

Planning Commission

Special Meeting Agenda

Cape Charles Civic Center – 500 Tazewell Avenue
October 30, at 6:00 P.M.

1. Call to Order
 - A. Planning Commission Roll call and establish a quorum
2. Invocation and Pledge of Allegiance
3. Consent Agenda
 - A. Approval of agenda format
 - B. Approval of Minutes
 1. October 21, 2024, Planning Commission and Town Council Joint Public Hearing Minutes
4. Unfinished Business:
 - A. Zoning Text Amendment (ZTA) 2024-01 application from the Town of Cape Charles to add in new regulations for Short Term Rentals (STRs) as a permitted use in certain identified zoning districts and the criteria required in the establishment and operation of an STR by amending the following sections of the Zoning Ordinance

Section 2.9 DEFINITIONS: delete “Dwelling, Seasonal” and add “Operator” and “Short-term Rental”

Add Short Term Rental as a by-right use in:

Section 3.2 Single Family Residential District R-1

Section 3.3 Residential Mixed District R-2

Section 3.4 Residential Multi-Family District R-3

Section 3.5 Commercial Residential CR

Section 3.6 Commercial District C-1

Section 3.7 Commercial District C-2

Section 3.8 Commercial District C-3

Section 3.9 Harbor District

Amend Section 3.16 (B) – Permitted Uses: Bay Crossing Planned Unit Development to specifically exclude STRs

Amend Section 4.2 (J) – General Regulations Applicable to All Districts – Accessory Dwellings by deleting (J) (2) (a), under Occupancy Characteristics the section on Transient Occupancy and adding language to (J) (2) (b) that STRs are not allowed in Accessory Dwellings

Amend Section 4.5 (B) (3) (a) (9), under Parking Regulations, by deleting “other temporary residences renting by the day or week”

Add new Section 4.12 Short Term Rental Regulations

(Resume deliberations on Motion on Section 4.12 (C) (5) paragraph 3, top of page 6)

5. Announcements - Next Meetings:
 - A. November 18, 2024 @ 6:00p.m. – Planning Commission /Town Council Joint Public Hearing
6. Adjourn

Agenda Item 3 (B) (1)

Approval of Minutes: October 21, 2024,
Planning Commission and Town Council Joint
Public Hearing



Planning Commission and Town Council

**Joint Public Hearing
Cape Charles Civic Center
October 21, 2024
6:00pm**

At 6:00p.m., on October 21st, 2024, Councilman Paul Grossman, filling in for Chairman Bill Stramm, having established a quorum, called to order the Joint Public Hearing for the Planning Commission. Also present were Commissioners Bill Ashworth, Jim Holloway, Ian McDonald, and Libby Wright. Commissioners Bill Stramm and Shannon Smith were not in attendance.

At 6:02p.m., Mayor Adam Charney, having established a quorum called to order the Joint Public Hearing for the Town Council. Also present were Councilwomen Tammy Holloway, Councilman Andy Buchholz, Councilman Paul Grossman, and Councilman Ken Butta. Vice-Mayor Steve Bennett was not in attendance.

Town staff in attendance were Town Manager John Hozey, Planning/Zoning Administrator and Subdivision Agent Katie Nunez, Planning/Zoning Assistant – Preservation & Zoning Administrator Tracy Outten, Zoning Compliance Officer Jack Steinmayer, Assistant Treasurer Adrian Oei, and Finance Clerk Ryan Silvey.

After establishing both quorums, a moment of silence was observed, followed by the recitation of the pledge of allegiance.

Following the pledge of allegiance, Councilman Grossman asked for a motion to approve the agenda format as presented, motion was made by Commissioner Holloway and seconded by Commissioner McDonald. It was approved by unanimous consent.

After the approval of the agenda format, Planning/Zoning Administrator Katie Nunez presented the staff presentation on the proposed Short-Term Rental (STR) ordinance amendments. (See attached)

Once Ms. Nunez finished the staff presentation, Councilman Grossman opened the Public Hearing.

Once the Public Hearing was opened, the first member of the public to speak was Donna Kohler, who presides at 711 Tazewell Avenue. Mrs. Kohler believes that STRs should follow the same stringent Conditional Use Permit (CUP) processes as Bed and Breakfasts, rather than allowing them as a by-right use.

After Mrs. Kohler, the next to speak was Walt Bronson from 515 Tazewell Avenue. Mr. Bronson concurred with Mrs. Kohler in that STRs should go through the CUP process. He also addressed the ongoing parking issues within the Residential-1 district. He mentioned that under the current Zoning Ordinance tourist homes are required to have one off-street parking space available, which up to this point has not been enforced. Mr. Brunson believes that we should retain this aspect of the Zoning Ordinance as it would help limit the total number of cars per STR. Furthermore, he mentioned that instead of limiting STRs to 5 per owner, it should be a lower number. Finally, Mr. Brunson spoke on the transient occupancy tax vs monthly payments from companies like VRBO/Airbnb.

