



CITY OF RICHMOND

Department of Planning & Development Review *Staff Report*

ORD.2019-343: To amend City Code §§ 30-402.2, 30-411.3, 30-412.2, 30-413.3, 30-413.13, 30-414.2, 30-416.2, 30-418.2, 30-419.4, 30-420.1, 30-426.1, 30-428.1, 30-430.1, 30-433.2, 30-433.11, 30-434.1, 30-436.1, 30-438.1, 30-440.1, 30-442.1, 30-444.2, 30-446.2, 30-447.2, 30-447.11, 30-448.1, 30-450.1, 30-457.1, concerning permitted principal uses, and 30-1220, concerning definitions related to zoning, and to amend ch. 30, art. VI of the City Code by adding therein a new div. 14 (§§ 30-697—30-697.3), concerning short-term rentals.

To: City Planning Commission
From: Department of Planning and Development Review
Date: January 6, 2020

PETITIONER

City of Richmond
900 East Broad Street
Richmond, VA 23219

LOCATION

Citywide

PURPOSE

To amend the official zoning ordinance for the purpose of permitting short-term rentals as an accessory use to residential dwelling units and adding regulations regarding the number of guests in the rental, life safety equipment to be provided, and other regulations to ensure that the short-term rental remains an accessory use to a dwelling unit. The effective date of this amendment shall be July 1, 2020.

SUMMARY & RECOMMENDATION

Short-term rentals, which are defined in Virginia Code §15.2 983 as a unit offered for a period of fewer than 30 consecutive days, are currently not identified as a permitted use by the City's Zoning Ordinance and are, therefore, prohibited. These rentals are often advertised and processed through online platforms such as Airbnb, FlipKey, HomeAway, and VRBO and include the rental of a whole house or only a room(s) within a house. The Department of Planning and Development Review (PDR) has been working with the Finance Department and the City Attorney's Office in order to establish a new program to regulate and monitor short-term rentals. Staff has been working with the Richmond Regional Tourism Office and PlanRVA to review best practices and discuss the efforts of the surrounding localities. Additionally, staff received public input on the draft zoning regulations from 3/26/19 to 5/31/19. During this timeframe, PDR staff attended Council District meetings in all nine (9) City Council Districts, hosted two (2) Short-Term Rental Informational Meetings with the Finance Department, and received input via survey, emails, and phone calls. The internal City working group (comprised of various divisions of PDR, the CAO's Office, the City Attorney's Office, and the Department of Finance) then reviewed the public

comment and modified the draft legislation. The proposed regulations are similar to those adopted in other Virginia localities and allow for short-term rentals to operate as an accessory use to dwelling units with conditions to ensure the safety of the renters and prevent the use from becoming a nuisance to neighboring properties.

Staff recommends approval of this ordinance.

FINDINGS OF FACT

Background

On June 22, 2015, City Council passed a resolution (Resolution No. 2015 R42-47) directing the Planning Commission to propose changes to the City's Zoning Ordinance that would authorize short-term rentals of residential properties through internet lodging services, and conduct a public hearing on the proposed changes as soon as practical. Staff submitted a preliminary report to City Council and Planning Commission on October 14, 2015, outlining the existing policies and recommendations of regulations for short-term rentals.

From 2015-2016, the General Assembly considered potentially limiting, or prohibiting, local regulation of short-term rentals, and therefore, community outreach and discussion on the short-term rental report and potential regulations were stopped pending guidance from the General Assembly as to the authority of localities to regulate this use. In 2017, the General Assembly passed SB 1578 which preserved the ability for localities to establish local regulations and allowed for the creation of a registry for short-term rentals. In response to this enabling legislation, PDR convened an internal working group of directors and staff from PDR, Finance, and the City Attorney's Office to establish regulations to permit short-term rentals under certain terms and conditions. The draft regulations were developed after a review of legislation in other localities (see attached Comparison of Short-Term Rental Regulations in Virginia and Similar US Localities) and of the current operations of short-term rentals in the City of Richmond. Staff received public input on the draft zoning regulations from 3/26/19 to 5/31/19 and modified the legislation based on the input received.

