



TOWN COUNCIL & PLANNING COMMISSION
Joint Work Session
Cape Charles Civic Center
November 2, 2023
Immediately following the Town Council Special Meeting

At approximately 6:10 p.m., Mayor Adam Charney, having established a quorum, called to order the Work Session of the Town Council. In addition to Mayor Charney, present were Vice-Mayor Bennett, Councilmen Buchholz, Butta, Follmer and Grossman, and Councilwoman Holloway.

Chairman Bill Stramm, having established a quorum, called to order the Work Session of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Bill Ashworth, Paul Grossman, Jim Holloway, Shannon Smith. Commissioners Dennis McCoy and Michael Strub were not in attendance.

Members of the Short-Term Rental Ad Hoc Committee in attendance were Maggie Deuel representing Bay Creek, Sam Jones representing the Cape Charles Historic District Civic League, and Jeff Palmor representing the Vacation Rental Homeowners Association.

Staff in attendance were Town Manager John Hozey, Planner/Zoning Administrator Katie Nunez, Planning Administrative Assistant Maureen Meditz, and Town Clerk Libby Hume.

There were 35 members of the public in attendance.

The purpose of the joint work session was to review and discuss the recommendations from the short-term rental ad hoc committee.

Mayor Charney announced that this was a work session. He welcomed the members of the public in attendance but reminded them that they were here to observe and that no comments would be received.

Mayor Charney and Councilman Butta disclosed that they owned short-term rentals in the Town.

John Hozey introduced the short-term rental (STR) committee members, adding that Councilman Grossman served on the committee representing the Town Council and Planning Commission, and he and Katie Nunez were the staff representatives on the committee.

John Hozey stated that in last year's community survey, the top priorities of respondents were: 1) development of short-term rental regulations; 2) development of a beachfront master plan; 3) development of a master plan for the harbor and railroad property; and 4) development of an overall parking strategy.

John Hozey gave an overview as follows: i) As a group, the members of the STR committee looked at the issues from different perspectives and discussed potential resolutions. They focused on the best way to protect and preserve the Town's sense of community while recognizing the STRs and their economic benefits; ii) One of the concerns was the stress on the Town's infrastructure – the water and sewer capacity; space on the beach; parking on the streets, etc.; iii) A list of ideas and initial concepts was developed but no significant work was done on implementation of these thoughts or ideas. The committee wanted to wait until they heard from the Town Council before moving forward with drafting any regulations.

John Hozey went on to review the STR committee's recommendations (please see attached), and there was some discussion as follows:

Establishment of caps (items #2, 3, 4): i) Councilman Buchholz advised caution since a house permitted as an STR would potentially sell at a higher rate than one that was not permitted; ii) Councilman Grossman stated that the committee discussed setting a cap by percentage versus a set number, since new houses were being added to the inventory due to new construction. The more houses in the total inventory, the percentage of STRs would be reduced over time if using a set cap; iii) Commissioner Ashworth asked if any studies were done regarding the effect of a cap on the overall rental costs or the impact to the Town and businesses. By reducing the supply of potential STR properties, the cost of rentals could increase; iv) Councilman Buchholz stated that many people were looking to retire in Cape Charles. They purchased second homes here and rented them out as vacation rentals until they could retire and move here permanently. Capping the number of STRs would stop this practice. John Hozey asked the attendees their thoughts to gain a consensus regarding caps, adding that a lot of the recommendations would still work even if it was decided to allow the number of STRs to grow; v) Councilman Follmer did not think there was enough information provided to answer the question regarding caps. According to the survey responses, the specific complaints regarding parking were the most common, but there were others also. The specific issues that we were trying to solve needed to be spelled out so they could be assessed. Cape Charles was not the only community dealing with the issue of STRs. He would like to know the experiences of other communities, the impact on home prices, and other proven alternatives that might be used elsewhere. We did not have to reinvent the wheel; vi) Councilman Grossman stated that the Town was in a peculiar situation in that the boat had left the dock regarding the number of STRs. Only two other localities in Virginia had established caps. Wachapreague had a cap of 6 and Irvington had a cap of 21. In Richmond, an STR owner had to be a permanent resident for 180 days per year. The committee searched across Virginia and did not find many other options. Councilman Follmer suggested expanding the research outside of Virginia as this was a nationwide issue and there had to be more information out there; vii) Councilman Butta noted that there were several localities whose regulations were being challenged in court. He was concerned that we were putting ourselves at risk with whatever regulations we chose and suggested that we closely watch the legal process to see how it played out as he did not want to have to spend any legal fees defending our regulations; viii) John Hozey added that regardless of what was decided, either side to this issue would likely pursue litigation. Communities instituting regulations were being challenged and it could take 1 to 3 years for the case to go through the court system and we could not put this issue on hold for that long. Our attorney's opinion was that we should not allow fear of litigation to paralyze us, as he would be able to defend the Town's regulations in court if necessary. Was there a sense of urgency?; ix) Councilwoman Holloway stated her agreement with Councilman Follmer in that more collective information was needed before we could move forward. She thanked Councilman Grossman for doing a great job in collecting the data. Lewes, DE just established regulations, and she had been following their process; x) Maggie Deuel stated that she researched localities up and down the east coast, mainly in coastal areas, and most had a percentage cap on STRs with the average percentage of 20%. She referenced the treasurer's report from December 2022 which showed percentages of STRs in Bay Creek (11.22%), the historic district (23.39%) and Cape Charles as a whole at 18.8%, but she felt that number had doubled in the past year, at least in Bay Creek. The numbers would continue to grow unless something was done. If we waited, the numbers would outgrow the capacity of the current infrastructure which was a serious concern; xi) Councilwoman Holloway stated that there were some things that could be done now that would help the impact to the community such as setting community standards for everybody, not just STRs. Some examples were issues related to noise, trash and parking; xii) In the 400-500 blocks on Randolph Avenue, there were only 3 full-time residents, the remainder of the houses were STRs. Was there a neighborhood left on these 2 blocks? No; xiii) Councilman Follmer stated that he was not ready to throw out the idea of a cap, but just wanted more information to explore. He realized there were blocks in town where the vast majority of houses were STRs. He asked whether we cared about the density of STRs, and if we were looking at controlling STRs, did we care where they were?; xiv) Commissioner Ashworth stated that by capping STRs, we were putting a cap on future revenue growth. We were

not addressing the problems of the strain on infrastructure, or affordable housing head on. Did STRs incentivize or de-incentivize new construction?; xv) Commissioner Smith stated that capping STRs would not solve the problem since we had a lot of day visitors, boaters, people visiting their families. We needed to identify the problems we were trying to solve versus doing something drastic; xvi) Councilwoman Holloway added that we needed to look at the reality of the situation. STRs were a big influence to our economy. The businesses that we all loved were able to remain open because of the people coming to Cape Charles. The full-time residents could not support the local businesses; xvii) Councilman Buchholz cautioned everyone about implementing caps either by percentage or number. This area was turning into an STR mecca. If the Town capped STRs, we would be pushing them into the area just outside of the Town which would still affect us.

Occupancy (item #8): i) Councilman Buchholz asked if any discussion was held regarding reducing the occupancy in one house, possibly restricting it to members of a single family; ii) Councilman Butta stated that the occupancy limit was determined during the inspection; iii) The attendees were split regarding children under the age of 10 being excluded from the occupancy count as stated in item #8. There was no consensus reached at this time but several attendees thought the age limit could possibly be lowered to 2 years old versus 10; iv) Several attendees felt that the normal occupancy requirements should be followed, but that a maximum occupancy was necessary regardless of the size of the house. There was much debate about this. John Hozey suggested the possibility of a different maximum occupancy number for houses in Bay Creek versus the historic district since the Bay Creek houses were generally larger than those in the historic district; v) Jeff Palmor encouraged the Council and Planning Commissioners to think about applying the same occupancy restrictions to families with children versus all adults. 4 adults and 5 children were different than having a house of 9 adults. He wanted to encourage families to come to Cape Charles.