Speaking next was Elise McMath located at 304 Tazewell Avenue. She expressed uncertainty about why the public is just seeing the STR ordinance proposals now when they are almost finalized instead of earlier in the process. She also wanted to know why they are going to be allowed as a by-right use instead of a conditional one. Furthermore, she wondered who was truly going to benefit from STRs as not every homeowner within Cape Charles was looking for a way to increase their property values. She further questioned if approving STRs was truly going to be beneficial for Cape Charles, as allowing STRs as a by-right use would drive up housing costs and make it harder for young families to afford to live in town, knowing that the Town has been looking for ways to increase the number of young families that reside in Cape Charles.

Following Elise was Ed Wells from 202 Strawberry Street. Mr. Wells mentioned that STRs in Cape Charles have been around for roughly 8 years, so why has it taken so long to see this information? Furthermore, he wanted to know about business insurance requirements.

Laura Weigand from 623 Madison Avenue was next. She mentioned that this was a good first step for the Town to take regarding STRs. She wanted to know what is considered a good response time from the police, town, or neighbor if a violation is noticed. Furthermore, she believes that there should be some sort of parking permit that every rental needs to receive. Finally, she agreed with Mr. Wells in that all STRs should have business insurance, and this insurance should readily available both on the premises and online to provide assurance to the neighbors that the correct insurance was received.

Mark Usry from 117 Strawberry Street spoke next. He believed this was a good start. However, he had concerns about the lack of off-street parking that was not included or addressed in the staff presentation. He believes that every STR that is designated by Town should have one designated parking space in front of their property, in order to limit a free for all when it comes to parking. Finally, he wanted some clarification on the 24/7 violation response vs longer type violations.

George Proto from 607 Pine Street followed. He also believed that this was a good start for the Town, and he concurred with those before him that STRs should go through the CUP process instead of being a by-right use. Furthermore, he believes that if a noise violation is observed that the police chief or police in general should be the ones to enforce that. He also spoke on that if a violation is observed and reported there needs to be more of a graduating scale with violations instead of an all or nothing approach that the Town seemed to be taking.

His wife, Nancy Proto also of 607 Pine Street was next to be heard. She mentioned that she had some confusion on the parking requirements as it didn't seem to be addressed. She also wanted to know about the consequences of the violations – such as noise violations that are tenant driven and not owner driven.

Finally, the last public commenter to be heard was Marlene Cree from Blue Heron Realty. She believes that the suggestions of a graduating violation response would be a good one and should be conducted by the necessary personnel be it Town staff or police. Along with this, a financial penalty should be imposed vs outright stripping the permit if it is not a severe violation. She also mentioned that by-right would be better than following the CUP process as the number of public hearings that would be heard would be unsustainable for Town staff and the Commissioners. Finally, she wanted to see the ages that don't count against occupancy be raised from 5 to 10-12 years of age.

After Marlene Cree finished her comments, Planning/Zoning Assistant – Preservation & Zoning Administrator Tracy Outten read the comments that staff received from those who could not make it to the meeting. The following residents submitted comments; Kerry Shackelford (527 Jefferson Avenue), Raffaele Allen (504 Plum Street), Joseph Williams (515 Mason Avenue), Bonnie Moore (206 Madison Avenue), Christopher Stahl (209 Tazewell Avenue), and Andrew Lessner (404 Jefferson Avenue).

At approximately 7:02p.m., seeing as there were no more comments from those in attendance, Councilman Grossman asked for a motion to close the public hearing, Commissioner Holloway made the motion, which was seconded by Commissioner McDonald. It was approved with unanimous consent.

At 7:02p.m., after the Planning Commission closed the Public Hearings, Mayor Charney asked for a motion to dismiss the Town Council, the motion was made by Councilman Buchholz, this was seconded by Councilwomen Tammy Holloway. It was approved with unanimous consent.

Once Town Council and members of the public left, the Planning Commission opened their meeting.

Councilman Grossman asked for a motion to accept ZTA 2024-01 with discussion for potential amendments to each section. Commissioner Ashworth made the motion, it was seconded by Commissioner Jim Holloway and was accepted with unanimous consent.

Once the motion was accepted, the Planning Commission began going through the proposed short term rental ordinance amendment.

The Planning Commission had one minor change to Section 2.9, as the packet they had received mentioned reference 4.15, this was incorrect, it should have said 4.12.

There were no changes to Article III.

After getting through Article III, Councilman Grossman asked the Planning Commission if everyone was comfortable allowing STRs as a by-right use in the districts that were mentioned within the proposed short term rental ordinance amendment; everyone agreed. Before moving on to address Article IV, Commissioner Holloway wanted to know if it was worth having a one-year trial period of having STRs as a by-right use. After a year, the Planning Commission would gather and vote on whether or not to leave STRs as a by-right use or change over to follow the Conditional Use Permitting process.

Once the Planning Commission reached Article IV – General Regulations Applicable to All Districts, they went section by section and the following decisions were made on the subsets of this article.

Section 4.12 (A) Purpose and Intent, Items #1 – 4: Fine as written.

