johnson had a conflict for December 19th at 6:00 p.m. but provided an alternate time of 5:00 p.m. for the swearing in ceremony. Council was polled at their November 7th Special Meeting and agreed on a time change for the December 19th Regular Meeting. Pursuant to § 15.2-1416 of the Code of Virginia, if the governing body wished to change the location, day and/or time of their regular meetings, the governing body must pass a resolution as to such future meeting day, place or time. The resolution must also be posted and published in the newspaper.

Motion made by Vice Mayor Bennett, seconded by Councilman Butta, to adopt Resolution 20241121 Changing the Time of the December 19, 2024 Cape Charles Town Council Regular Meeting. The motion was approved by unanimous vote. Roll call vote: Ashworth, yes; Bennett, yes; Buchholz, yes; Butta, yes; Grossman, yes; Holloway, yes.

D. Appointment of a Town Council Representative to the Library Board:

John Hozey stated that a number of the Town's Boards and the Planning Commission included a representative from the Town Council. The Library Board oversaw the Cape Charles Memorial Library and consisted of seven members, including the Town Council representative. Former Councilman Andrew Follmer was the Town Council representative to the Library Board until his resignation effective August 31, 2024. The Town held elections on November 5, 2024 for three Council seats, and at their November 7th Special Meeting voted to file a petition with the Northampton County Circuit Court requesting the interim appointment of Tara Ashworth, the non-incumbent candidate receiving the highest number of votes, to fill the vacancy on the Town Council until the end of the current term expiring on December 31, 2024. Ms. Ashworth was a current member of the Library Board and could perform a dual role until the appointment of a new member to this Board. Interviews would be held on December 12th to appoint a new member to the Library Board.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to appoint Councilwoman Tara Ashworth as the Town Council representative to the Library Board. The motion was approved by unanimous vote.

TOWN MANAGER COMMENTS

John Hozey commented as follows:

- i) He had previously mentioned the difficulty with conversion of the personal property tax file from Northampton County. He commended the finance department for getting the bills out. Due to the delay, the personal property tax payment due date was extended to December 30th. As a reminder, real estate tax payments were still due on December 5th.
- ii) New hires: Jeremiah Camp started as a seasonal employee in the public works department but was hired as a full-time member of the crew on October 15th. Courtney Neale started as his new assistant on October 17th. Raymond Ivy started as a new police officer on November 4th. On November 11th, Paula Davis started in a part-time capacity as the new harbormaster and Michael Tyler Brown as the new assistant harbormaster. They will both go full-time in December.

- iii) A Council Executive Session was scheduled for December 12th to interview candidates to fill board vacancies.
- iv) He was expecting a report from Baker Tilley this weekend. An executive session was scheduled for December 5th to review the top town manager candidates.

MAYOR AND COUNCIL COMMENTS

Councilman Buchholz gave a big shout out to Jeb Brady and Katie Nunez for their 411 session. It was a very good session and the Town might need to do similar sessions for other processes as well, possibly for STRs. It was well done and well received.

Councilwoman Holloway agreed with Councilman Buchholz adding that she learned a lot of things especially the history of zoning.

Councilman Butta stated that he needed assistance with Virginia American Water (VAW). He called them about two weeks ago to notify them of water pouring out of the water meter. This was after the meter had been replaced. VAW was supposed to send someone. He called again on Thursday, Friday and the following Monday. As of today, water was still coming out of the meter. After numerous calls to VAW, there was still no resolution. John Hozey asked that he be notified regarding issues like this. Generally speaking, VAW had been responsive but there had been several instances with issues.

There were no additional comments.

Mayor Charney read the announcements.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, to adjourn the Town Council Regular Meeting. The motion was approved by unanimous vote.

The Regular Meeting adjourned at 7:46 p.m.

Mayor Charney

Town Clerk

**November 21, 2024 Town Council Regular Meeting
Comments and Information Provided in Writing**

Donna Olney Kohler, resident

Good evening,

My name is Donna Olney Kohler and I live at 711 Tazewell Avenue. Since May 2010, my home has operated with a Conditional Use Permit as Fig Street Inn.