Zoning Conditions

PDR staff is recommending short-term rentals be allowed in dwelling units as an accessory use with the following regulations:

- **Who can operate a short-term rental:** The short-term rental shall be the operator's primary residence with the operator occupying the property at least 185 days each year. This limitation reduces speculative use of private residences as hotels, prevents absentee landlords from converting long-term rental properties into short-term rentals, and limits effects on residential neighborhoods. The short-term rental shall only be operated by the property owner not a tenant. The legislation in the majority of localities reviewed, including Arlington County, Fairfax County, Blacksburg, Charlottesville, and Williamsburg, incorporated the requirement that the STR be within the operator's primary residence. Localities that permitted non-owner occupied STRs limited these based on location, the underlying commercial and mixed-use zoning, or a cap on the

number of non-owner occupied units. Similarly, the City of Richmond's Zoning Ordinance does permit tourist homes which provide transient lodging without a primary residency requirement in some mixed-use and commercial zones under certain conditions.

- **Approval Process:** Certificate of Zoning Compliance (CZC) for Short-term Rental is to be obtained on a biennial basis. The Biennial Fee for CZC is to be \$300 which is intended to cover administration and monitoring costs. Staff is recommending the CZC as the registration mechanism as it is an existing administrative process that includes Zoning and Building Inspections.
- **Advertising:** The Certificate of Zoning Compliance approval number shall be posted on all advertisements for the property. Requiring the approval number on advertisements will aid in enforcement.
- **Number of nights a short-term rental can operate:** The number of nights a short-term rental can operate is not limited by the proposed legislation. The limit on the number of nights of operation has been removed from the ordinance because of concerns regarding the ability to enforce this regulation. Staff recommends that the ordinance be revisited after one (1) year of operations to determine if a limit on the number of nights is needed to address any community concerns.
- **Number of persons who can rent per night:** The total number of adult renters allowed in a short-term rental shall be limited to two adults per available sleeping room. Double booking which consists of more than one booking transaction occurring at the same time is not allowed. Limiting the number of adults to two per sleeping room is consistent with the short-term rentals in the city of Richmond which have been approved through the Special Use Permit process and the legislation in Arlington County and Williamsburg. The number of children per rental is not limited by this legislation.
- **Number of sleeping rooms available for rental:** The total number of sleeping rooms available for rental is limited to a maximum of 5 sleeping rooms. Single-family dwellings with 5 or less sleeping rooms available for guests are exempt from certain building code fire safety and accessibility requirements. The intent of this limitation is to prevent the short-term rental use from causing a structure to be classified as a use in the building code that results in additional fire safety and accessibility requirements such as sprinklers and handicap ramps.
- **Unhosted vs. Hosted Stays:** This legislation proposes no distinction between hosted and unhosted stays; whole house rentals (unhosted stays) are permitted in all zones as the operator is not required to be on site during the stay. As the proposed legislation requires the operator to be at the property 185 nights per year, the number of unhosted nights is limited to 180 nights. Contact information for the responsible party including a phone number accessible 24 hours per day during any short-term rental shall be provided. The majority of rentals in Richmond are unhosted, and minimal complaints have been received which indicates there is not a need to limit short-term rentals to hosted stays. Legislation in Arlington County, Charlottesville, Fairfax County, and Martinsville do not distinguish between hosted and unhosted stays. In localities where a distinction is made (Lexington, Blacksburg, and Henrico County), unhosted stays either require a more intensive review process or are limited to fewer nights in a year.
- **Signage:** The short-term rental is permitted to have signage consistent with the signage allowed for home occupations which consists of one non-illuminated wall sign not to exceed two square feet.