Section 4.12 (B) Permitting Requirements:

(1): Fine as written

(2), Items a-g: Fine as written

However, when reaching item (2) (F), there was discussion by the Planning Commission on whether or not to leave the phrasing “publicly available” in. Commissioner McDonald believes that the only people who should have access to this information are the Town and Police. Commissioner Ashworth agreed with this sentiment.

Councilman Grossman asked for a motion to remove the phrasing “publicly available” from B.2.F. Commissioner McDonald made the motion which was seconded by Commissioner Ashworth. When the vote was made on the motion, it did not receive majority vote and failed to pass.

(3): Fine as written

(4): Fine as written

(5): Fine as written

(6): Fine as written

(7): Fine as written

Section 4.12 (C) Additional Requirements

(1): Fine as written

(2): Fine as written

(3): Fine as written

(4): Fine as written

(5): Fine as written

Once reaching section (5) deliberations began amongst the Planning Commissioners on whether or not those five years of age or younger was an acceptable age to exclude against the occupancy count or should it be higher. Commissioner McDonald expressed some concern as to how the Town was going to manage this. Commissioner Wright suggested that perhaps 16 was a good age as it would also address the parking concerns. Town Manager Hozey then pushed back and mentioned that even though 16-year-olds do not have the legal ability to drive without a parent, many of them do drive golf carts. Commissioner Holloway wondered why there was a restriction in the first place, as Cape Charles was trying to attract younger families, placing an age restriction would turn families away from the Town.

After deliberations, Commissioner McDonald believed it would be best to change the phrasing to 12 and under, in order to be less restrictive.

Councilman Grossman wanted a motion to increase to age limit to exclude children 12 and under from counting against the total occupancy. Commissioner McDonald made the motion, and the motion was seconded by Commissioner Wright.

Ms. Nunez then clarified for the Planning Commission that by accepting this motion it would allow an unlimited number of children 12 years of age and younger on the premises.

After hearing this clarification, the motion was then withdrawn by Commissioner McDonald.

After talking about the occupancy age, it was 8:00p.m., and the Planning Commission agreed to pause discussion until the October 30th, 2024, Special Meeting.

Councilman Grossman called for a motion to dismiss the Planning Commission until October 30th. Motion was made by Commissioner Holloway and was seconded by Commissioner Wright and McDonald. It was approved by unanimous consent.

Chairman Stramm

Planning/Zoning Assistant

PROPOSED SHORT TERM RENTAL ORDINANCE AMENDMENTS

SUMMARY OVERVIEW ONLY

(Refer to Ordinance for actual text)

ARTICLE II – GENERAL PROVISIONS – SECTION 2.9: DEFINITIONS

Removing “Dwelling Seasonal”

- A dwelling unit not used as a principal residence that may be occupied weekends and for periods during the year

Adding “Operator”

- 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.

Adding “Short Term Rental”

- 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.

Allow STRs as a by-right Accessory Use in the following districts, dependent upon compliance with criteria provided in new Zoning Ordinance section, 4.12:

Section 3.2	Single Family Residential (R-1)
Section 3.3	Residential Mixed District (R-2)
Section 3.4	Residential Multi-Family District (R-3)
Section 3.5	Commercial Residential (CR)
Section 3.6	Commercial District (C-1)
Section 3.7	Commercial District (C-2)
Section 3.8	Commercial District (C-3)
Section 3.9	Harbor District

AMEND THE FOLLOWING SECTIONS

3.16 (B) – Bay Crossing Planned Unit Development (Bay Crossing PUD)

- Add to; all uses shall be permitted by-right as accessory uses in the R-3 District **except short-term rentals**, and electric vehicle charging stations

4.2 (J) – Accessory Dwellings

- Delete: ~~a. Transient Occupancy (also referred to as 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.~~

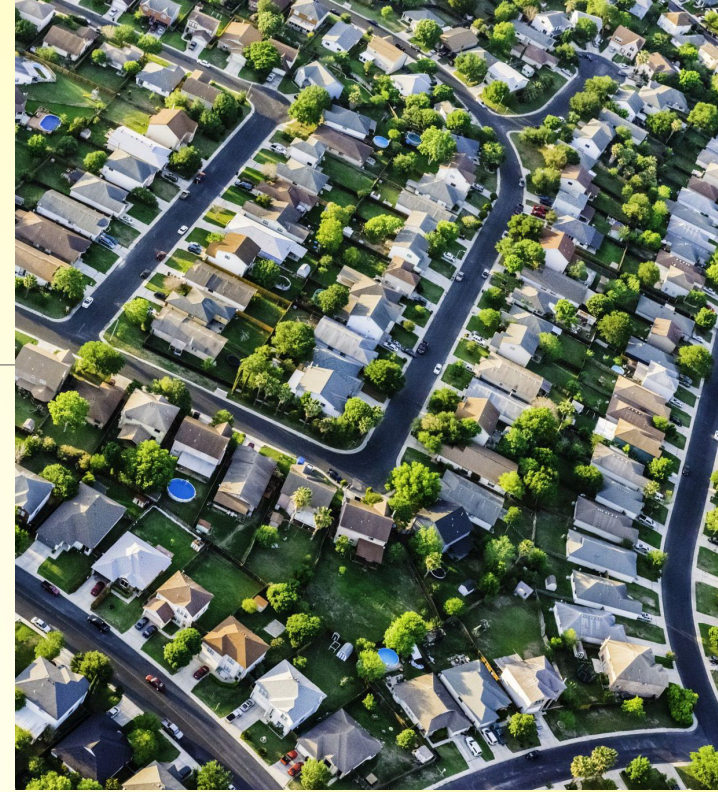
4.5 (B)(3)(a)(9) – Off-Street Parking and Loading Standards