Violations (items#10 and 11): i) Commissioner Ashworth expressed his concern with “bad actors” renting houses. He noted that item #10 had a note stating that “individual nuisance, noise, or parking citations will not be counted against the STR owner/operator, but issued directly to the offending party,” and suggested that the STR owner should possibly be penalized as well. There had to be a way to address the issue of bad behavior with some STRs, possibly adding that after 3 violations, they would lose their permit; ii) Councilwoman Holloway added that the biggest challenge was that we had new people every week; iii) Jeff Palmor asked where to draw the line between bad guests and bad owner/operators. He stated that we did not want properties welcoming fraternities or parties, etc., and added that if a party was being held at his house at 2:00 a.m., neighbors should call the police, then contact him. Everyone involved needed to be penalized, including the owner/operator, but it got tricky when we were talking about revoking a permit when the owners were not there; iv) Mayor Charney stated that if the police had to be called, and the owner/management company took care of the issue, the owner should not get a strike against them; v) Commissioner Ashworth added that if the owner/operator did not screen their renters, there should be consequences; vi) Councilman Grossman explained that the reason that noise, parking, and nuisances were not specifically identified in this item was that they were already in the Town Code and applied to everyone, not just STRs; vii) Sam Jones provided a basic overview of the recent Historic District Civic League survey which had 112 responses for the 7 questions. There was a question related to having to complain to STR owners/operators or the Town regarding noise, lighting, trespassing, or other nuisance behavior. Full-time residents or next-door neighbors were more likely to complain. 53% of responders stated that they have had to complain; 38% occasionally complained; and 7.4% frequently complained. That’s why owner/operator contact information was needed in the STR database; viii) John Hozey stated that the framework to address the “bad actors” was included in the recommendations but more detail was needed; ix) John Hozey stated that these recommendations were sent to the attorney for review and it was believed that all items were implementable, including the cap. We were advised to be careful to exercise authority only with individuals who had that authority such as the treasurer, zoning administrator, building official, police chief. This was included in item #11. We also had to provide an avenue for the owners to appeal a determination. Appeals would be made to the town manager who would investigate the situation and make a ruling. The

town manager's decision would be final. If the owner wanted to continue to pursue the issue, it would be through the court system.

Inspections (item #9): i) Inspections would be required of all STRs initially. Annual recertifications would be made by the owner at time of business license renewal but reinspection would only be done upon a change in property ownership or management entity; ii) Councilman Buchholz expressed his concern of reinspection being required only if the property was sold; iii) Councilman Butta suggested requiring reinspection every 3 years. John Hozey clarified that property owners would be able to recertify for 2 years with an inspection being required for year 3; iv) Commissioner Holloway added that inspections would be required if the property was cited for any violations.

Parking (item #12): i) John Hozey stated that the intent was not to increase parking requirements at this time. The biggest complaints being received were related to parking and the fact that residents could not park at or near their homes because of STR parking; ii) There was much discussion regarding the recommendations, but no consensus was reached; iii) Parking was an issue in the historic district regardless of STRs; iv) By providing 2 parking passes per STR, any additional vehicles would have to park elsewhere. Arrangements were needed for overflow parking that we currently did not have; v) Jeff Palmor stated that people generally wanted to do the right thing. By just moving cars to another street, etc. we were creating a problem for someone else; vi) All were in agreement that the full-time residents' right to park in front of or by their homes needed to be protected; vii) One of the recommendations was to issue parking stickers to residents and painting the curb area in front of their homes a different color, if permitted by VDOT. There was a lot of discussion of "what ifs" regarding this recommendation; viii) Commissioner Smith stated that everyone agreed that parking was a big problem but was not going to be resolved tonight. More research was needed; ix) John Hozey stated that more research would be done regarding obtaining additional parking.

Councilwoman Holloway thanked the members of the STR committee for all their hard work in developing these recommendations.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to adjourn the Town Council Work Session. The motion was approved by unanimous vote.

Motion made by Commissioner Holloway, seconded by Commissioner Smith, to adjourn the Planning Commission Work Session. The motion was approved by unanimous vote.

The joint work session was adjourned at 8:43 p.m.