- **Safety Requirements:** Smoke detectors shall be present in compliance with the current edition of the Virginia Residential Construction Code. A fire extinguisher shall be present and be accessible at all times. Carbon monoxide detectors shall be present in any room used for sleeping or cooking.
- **Parking:** No additional parking is required for the short-term rental use.
- **Events:** Events and gatherings of persons other than the authorized lodgers are prohibited from occurring at the short-term rental. Staff is recommending this condition as the purpose of a short-term rental as defined by State Code is for lodging not as an event or meeting space.
- The proposed zoning amendment will permit a short-term rental as an accessory use to a dwelling unit or permitted accessory dwelling unit in all zoning districts which permit residential uses.

Master Plan

The 2001 Master Plan acknowledges the importance of visitors and tourism to the city of Richmond's economic health noting that the historic sites, unique neighborhoods, and the James River make the city a destination for tourists (pp. 66 & 113). To accommodate these visitors, additional lodging is needed in the city, and short-term rentals provide the opportunity to develop transient lodging within existing housing stock in desirable neighborhoods.

In regard to existing residential neighborhoods, the 2001 Master Plan states that further encroachment of non-residential uses into existing residential areas should be prevented (p. 101). The ordinance promotes the maintenance of the residential character of neighborhoods in conformance with the Master Plan by requiring the STR to be an accessory use to a dwelling unit and the operator to be a primary resident of the lot on which the STR operates. This prevents commercial STRs which operate like hotels from being established in primarily residential neighborhoods.

Existing and Proposed Zoning

The short-term rental of a dwelling unit is currently not identified as a permitted use in the City's Zoning Ordinance. A dwelling unit, by definition, must not be available for occupancy for periods less than one month. The Zoning Ordinance does define tourist homes, hotels, and motels which permit daily occupancy. These uses are permitted in the City's higher-density multi-family, mixed-use, and commercial districts under certain conditions including additional parking and building code requirements.

Public Engagement

Staff received public input on the draft zoning regulations from 3/26/19 to 5/31/19. During this timeframe, PDR staff attended Council District meetings in all nine (9) City Council Districts and hosted two (2) Short-term Rental Informational Meetings with the Finance Department. Input received at the Council District meetings included concerns from neighbors regarding existing short-term rentals that have created issues in their neighborhoods and questions to staff regarding the purpose of the proposed conditions.

Approximately 125 people attended the Short-term Rental Informational Meetings hosted on 5/4/19 and 5/14/19. The majority of attendees at these meetings represented themselves as short-term rental operators or individuals who would like to operate a short-term rental. Input received at these meetings focused on the removal of the primary residency requirement and the

limitation on the number of nights of operation from the draft ordinance. Many attendees stated that their short-term rental is better maintained and operated than existing long-term rentals and that they support legislation that includes life-safety requirements and taxation of short-term rentals.

A survey which asked participants' opinions on the conditions included in the draft zoning ordinance was distributed electronically and on paper at City and civic association meetings. The survey was promoted at the Council District and Short-term Rental Informational Meetings and through a press release on 4/15/19, emails to all civic association presidents and the Richmond 300 email list, and a short-term rentals webpage. The survey closed on 5/31/19 with 1,206 respondents completing the survey. The public comment primarily focused on the primary residence requirement, the number of nights of operation, and the impact of STR on residential neighborhoods. (See attached Summary of Survey Responses)

The internal working group reviewed the public comment and modified the draft legislation by:

- Prohibiting tenants from operating an STR;
- Removing the limit on the number of nights of operation;
- Removing the limit on the number of dwelling units that can operate as an STR in multi-family and mixed-use zones; and
- Requiring the STR operator to be a primary resident on the lot on which the STR operates not the specific dwelling unit.

Staff has received letters of support and opposition to the proposed amendment to the zoning ordinance. The letters of opposition represent opposite opinions as individuals are either opposing the primary resident requirement in favor of fewer restrictions on short-term rentals or opposing permitting any short-term rentals in residential neighborhoods.

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