- Delete 9. Bed and Breakfasts, ~~other temporary residences renting by the day or week~~

ADDING SECTION 4.12 SHORT TERM RENTAL REGULATIONS

Purpose and Intent

- Regulate Short Term Rentals
- Accommodate STR owners limited commercial use in a way that is safe for the guest, meets town requirements, does not change the character of the town & fits in with the districts in which STRs operate.
- Work in tandem with town business license requirements
- Owners and operators are given a one-year grace period to come into compliance with the **NEW requirements** from the date Zoning Ordinance No. 20241121A is adopted.



WHAT ARE THE PERMITTING REQUIREMENTS TO OPERATE AN STR?

PERMITTING REQUIREMENTS – 3 MAIN REQUIREMENTS

Shall not operate until owner receives an Annual Business License from the Finance Dept.

Shall not operate until an Annual Safety Inspection is conducted and passed

Shall not operate until an STR zoning permit is issued by the Planning & Zoning Department

ANNUAL BUSINESS LICENSE PERMITTING REQUIREMENTS

Shall not be operated until an annual business license is applied for, paid for and issued in accordance with Town Code Chapter 18, Article II by the Finance Department.

- Revisions to this Town Code section will be taken up with Town Council at their November 21, 2024 meeting.

ANNUAL SAFETY INSPECTIONS

PERMITTING REQUIREMENTS

Initial safety inspection will be required for all STRs in accordance with Town Code Chapter 8, Section 8-4.

Annual re-inspection by the Code Official or designee is required when filing for a STR rental business license renewal.

Building Code Official or designee maintains the right to inspect a STR based on complaints or reasonable suspicion, to verify that the rental is being operated in accordance with the Virginia Uniform Statewide Building Code, the STR Zoning Permit, and other applicable laws and regulations.

Safety equipment, operable smoke detectors, fire extinguishers, and carbon monoxide detectors shall be present and in compliance with Virginia Uniform Statewide Building Code

Revisions to this Town Code section will be taken up with Town Council at their November 21, 2024, meeting.

SHORT TERM RENTAL (STR) ZONING PERMIT PERMITTING REQUIREMENTS

- Name of owner/operator of STR
- Address of STR
- Town business license number
- Operators that are a lessee or sublessee, an attestation from the property owner that permission has been granted to use property as an STR
- Contact information for all owner(s), operator(s), and property management companies, if applicable
- Contact information, which will be available 24/7, for the responsible party to address immediate concerns associated with an STR, and who has the authority to act in the owner's and operator's agent.
- If governed by homeowners' or condominium association, proof that authorization to operate STR was provided by those organizations.

STR ZONING PERMIT

PERMITTING REQUIREMENTS

CONTINUED

Permits shall be valid for one year

Any changes on permit application will require notification to Planning & Zoning Department within 10 business days

Changes in ownership shall require a new permit application within 20 business days

Owner can only operate up to 5 STRs within Town

Not prohibited from offering property as an STR solely based on lessee or sublessee

STR ZONING PERMIT

PERMITTING REQUIREMENTS

CONTINUED

Must submit transient occupancy tax to Finance Department, as required under Town Code Chapter 18, Article V.

Only in permitted districts

STRs under separate contracts in same dwelling are not permitted

Occupancy, greater than 10, must get a conditional use permit contingent upon house having more than 5 qualifying bedrooms, property can accommodate sufficient off-street parking & property meets any other life safety requirements due to higher occupancy.

STR ZONING PERMIT

PERMITTING REQUIREMENTS

CONTINUED

Business license and emergency information must be posted inside each rental, including 24/7 contact information for the STR owner

Occupancy, excluding children 5 years old or younger: there shall be no more than two lodgers per room, with the number of overnight lodgers being no greater than 10

Occupancy, greater than 10, must get a conditional use permit

Commercial gatherings, including luncheons, banquets, parties, weddings, charitable fund-raising, commercial or advertising, etc, are prohibited.

STR ZONING PERMIT

PERMITTING REQUIREMENTS

CONTINUED



Signage must comply with Zoning Ordinance Article IV, Section 4.1



Refuse requirements contained in Town Code Chapter 24 – revisions to this section being taken up at Town Council meeting on November 21, 2024.