I would like to start off by reiterating that I am not against Short Term Rentals. Their business model is different than mine; their guest is different than mine. We are not in competition.

Short term rentals are businesses that have a huge economic impact on our community, with the majority located in residential districts.

This Council has made it very clear that residential districts are not for the proliferation of commercial entities. Allowing Short Term Rental as a by-right use is the epitome of converting residential districts to commercial.

A Conditional Use Permit process for STRs in residential districts allows the Town to look at each property on a case by case basis to determine occupancy, parking, demand on water and sewer, signage, and other sensible regulations such as proof of commercial insurance.

I recognize that this is a significant undertaking for Town staff and resources but our number one priority is what is best for our Town, and not what is simplest or fastest to execute.

I ask the Town Council to support our Comprehensive Plan and continue with its commitment to residential districts for residential purposes, and not allow by-right for Short Term Rental businesses.

Implementation of a Conditional Use Permit process for STRs is supported by previous Council discussions, decisions, and precedents.

I thank you for your time.

Sam Jones, resident

Mr. Mayor and Town Council members:

My name is Sam Jones and my wife Julie and I live at 538 Monroe Avenue. I write to follow-up on my comments at the recent joint public hearings on prospective short-term rental and zoning regulations.

As stated previously I served as the Cape Charles Historic District Civic League representative on the Town Manager's committee on STR regulations. While the committee considered requiring a conditional use permit for any new STR applications, we rejected that approach in lieu of recommending that the town place a limit on the total number of STRs in town. The intent of a limit was to address the sense that certain streets or blocks within streets were being overwhelmed by properties transitioning to STRs and negatively impacting the overall sense of community and small town feel of the town.

The Town Council subsequently rejected the committee's recommendation to limit the overall number of STRs in town. As a result, while a number of regulations are proposed to guide the operation of STRs, there is nothing in the current proposal that allows your citizens to have input into whether an STR is appropriate within a given block or street. During your discussions, at least two of your members expressed concern about the density of STRs within blocks going forward. I would say that allowing the operation of an STR as a "by-right" business within a residential district will make it much more difficult for future town councils to address the density issue.

Therefore, to allow for transparency, citizen awareness and citizen input, I recommend that the Town Council require a conditional use permit for any new STR application. People will argue that CUPs take too much time and work. I would argue that the decision to allow a business in a residential area that is likely to generate tens

of thousands of dollars in revenue deserves a thoughtful review rather than just paying for a license, filling out some paperwork and getting an inspection.

The issue of STRs has been floating through past Council agendas since at least 2019 so clearly there is time to adjust the current proposal.

Thank you for your consideration of this request.

Elise McMath, resident

Elise McMath 304 Tazewell. Thank you for the opportunity to speak tonight. I've already shared my own reasons for supporting a conditional use process over the by-right use at the joint hearing Monday, so instead, I'd like to focus on two important points: 1) community engagement and 2) the framing of the ten-person occupancy limit as a compromise.

First, it's clear that the town's efforts to engage the community on this issue could be more robust. After the initial town hall, where the consensus was that capping the number of STRs wasn't a preferred option for regulating STRs, there hasn't been much opportunity for further input or education on the proposed regulations. Many residents are still uninformed about the decisions being made, and we're facing a rush to adopt an ordinance that treats STRs as a by-right use.

Meaningful community engagement goes beyond one town hall or an email newsletter. It's about actively reaching out, educating residents, and creating multiple opportunities for people to provide feedback. As a small town, we have a unique opportunity to foster this type of dialogue. It's disappointing that more efforts haven't been made to ensure that all voices are heard before moving forward with these regulations.

Second, the ten-person occupancy limit has been framed as a compromise, but it doesn't feel like a true compromise. A real compromise brings together input and concessions from both sides. This regulation, however, doesn't fully address the concerns of residents in the historic district who live on blocks with particularly high STR density, like the unpredictable parking situations the Bronsons and the Joneses face during peak season. It also doesn't fully consider the feedback from STR owners who raised concerns about the one-size-fits-all nature of these regulations being in the zoning ordinance. A conditional use process would allow for more flexibility to address these issues on a case-by-case basis, which could better balance the needs of everyone in the community.