Mayor Adam Charney

Chairman Bill Stramm

Town Clerk

**November 2, 2023 Joint Work Session of Town Council & Planning Commission
Information Provided in Writing**

Memorandum



From: John Hozey, Town Manager
Date: November 2, 2023
To: Town Council and Town Planning Commission
RE: Short-Term Rentals

Earlier this year I created an ad hoc committee to research short-term rental (STR) issues. Over the past five months, this committee has been reviewing related information and considering possible suggestions for STR regulations that the Town Council and Planning Commission might consider. This committee had no formal authority nor any decision-making ability. It was simply a working group assisting staff, that brought together varying perspectives. This six-member committee had the following representation:

- Town Council/Planning Commission
- Cape Charles Historic District Civic League
- Cape Charles Vacation Homeowners Association
- Bay Creek Community Association
- Town Zoning Administrator
- Town Manager

The consensus among these committee members was that our work should be guided by the following question: ***How do we best protect/preserve the town's sense of community; while recognizing the existing proliferation of STR's and their associated economic benefits?***

Note that the rationale to consider some type of limitation or regulation of STR activity was not only driven by our desire to protect the character of our residential communities, but also to address concerns of stress on the Town's infrastructure. In other words, the town is only so big, and can only accommodate so many people before saturation of public infrastructure occurs. Staying ahead of this curve is unquestionably in the Town's best interest.

So, this was a balancing act to be sure; pitting economic needs against practical concerns. Nobody wanted to take anything away from those already vested in any STR interest, nor did anyone want any STR impact to unnecessarily affect our residents. Therefore, the attached list of recommendations attempts to thread that needle.

It is important to note that the presentation of these recommendations does not represent the end of a process, but rather the beginning of one. This is just a starting point. If during the joint work session of the Council and Planning Commission a consensus can be found on what to move forward; public input would then be solicited. This would likely take the form of a Town Hall style meeting. Only after full public vetting would anything be considered for the formal adoption process.



TOCC STR Regulation Committee Recommendations

11/02/23

- 1) Effective date for all recommendations is January 1, 2025. This allows time to fully vet and develop these concepts, without them impacting operators during mid-season. It also provides additional time for those engaged in the development of an STR to potentially finish what's already been started
- 2) Set an initial cap on STRs at the number being operated per zoning district (or by village in Bay Creek) on the effective date. Establish the final cap for STRs (based on those actually operating) twelve months after the initial cap is set (to weed out those who grabbed a permit before the deadline, but who did not operate an STR). Note caps are by number, not percentage. This preserves all existing uses, while decreasing the overall density as additional construction occurs
- 3) Future changes to STR caps, or to establish caps in districts initially without STRs, would require a zoning text amendment for the affected district; enabling the Planning Commission and Town Council to evaluate the merits of such changes against the greater needs of the Town at that time
- 4) The established cap in the R-1 (historic) district may be increased for specific instances where significant investment is committed to rehabilitate a dilapidated (as determined by the Town) dwelling
- 5) STR's will require an annual permit that will be applied for with their business license. Permits once issued (valid for one year), will automatically renew each subsequent year upon approval of the associated annual business license. Any break in business license coverage for a period of one year, or if a STR remains vacant or not used as a valid short-term rental for a period of one year, will constitute termination of the permit; requiring reapplication the following year, and going to the bottom of a waiting list (if any)
- 6) STR permits in good standing are transferable with the sale of the property
- 7) There will be no STR registry. STRs will be tracked via the business license database. Business license applications will be expanded to collect additional information. This database will include points of contact for all businesses, to include 24/7 contacts for STRs. A listing of all businesses (grouped by type), with their contact information, will be posted on the Town website