Noise requirements must observe Town Code Chapter 20, Article I, Section 20-3

PROCESS RE: VIOLATIONS

A complaint is received and investigated by the applicable governing Town Official.

- ❖ *Individual nuisance or noise violations will be issued directly to the offending party in addition to any consequences to the zoning permit holder.*
- ❖ *Violations may be investigated by the Town Manager, Treasurer, Zoning Administrator, Building Code Office, Police Chief or their designees, as appropriate. Once investigated, violations pursuant to this section will be issued by the Zoning Administrator.*

If the complaint is found to be violating the requirements of this zoning ordinance or applicable town code sections, then the property owner is provided notification and provided 24 hours to rectify the violation.

If the Violation is not Rectified as required, then:

Town shall give written notice to the short-term rental owner or operator containing the following:

- **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**

TYPES OF VIOLATIONS concerning STR Zoning Permits

- **Failure to obtain/maintain a town business license**
- **Failure to pay all town real estate property taxes**
- **Failure to pay all business taxes from the prior year**
- **Failure to file and pay (if applicable) payment of transient occupancy taxes due the town for the previous three months or more**
- **Falsifying town forms or applications**
- **Other applicable town zoning violations**
- **Failure to provide responsive actions to issues raised to the 24/7 contacts, as determined through town investigations**
- **Two or more violations of safety/building code requirements within the same calendar year, that are not cured following reasonable notice**
- **Two or more violations of occupancy limits within the same calendar year, that are not cured following reasonable notice**

VIOLATIONS - PENALTY

IF AN OWNER OR OPERATOR IS DENIED AN STR ZONING PERMIT PURSUANT TO THIS SECTION, THEY SHALL NOT BE ELIGIBLE TO OBTAIN ANOTHER STR ZONING PERMIT FOR THE SUBJECT SHORT-TERM RENTAL FOR THE ENTIRE SUCCEEDING CALENDAR YEAR.

The owner will then need to apply for a new business license, STR zoning permit, and an inspection, following the conclusion of the one-year suspension.

Citizen Comments

Kerry Shackelford (527 Jefferson Avenue)

Members of Town Council

Mayor, and other staff members

10/20/24

My name is Kerry Shackelford and I live at 527 Jefferson Ave.

Thank you for scheduling this meeting and allowing all the town's homeowners to provide some input on this important topic. The zoning ordinance changes that are currently proposed regarding STRs are, for the most part, a continuation of the existing requirements for STRs. There are, however, 5 areas of concern that I want to address:

1. The requirement of publicly available information and contacts for all owners and agents. This seems to be a needless requirement as all enforcement of the new regulations will be handled by the town as laid out in the zoning amendment, so why would anyone need to be able to contact me as an owner other than the town. It is not that I have a problem with my neighbors having my phone number or contact, as they do, rather this would seem to empower members of the community to become a watch dog group to try to enforce some portion of the regulations. If there are violations observed community members should call the town, not me. If it is a legitimate issue the town will follow through with the procedures listed in the zoning amendment.
2. The requirements regarding age and occupancy. The use of the age of 5 as a number to be considered part of the occupancy will severely limit the number of families who can visit Cape Charles. A house with 4 bedrooms frequently has a bunk room. These bunk rooms provide a great sleeping space for children as old as 12 to 16 to enjoy a vacation together. Cousins, friends and family often enjoy the opportunity to spend the week "camping together" in the bunk room of these houses. Taking away this opportunity seems to serve no purpose. None of these occupants will drive a car, so parking is not an issue. Why would not an age of 16, not be more important as it could possibly bring another car to the parking. I would ask you to consider changing the age to 16 for consideration in the occupancy count.
3. The use of 2 lodgers per bedroom would also hurt families wishing to rent homes in town. Again, many families count on the Bunk Room as a way to allow children to enjoy time with their families and friends during vacations. I would suggest that the amendment be changed to allow up to 4 beds in a bunk formation in one room.
4. Trash receptacle requirement. As a STR I always get an extra trash can during the busy season, May to September, but requiring this during the off season is simply not needed. I have very few if any rentals during that time, so the cans all sit empty, and I am still paying for the one. I would suggest the 2-receptacle requirement be adjusted to a specific period of May-September. Further I would suggest the town look into changing the trash day to Friday, as this would better service the STRs needs.
5. In the definition of a Bedroom that is currently part of the town code, the 7 foot requirement will be an issue in some houses in town for the whole second floor of the structure. I would suggest that the requirement state; "Height should not be restrictive to normal occupancy, and no lower than 6'" This would accommodate the existing issue with many historic homes in town.

Finally, I am concerned about the enforcement of many of these regulations. The platforms that many STR owners use do not require the age of everyone or offer any way to police the age of individuals. How will the town enforce the age requirements? Will this be investigated based on complaints, will neighbors be counting the number of people entering a home, or guessing the age of individuals? This seems to be setting up a cumbersome and difficult to manage set of regulations. If all of this is to regulate parking, which it seems to always refer to, then regulate parking. Parking would be much simpler to enforce and would have a meaningful impact on a noted complaint in the community.