If the Council believes the ten-person occupancy limit is the right solution, I encourage you to validate that with this year's community survey. I know Councilman Grossman raised concerns about including STR related questions in this year's survey because it could risk opening the can of worms, but those conversations are necessary for finding solutions that work for everyone and for bridging the divides in the community that seem to be growing. Cape Charles deserves thoughtful leadership that is willing to do the hard work needed to meet the needs of residents on all sides of this issue. I urge the Council to pause, hold additional town halls, and work toward a solution that considers the needs of all parties involved.

Thank you.

Bonnie Moore, property owner

Hello, and thank you for your diligent work on STRs.

Please consider modifying the language so that a house of any number of bedrooms could be eligible for a conditional use permit. The way it's currently written is for 5+ bedrooms, leaving those with fewer bedrooms no options to explain their unique house and parking and have the possibility of a CUP. It doesn't mean you'd have to approve every request, but would at least allow people to make a request.

An idea I've heard come up of an occupancy of two per bedroom plus an additional two was great, and I hope you consider including it. The building code will calculate a maximum occupancy, so there should not be concerns of maxing out a property with adults PLUS a gaggle of children. The 2 per bedroom plus 2 would prevent a lot of special requests from being made and overwhelming the town.

Thank you for the modification to exclude children under 12 from the occupancy count. This will allow me to more easily follow the regulations.

Patricia Cobb, resident

As a full time cc resident for 7years and homeowner for 30 years, I have seen many changes. The short term rentals and tourism have fueled our economy and brought wonderful businesses. That is the positive. I do feel like there needs to be more oversight regarding the short term rentals for all the reasons that have been discussed. The conditional use option should be considered. Maybe a Happy medium could be achieved.

Jason Mann, resident

I am writing to express my and my family's opinion on STR's. We are full time residents, and pro short term rentals. We believe the current standards are sufficient, and see no need for change. We would not have made the move to live full time in CC if it wasn't for the growth that the revenue from STR's has created. Common sense enforceable rules should always be considered for everyone who is staying in town whether full time or visiting. We love our visitors!

William and Karen Lowe, residents

STR Zoning Ordinance Regulations

1. Could the Council make it clear to everyone the intent of item 4.12 (C) on the number of lodgers per bedroom? Could there be three or more lodgers (over the age of 12) in a bedroom of sufficient square footage to meet state building codes?
2. Could the Council make it clear to all the intent of item 4.12 (C), as to maximum number of lodgers per house. Is it a total of ten over age 12 or 10 individuals of any age?
3. Under the section on violations, the proposed change : In the new section 4.12 (E) Violations, Item (1) (f), add as shown: "Other non-STR applicable town zoning violations."

Does the council really mean that if a resident was charged with a violation concerning a "Historic District Violation", such as making a repair on a Residence that did not require a building permit but did require Historic District Committee approval, the property owner would have trouble resolving this in 24 hours and could be denied or possibility have it revoked. Why are all zoning violations involved in the STR permit?

Thank you for your consideration.

Raffaele Allen, resident

Dear Mayor, Members of the Town Council and Mr. Hozey,

I am writing to express my concerns about the proposed regulation limiting short-term rental occupancy to two persons per bedroom. While I understand the importance of maintaining order and safety in our community, I believe this proposal will have unintended consequences that could severely impact our local economy, residents, and homeowners.

Our town thrives as a family-oriented vacation destination, with the vast majority of visitors being families seeking to enjoy our unique environment. A strict two-person-per-bedroom limit would be overly restrictive and out of touch with the very nature of our vacation market, where multi-generational families and multiple families often travel together. This policy would drastically reduce the availability, affordability, and attractiveness of short-term rental properties in Cape Charles, as many families would find it impractical or impossible to rent in compliance with such a rule.