- 8) Occupancy will be determined by the square footage of bedrooms, as already defined in ZO Article II; exception: children under the age of 10 are excluded from occupancy count
- 9) Initial inspections will be required for all STRs to confirm occupancy limits and other safety/building code requirements. Annual recertifications of these requirements will be made by the property owner at time of business license renewal. Reinspection will occur upon a change in property ownership or management entity. The Town reserves the right to inspect any property to investigate potential violations, with adequate notice
- 10) An STR permit will be suspended for the following calendar year (to minimize impacts on reservations in the current calendar year), if any of the violations described below occur. An applicant with a suspended permit will be required to reapply once the suspension period is over. Depending on the availability of permits under the applicable district cap, this may cause the application to go to the bottom of a waiting list.
Qualifying violations include:
- a. Failure to pay business or real/personal property taxes
 - b. Failure to pay transient occupancy tax
 - c. Cancellation of insurance and/or failure to notify the Town of insurance cancellation
 - d. Operating without a business license
 - e. Owner or management entity knowingly allow exceedance of occupancy limits
 - f. Failure to adhere to safety/building code requirements following reasonable notice
 - g. Falsifying annual certifications or resident parking applications
 - h. Applicable zoning violations
 - i. Failure to provide responsive contacts (as determined through Town investigations)
- Note: individual nuisance, noise, or parking citations will not be counted against the STR owner/operator, but issued directly to the offending party
- 11) Violations will be determined by the Treasurer, Zoning Administrator, Code Official, or Police Chief as appropriate. Appeals may be made to the Town Manager, who will conduct, or cause to be conducted, an investigation. The Town Manager's ruling, based on the investigation, will be final
- 12) There are no additional parking requirements for STRs. Instead, we will add to ZO Article IV, a new section for On-Street Parking within the R-1 District designating parking areas for permanent residents of the Town. The following requirements will apply:
- a. Applicable only to permanent residents of R-1 (homeowner or long-term renters) who physically reside in the R-1 District for a minimum of 185 days per year
 - b. Allow up to two parking spaces along the primary residence property frontage (for developed lots only) not to exceed 40' in length. If there is a driveway, only one on-street parking spot will be available (maximum 20' in length)

- c. Curb will be identified as permanent resident parking (painted green or other color)
- d. Permanent residents of R-1 must apply for the specific number of spaces they require (up to two) and receive stickers for their vehicle(s). Copy of vehicle registration will be required for each spot requested
- e. This does not constitute reserved parking for any resident; a permanent resident displaying a valid sticker may park in ANY area designated for permanent residents
- f. Signage and implementation requirements will need to be further explored with VDOT
- g. An application for a short-term rental permit will prompt a review of off-street parking designations for that property
- h. All other areas not designated for permanent resident parking will be open parking and available on a first come, first served basis, to all part-time residents, visitors, or STR guests

13) Other miscellaneous STR provisions:

- a. There are no restrictions on the types of homes that can be used for an STR (i.e., single family, duplex, condos, etc.)
- b. Except for existing legal non-conforming uses, STRs are prohibited in accessory dwelling units or accessory structures
- c. There is no requirement for owner occupancy or residency on site
- d. No simultaneous STR rentals under separate contracts within a single residence
- e. No Subleasing
- f. If within an HOA, proof that HOA has been notified
- g. No commercial events or gatherings
- h. Signage will comply with newly updated zoning requirements
- i. No person or entity may have an ownership interest in more than five STRs
- j. Refuse requirements: one and two bedroom units require one trash receptacle; three or more bedroom units require two receptacles

Treasurer's Report (as of 12/5/22)

	<u>TOTAL HOMES AS OF 12/5/2022 RE TAX BILLING</u>		<u># of homes as Primary Residence</u>		<u># of homes as Second Home</u>		<u># of STRs</u>	
	# of Homes	%age	# of Homes	%age of Primary Residences from TOTAL HOMES IN TOWN	# of Homes	%age of Total Secondary Homes from TOTAL HOMES IN TOWN	# of Homes	%age of TOTAL STRs as of 5/18/2023 from TOTAL HOMES IN TOWN
Bay Creek Homes	508	37.80%	206	40.55%	302	59.45%	57	11.22%
Historic District Homes	838	62.20%	363	43.32%	475	56.68%	196	23.39%
TOTAL HOMES	1,346	100%	569	42.27%	777	57.73%	253	18.80%

STRs currently occur in 18.8% of the housing stock in the Town with 196 STRs in the Historic District and 57 in Bay Creek. IF you take that in reverse, then 81.2% of the housing stock is not part of the STRS or 1,093 housing units are not part of STRs