Kerry Shackelford

Raffaele Allen (504 Plum Street)

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.

I would like to highlight a few key points:

1. **Research Shows Better Alternatives:** I have investigated how some other localities have balanced rental occupancy while addressing concerns about overcrowding. Several towns have adopted a "2-person per bedroom" maximum **with an additional allowance of 2-3 persons**, accounting for bunk rooms commonly used by multi-family vacationers and/or larger families. Another approach that has proven effective is permitting one room in the rental as a designated bunk room, while still capping the other bedrooms at a 2-person occupancy. These solutions strike a balance by preventing overcrowding while still accommodating for larger groups that frequent our market. The proposed occupancy restrictions could flat out prevent larger families from vacationing here, making it an even less appealing destination for our core visitor base. I urge you to consider these alternative models instead of imposing a one-size-fits-all restriction.
2. **Age Restriction is Impractical and Overly Limiting:** I understand that the council intends to exclude children aged 5 or younger from the occupancy count as an attempt to allow for bunk rooms. However, this age limit is far too restrictive to address the reality of family travel, where older children—including teenagers—commonly share a bunk room, and even adult couples are willing to share these spaces for the sake of affordability. Limiting this to children under 5 overlooks how families travel and use short-term rental spaces. Furthermore, enforcing this rule will be difficult and costly for the town, potentially requiring additional staffing, which only adds to the towns financial burden. Worse yet, it risks turning full-time residents into self-appointed enforcers, potentially creating an unwelcoming and hostile environment for vacationers and vacation homeowners.
3. **Impact on the Local Economy:** Our local businesses, including retail stores and restaurants, depend heavily on tourism and vacationers... our towns one true economy. By restricting the number of guests who can stay in short-term rentals, fewer families will be able to book stays, which will reduce the number of visitors to our town. This decrease in foot traffic will directly impact the few shops and restaurants we have, leading to a significant downturn in their

revenue and the possible shuttering of these establishments. The ripple effect will also affect town and county revenue, as both rental taxes and sales taxes will decline.

4. **Financial Hardship for Rental Property Owners and Families:** This policy will force rental property owners to lower rates to attract single-family vacationers. The reduced income from rentals will put financial pressure on landlords who have planned and budgeted based on a higher cash flow model. To cover their expenses, some owners may reduce maintenance and upkeep of their properties, potentially causing a decline in property values. In more severe cases, property owners may face foreclosure if they are unable to generate sufficient revenue to meet their obligations, which could have further detrimental effects on real estate values in our community.
5. **Cascading Effects on Property Values:** As foreclosures rise and maintenance of properties declines, the overall quality and desirability of our town as a vacation destination or full-time residence will decrease. This could lead to long-term negative effects on property values, reducing the tax base and causing further economic challenges for both homeowners and the town.
6. **Economic Pressure on Families Due to Inflation:** It is also crucial to consider the broader context of the financial pressures Americans are currently facing. Inflation has already made vacations a luxury that many families are cutting from their budgets. The proposed occupancy restrictions will exacerbate this issue, making it even harder for families to afford vacations. What we are all dealing with now has already described an economic headwind, but your approach to these regulations feels more akin to a hurricane.

I urge you to reconsider this proposal and consider the broader economic and social impact it will have on our community. We all love this town dearly, which is why so many of us have significantly invested in this town. For many of us, these homes will eventually become our full-time residences when the time comes for us to retire. At the last meeting I attended regarding short-term rental regulations, a speaker pointed out that many of the people in that very room agreed years ago that our town had no real economy and that the best way to bring it back to life was by leaning into tourism. Many of you fought hard to see that happen. Now, some of those same people are advocating to stifle the very tourism that helped revitalize this town.

We all agree that preserving the integrity of Cape Charles is critical, but the few should not rule the many—especially when the many recognize that short-term rentals and vacationers were instrumental in bringing this incredible community back to life.

Thank you for your time and consideration. I would be happy to discuss this matter further if needed and offer any additional insights from a property owner's perspective.

Respectfully,

Raffaele Allen

Joseph Williams (515 Mason Avenue)

From: [Joseph Williams](#)
To: [Katie Nunez](#)
Subject: Comment for Tonights STR Additions
Date: Monday, October 21, 2024 10:03:30 AM

I would like to submit an official comment regarding the below, if you could please confirm receipt.

C. Additional Requirements

5. Occupancy: Excluding children five years of age or younger, there shall be no more than two lodgers per bedroom; with the maximum number of overnight lodgers per dwelling being no greater than ten.

Comment:

Dear Council,

I am writing to express my opposition to the proposed amendment regarding short-term rental occupancy limits, specifically the provision that excludes children under five years of age from the two-lodgers-per-bedroom limit. The age limit seems arbitrary, as it implies that a room full of toddlers is permissible, yet it excludes older children who still require similar sleeping arrangements.