At the last planning commission meeting that I attended it appeared that a few commissioners were open to adjusting the occupancy limit to something more reasonable. Research has shown that other municipalities enforce a 2 person per bedroom limit with a 2-person flex. This would be far more in tune with the nature of our vacation market. By example, a 3-bedroom home like mine would then allow for a total occupancy of 8 vs 6. 8 occupants in a 3-bedroom home is very comfortable and extremely common.

Additionally, while I appreciate the commissions change on the age restriction from 5 to 12, I still believe this to be overly limiting and nearly impossible to enforce. I truly believe that this will significantly impact our marketability considering the family friendly nature of Cape Charles.

I do not believe I need to belabor all the significant impacts these restrictive policies will have on our local economy. I truly hope you take to heart the above suggestions as they are very reasonable and far easier to enforce.

Respectfully,
Raffaele Allen

Short-Term Rentals Ordinance as adopted:

DOCUMENT LEGEND¶

Deletions of current zoning ordinance text are shown as "~~Black Strike thru~~"¶

Addition of whole sections or paragraph of zoning text are shown as "*Black-Italic*"¶

Additions of a word or words to a sentence are shown as "*Black-Italic-Underline*"¶

Council Amendments: ~~RED UNDERLINE or STRIKETHROUGH~~ for additions and deletions¶

TOWN OF CAPE CHARLES ZONING ORDINANCE

ARTICLE II - GENERAL PROVISIONS

Section 2.9 Definitions

~~Delete "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 "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."

Add "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. This does not include a hotel, motel or bed and breakfast."

Zoning: Article III District Regulations

Section 3.2 Residential District R-1

~~Add new Section 3.2.D Accessory Uses. Conditional Uses~~

1. Short-term Rental in accordance with Section 4.15-12

Any short-term rental (STR) that possessed a valid Town business license, certificate of rental occupancy and inspection, and remitted transient occupancy taxes to the Town during the twelve (12) months immediately preceding the effective date of this ordinance is considered grandfathered, but must meet the conditions of Section 4.12.

Section 3.3 Residential Mixed District R-2

~~In Section 3.3.D Accessory Uses. Conditional Uses~~

1. Add 6. Short-term Rental in accordance with Section 4.15-12

Any short-term rental (STR) that possessed a valid Town business license, certificate of rental occupancy and inspection, and remitted transient occupancy taxes to the Town during the twelve (12) months immediately preceding the effective date of this ordinance is considered grandfathered, but must meet the conditions of Section 4.12.

Section 3.4 Residential Multi-Family District R-3

~~In Section 3.4.D Accessory Uses. Conditional Uses~~

1. Add 9. Short-term Rental in accordance with Section 4.15-12

Any short-term rental (STR) that possessed a valid Town business license, certificate of rental occupancy and inspection, and remitted transient occupancy taxes to the Town during the twelve (12) months immediately preceding the effective date of this ordinance is considered grandfathered, but must meet the conditions of Section 4.12.

Section 3.5 Commercial Residential CR

~~Add new Section 3.5.D Accessory Uses. Conditional Uses~~

1. Short-term Rental in accordance with Section 4.15-12

Any short-term rental (STR) that possessed a valid Town business license, certificate of rental occupancy and inspection, and remitted transient occupancy taxes to the Town during the twelve

(12) months immediately preceding the effective date of this ordinance is considered grandfathered, but must meet the conditions of Section 4.12.

Section 3.6 Commercial District C-1

In Section 3.6.H ~~Accessory Uses. Conditional Uses~~

1. Add 4. Short-term Rental in accordance with Section 4.15-12

Any short-term rental (STR) that possessed a valid Town business license, certificate of rental occupancy and inspection, and remitted transient occupancy taxes to the Town during the twelve (12) months immediately preceding the effective date of this ordinance is considered grandfathered, but must meet the conditions of Section 4.12.