In our case, we own a four-bedroom house, one of which is a bunk room that accommodates four children. This setup is ideal when two families share the home, allowing children to be together in one room while maintaining comfort and safety. However, under the current proposed rule, a family with slightly older children, such as those aged seven or eight, would be unnecessarily restricted. I strongly suggest increasing the age limit to 12 years, which would be a more practical approach and align better with how families actually use shared accommodations.

Other localities across Virginia and North Carolina often implement whole-house occupancy limits without such specific age restrictions. For example, Virginia Beach limits total guest numbers per rental property to ensure neighborhood harmony without imposing arbitrary age cutoffs. Similarly, in North Carolina, counties like Mecklenburg maintain a maximum occupancy for short-term rentals based on overall house size and bedroom count. These approaches provide a clearer, more practical framework for ensuring safety without penalizing families with older children.

I strongly urge you to consider adjusting the age limit to a more reasonable 12 years or to focus more on whole-house occupancy limits, which would offer flexibility for families while still maintaining community standards.

Additionally I am not sure STR platforms list ages so it would be very hard to regulate from an operator's position.

Thank you for considering this alternative solution.

Joseph Williams

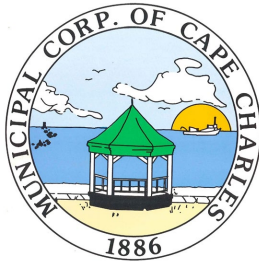
804-240-2854

Bonnie Moore (206 Madison Avenue)

From: [Libby Hume](#)
To: [Katie Nunez](#)
Subject: FW: Public comment for tonight's meeting
Date: Monday, October 21, 2024 9:42:33 AM

Comment for you!

*Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
IIMC Athenian Leadership Society Fellow*



From: Bonnie Moore <bonniecmoore@gmail.com>
Sent: Monday, October 21, 2024 9:23 AM
To: Libby Hume <clerk@capecharles.org>
Cc: Tommy Moore <tom@rocsjobs.com>
Subject: Public comment for tonight's meeting

Good morning Ms. Hume,

Could the following please be read at tonight's meeting?

Nearly 100% of the short term rentals in my home are families. My 3-bedroom rental comfortably and safely sleeps 8 due to a 200 sqft bunk room, and we often see two families share the rental, with parents each having a room and kids sharing the bunk room. We also see multi-generational families, with grandparents and parents in rooms and kids in the bunk room. Capping a 3-bedroom rental at 6 guests with no possibility of a conditional use permit will seriously impact the visitors we can host - half my rentals in 2024 would have been in violation. There is a very real possibility that this rule will impact the ability of families to visit Cape Charles and contribute to the town economy.

I request that you add the possibility of a conditional use permit allowing for more than two occupants per bedroom.

Further, please understand that not all rental platforms allow guests to enter the ages of their party. For example, AirBnb allows guests to enter a count of guests ages 2-12 but not distinct ages. The rule about guests 5 and under will be difficult to follow given that it does not align with the rental platforms.

Please consider modifying the language such that children 12 and under are excluded from the guest count.

Thank you,
Bonnie Moore
206 Madison Ave.

Christopher Stahl (209 Tazewell Avenue)

From: [Christopher Stahl](#)
To: [Libby Hume](#); [Katie Nunez](#)
Cc: [Mayor Adam Charney](#); [Vice Mayor Steve Bennett](#); [Councilman Andy Buchholz](#); [Councilman Ken Butta](#); [Councilman Paul Grossman](#); [Councilwoman Tammy Holloway](#)
Subject: STR Meeting Comments for Town Council
Date: Monday, October 21, 2024 10:38:32 AM

Good morning, below are comments for the town council meeting on STR regulations. Thank you...-CS

Dear Town Council, Town Manager, and Legal Team,

My name is Chris Stahl, and I am a property owner at 209 Tazewell Ave. I have thoroughly reviewed the proposed short-term rental regulations and have some concerns that I would like to address.

The proposed regulations treat STR businesses differently from other businesses in Cape Charles. If an STR adheres to all guidelines but a guest violates the rules, the STR could face fines or loss of license. This seems inconsistent with how other businesses are managed. For example, if a golf cart rental company provides rules and a patron breaks them (such as overloading number of passengers, sidewalk parking, improper driving), the town does not penalize the rental business. I would appreciate clarification on why we intend to impose such different standards on STRs compared to other businesses that also serve vacationers.

I am curious about the requirement for STRs to display phone numbers on a public website. How will this impact guest behavior? STR owners typically know their neighbors, who can reach out to them directly in case of issues. Additionally, I am concerned about the safety of displaying personal information online. Other local businesses, such as Cake Charles, Bay Haven Inn, Fig Street Inn, and Northampton Hotel, operate in residential areas surrounded on all sides by private homes. Will they also be required to provide a personal cell phone number? If not, why are STRs being held to a different standard? Fairness should apply to all businesses.

I would like to understand the research behind the proposed occupancy regulations, particularly how the age of 5 was determined. If children aged 15 and under (non-drivers in our state) were to be exempted, how might this adjustment influence parking logistics at a residence? I propose there would be no different. It is essential that regulations are based on sound data and reasoning rather than mere intuition.