Section 3.7 Commercial District C-2

Add new Section 3.7.D ~~Accessory Uses. Conditional Uses~~

1. Short-term Rental in accordance with Section 4.15-12

Any short-term rental (STR) that possessed a valid Town business license, certificate of rental occupancy and inspection, and remitted transient occupancy taxes to the Town during the twelve (12) months immediately preceding the effective date of this ordinance is considered grandfathered, but must meet the conditions of Section 4.12.

Section 3.8 Commercial District C-3

Add new Section 3.8.C ~~Accessory Uses. Conditional Uses~~

1. Short-term Rental in accordance with Section 4.15-12

Any short-term rental (STR) that possessed a valid Town business license, certificate of rental occupancy and inspection, and remitted transient occupancy taxes to the Town during the twelve (12) months immediately preceding the effective date of this ordinance is considered grandfathered, but must meet the conditions of Section 4.12.

Section 3.9 Harbor District

Add new Section 3.9.F ~~Accessory Uses. Conditional Uses~~

1. Short-term Rental in accordance with Section 4.15-12

Any short-term rental (STR) that possessed a valid Town business license, certificate of rental occupancy and inspection, and remitted transient occupancy taxes to the Town during the twelve (12) months immediately preceding the effective date of this ordinance is considered grandfathered, but must meet the conditions of Section 4.12.

Section 3.16 Bay Crossing Planned Unit Development (Bay Crossing PUD)

Add to:

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.

Zoning: Article IV General Regulations Applicable to All Districts

Section 4.2 Exceptions to the Regulations:

Section 4.2.J Accessory Dwellings

#2. Occupancy characteristics

DELETE: 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.~~

Amend by adding: a. b. 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.

Section 4.5 Off-Street Parking and Loading Standards

Section 4.5 (B) (3) (a) (9) – the Table on Minimum Parking Space Requirements

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

ADD New Section: 4.12 Short-Term Rental (STR) Regulations

A. Purpose and intent

1. The purpose and intent of this section is to regulate Short-term rentals (STRs). 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 owner's and 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 Section is intended to work in tandem with the town's business license requirements as contained in the Town Code, as a measure for the town to monitor the number of STRs and enforce regulations.

4. Owners and operators are allowed a one-year grace period, from the date Zoning Ordinance No. 20241121A is adopted, to come into compliance. However, this grace period is not intended to limit or change existing rules and regulations, including but not limited to requirements to obtain a business license, pay taxes, and comply with the building code.

B. Permitting Requirements

1. A short-term rental unit shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department.

2. A short-term rental unit shall not be operated until a Short-Term Rental (STR) zoning permit is issued by the Planning Department. The application for a zoning permit will require, as a minimum, the following:

- a. Name of owner and operator 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), operator(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, ~~which 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 and operator's agent*
- g. If the property is governed by a homeowners' or condominium association, proof that authorization to operate the short-term rental was provided by the homeowners' or condominium association*
- h. ~~Certification that Town prepared STR training information has been reviewed annually~~*

3. Short-term rental zoning permits will be valid for one year and may be renewed each subsequent year, if there were no permit violations, 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 ownership of the property or short-term rental owner or operator 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 that are stockholders, members or partners in corporations, companies, or partnerships) may only operate up to five short-term 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 or condominium 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.

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

3. Simultaneous short-term rentals under separate contracts in the same dwelling are prohibited.

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: ~~Excluding children five twelve (12) years of age or younger,~~ There shall be no more than two lodgers per bedroom, ~~plus two;~~ with the maximum number of overnight lodgers per dwelling being no greater than ten. **Occupancy shall not exceed any limit set by the Uniform Building Code or local building code official.**

Occupancy of greater than ~~10 lodgers per STR above~~ may be approved through a Conditional Use Permit, provided ~~the structure possesses more than five qualifying bedrooms,~~ the property can accommodate sufficient off-street parking, ~~and~~ the property meets any other life safety requirements as may reasonably be required for such higher occupancy, ~~and the property does not exceed the UBC or local building code official limitations.~~

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

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, or more as may be required by a Conditional Use Permit. Owners and operators are required to maintain the receptacles so that they do not overflow.

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 short-term 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 homeowners' or condominium association bylaw, or rule.