I appreciate your attention to these matters and your willingness to consider public feedback. While other cities may have implemented similar regulations, this does not necessarily mean they are appropriate for Cape Charles. I urge you to ensure that any new rules are thoughtfully considered and equitably enforced across all businesses in our town.

Thank you for your time.

Sincerely,

Chris Stahl
209 Tazewell Ave

Andrew Lessner (404 Jefferson Avenue)

From: [Andrew Lessner](#)
To: [Katie Nunez](#)
Subject: Comments on Proposed STR Regulations
Date: Monday, October 21, 2024 1:28:34 PM

Katie,

I am unable to attend the meeting tonight regarding the proposed STR regulations. I would like to offer the following comments.

1. I would appreciate it if the Town / Committee would explicitly list the reasons why these regulations are necessary. It is Parking, Safety, Noise, etc.? Does the Town feel that these regulations (as written) will solve the problems? In my opinion the regulations (as written) will not solve any of the problems and will more than likely cause more confusion/work for the Town staff.
2. Safety - We own the duplex at 524 & 526 Peach Street. Each side of the duplex has two bedrooms. One bedroom has a queen bed and the other bedroom has a twin and a bunk bed. On our Rental Certificate of Occupancy, the Town Building inspector has a maximum occupancy of 6 in each property. Limiting our occupancy to 4 does not solve a safety issue, if the Town Building inspector allows for a maximum occupancy of 6.
3. Parking - A majority of our short term rentals are families. The families usually come in one car and usually have two or three children with them. Limiting our occupancy to 4 does nothing to solve a parking issue.
4. Noise - We clearly state in our check-in instructions that guests need to be respectful to their neighbors (whether other guests, property owners, or permanent residents). Limiting our occupancy to 4 does not solve a noise issue.
5. 4.15 / C. / 5. - Does the age exclusion apply to the maximum number of lodgers per bedroom and the maximum number of overnight lodgers? The way I read the regulation is that the age exclusion only applies to the maximum number of overnight lodgers. So if one of my guests is a couple with a new baby and the baby sleeps in a pack n play in their room then my guests would be in violation of this regulation because there would be three lodgers in a bedroom.
6. As a STR host, it is going to be very difficult to manage the age exclusions and clearly convey those age requirements to our potential guests.
7. Also, it is my understanding that if I utilize my property for personal use then there is no limit on the maximum occupancy. Limiting our occupancy to 4 when we are a short term rental and then having an unlimited occupancy when we are utilizing the house for personal use does not solve any of the above problems.

There is a very real possibility that these regulations will impact the ability of families to visit Cape Charles and contribute to the Town's and Eastern Shore's economy.

Here are some proposed solutions:

1. Utilize the current Town Building Inspector's methodology for setting a maximum occupancy. This occupancy can be set on a case by case basis (number of beds, availability of on-street and off-street parking, previous violations, etc.). I think having a hard rule set in the regulations is going to cause more issues then leaving it open. The Town can develop some guidelines that the Town Building Inspector can utilize when setting the maximum occupancy. Also, an appeal process for requesting a revision to

the maximum occupancy should be clearly stated in those guidelines. The guidelines can also include that if there are X number of violations during a calendar year then the Town reserves the right to reduce the maximum occupancy.

2. Please consider modifying the language such that children (under 18) that are travelling with their family are excluded from the guest count / maximum bedroom occupancy.

If you have any questions or concerns, please feel free to give me a call.

Thanks,

Andrew

Peach Life Properties, LLC
P.O. Box 421
Powhatan, VA 23139
peachlifepropertiesllc@gmail.com
(443) 540-0585

Agenda Item 4 (A)

Unfinished Business: Proposed Short Term Rental Ordinance Amendments



**Proposed Short Term Rental Ordinance Amendment
For Joint Public Hearing with Town Council and Planning Commission
October 21, 2024**

DOCUMENT LEGEND

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

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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.

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

Section 3.3 Residential Mixed District R-2

In Section 3.3.D Accessory Uses.

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

Section 3.4 Residential Multi-Family District R-3

In Section 3.4.D Accessory Uses.

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

Section 3.5 Commercial Residential CR

Add new Section 3.5.D Accessory Uses.

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



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Section 3.6 Commercial District C-1

In Section 3.6.H Accessory Uses

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

Section 3.7 Commercial District C-2

Add new Section 3.7.D Accessory Uses

1. Short-term Rental in accordance with Section 4.15

Section 3.8 Commercial District C-3

Add new Section 3.8.C Accessory Uses

1. Short-term Rental in accordance with Section 4.15

Section 3.9 Harbor District

Add new Section 3.9.F Accessory Uses

1. Short-term Rental in accordance with Section 4.15

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.



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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



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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***
- 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.***



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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.

2. 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 years of age or younger, there shall be no more than two lodgers per bedroom; with the maximum number of overnight lodgers per dwelling being no greater than ten.

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, 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.



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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 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



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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 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:



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- 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.*