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 building 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, based on complaints or reasonable suspicion, to verify that the rental is being operated in accordance with the Virginia Uniform Statewide Building Code, the permit, and other applicable laws and regulations.**

E. Violations

- 1. A Short-Term Rental (STR) zoning permit may be denied 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 taxes from the prior year**
 - d. Failure to file and pay (if applicable) payment of transient occupancy taxes due the town for the previous three months or more**
 - e. Falsifying town forms or applications**
 - ~~f. Other applicable non-STR town zoning violations~~**
 - g. Failure to provide responsive actions to issues raised to the 24/7 contacts, as determined through town investigations**
 - h. Two ~~or more~~ violations of safety/building code requirements within the same calendar year, that are not cured following reasonable notice**
 - i. Two ~~or more~~ violations of occupancy limits within the same calendar year, that are not cured 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 Town Manager, Treasurer, Zoning Administrator, Building Code Official, Police Chief or their designees as appropriate. Once investigated, violations pursuant to this section will be issued by the Zoning Administrator.

- 2. An owner or operator, whose Short-Term Rental (STR) zoning permit has been denied pursuant to this Section, shall not be eligible to obtain another STR zoning permit for the subject short-term rental for the entire succeeding calendar year. Thereafter, the owner or operator will be required to apply for a new business license, STR zoning permit, and an inspection.**

- 3. Before the denial of Short-Term Rental (STR) zoning permits is made effective, the town shall give written notice to the short-term rental owner or operator as noted on the STR zoning permit. The notice of permit denial under the provisions of the section shall contain:**

- a. A description of the violations constituting the basis of the denial, suspension or revocation;**
- b. If applicable, a statement of acts necessary to correct the violation(s); and**
- c. A statement that the owner may have a right to appeal the notice of a permit denial within 30 days in accordance with Code of Virginia Section 15.2-2311 (A) and that the decision of permit denial shall be final and unappealable if not appealed within 30 days.**

STR Regulation Implementation & Enforcement

One-time start-up costs

Software package:	\$12,000
Computers/Equipment:	\$2,500
Golf Cart:	<u>\$11,500</u>
	\$26,000

Annual recurring costs

Software package subscription:	\$45,000
Enforcement officer salary/benefits:	\$51,000
Misc.	<u>\$500</u>
	\$96,500

Recurring cost recovery

Current inspection fee: \$150 per STR per year

New annual costs: \$96,500/230 STRs = \$420 per STR, per year

New total combined STR permit fee: \$570 per STR per year* (to start)

* Note this would be in addition to all current business license fees and appropriate transient occupancy taxes

(If Bay Creek were included, new cost per STR would drop to \$300)



**TOWN COUNCIL
Executive Session
Cape Charles Civic Center
November 21, 2024
Immediately Following the Regular Meeting**

At 7:54 p.m. Mayor Adam Charney, having established a quorum, called to order the Executive Session of the Cape Charles Town Council. In addition to Mayor Charney, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Butta and Grossman, and Councilwomen Ashworth and Holloway. Also, in attendance were Town Manager John Hozey, Project Manager Bob Panek and Councilman-elect Clayton Newman.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, and unanimously approved to go into Executive Session in accordance with Section 2.2-3711.A of the Code of Virginia for the purpose of: Paragraph 3: Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Discussion of Possible Sale and/or Purchase of Real Property and Receiving Town Council Guidance on Negotiating Terms

There were no members of the public in attendance.

Council went into executive session at 7:55 p.m.

Motion made by Councilman Buchholz, seconded by Councilman Butta, to return to open session. The motion was approved by unanimous vote.

The open portion of the meeting resumed at 8:38 p.m. There were no members of the public waiting to return to the meeting.

Certification, to the best of each member's knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting by the public body. Roll call vote: Ashworth, yes; Bennett, yes; Buchholz, yes; Butta, yes; Grossman, yes; Holloway, yes.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to adjourn the Town Council Executive Session. The motion was approved by unanimous vote.

The Executive Session adjourned at 8:39 p.m.

Mayor Charney

Town Clerk