



Memorandum

Planning Division • Community Development

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To: Planning Commission

From: Tom Martin, AICP, City Planner

CC: Bonnie Svrcek, City Manager, Reid Woodicka, Deputy City Manager, Walter Erwin, City Attorney, Kent White, Director Community Development, Kevin Henry, Zoning Administrator, Mitch Nuckles, Commissioner of the Revenue

Date: February 13, 2019

Re: Short Term Rental Discussion

BACKGROUND:

- Three hundred sixty-five (365) short term rental listings have been identified by a short term rental monitoring service within the City of Lynchburg.
- It is estimated that short term rentals have increased thirty-seven percent (37%) between 2016 and 2017. There has been an eight hundred percent (800%) growth in short term rentals nationwide since 2011.
- The *Zoning Ordinance* does not currently define Short Term Rental. The Zoning Administrator has interpreted short term rental is a permitted use in the City's Business Districts and in owner occupied residential district properties subject to occupancy standards.
- On October 23, 2018, City Council directed staff to prepare *Zoning Ordinance* amendments that would allow short term rental uses in the City.
- The Planning Commission conducted a public hearing on January 23, 2019. After closing the public hearing the Planning Commission directed staff to place the amendments on a future agenda for further discussion. The Planning Commission requested that each aspect of the proposed amendments be discussed.

The proposed *Zoning Ordinance* amendments would clarify that short term rental is a permitted use in the City's residential and commercial districts subject to specific development standards:

1. A short term rental would require owner occupancy in the R-C, R-1, R-2 & R-3 Districts.
2. A short term rental would not require owner occupancy in the R-4, B-1, B-3, B-4, B-5 & IN-2 Districts.

3. Short Term Rentals offered in the R-C, R-1, R-2 & R-3 Districts would require owner occupancy while the unit is offered for short term rental and the building would be required to retain the appearance of a single-household residence.
4. The maximum number of occupants in a short term rental would not exceed three (3) individuals.
5. One (1) additional parking space per short term rental would be required. This parking space would be in addition to any other required parking spaces.
6. An annual registration would be required of all units to be used as a short term rental. A \$150 registration fee would be required.
7. Failure to register a building as a short term rental would result in a penalty of \$500.
8. All buildings offered for short term rental must meet requirements of the Uniform Statewide Building Code.
9. Three (3) violations of state or local laws, ordinances or regulations would result in revocation of approval for a short term rental.

Draft Ordinance:

A primary goal of the City's Comprehensive Plan is to improve the livability of the City's neighborhoods through conservation, stabilization and revitalization. The Planning Commission has heard from supporters of short term rentals that state, they are a method of supplementing income, increase tourism in the City and provide alternatives to typical short term lodging such as hotels. The Planning Commission has also heard from opposition to short term rentals, listing property value, safety, noise and trash concerns.

Discussion: Should the City allow short term rentals?

The *Zoning Ordinance* amendment would define a short term rental as the following: "The accessory or secondary use of a residential dwelling unit or a portion thereof by a host to provide room or space that is intended to be occupied for a period of fewer than thirty (30) consecutive days."

Discussion: Is the requirement for occupancy less than thirty (30) days appropriate?

The proposed Zoning Ordinance amendment would permit short term rentals by right subject to development standards in the following districts:

R-C, Conservation District. This district is intended to provide for very low intensity development in areas not served by City sewer and water supply systems and areas with special natural characteristics

that limit land uses and development to protect the City's environmental health. The R-C District permits single-family homes on ten (10) acre lots.

R-1, Low Density Residential District. The R-1 District is intended to provide for residential development at low densities, together with public uses, institutional uses and private recreational facilities that are in scale with single-household residences. The R-1 District permits single-household dwellings on fifteen thousand (15,000) square foot lots. Densities of up to two and nine tenths (2.9) dwellings per acre are permitted by right.

R-2, Low-Medium Density Residential District. The R-2 district is intended to provide for residential development at low densities, together with public uses, institutional uses and private recreational facilities that are in scale with single-household residences. This district is intended to allow higher densities than the R-1 district where supported by adequate infrastructure and compatible with site conditions. The R-2 District permits single-household dwellings on ten thousand (10,000) square foot lots. Densities of up to four and thirty-five (4.35) dwellings per acre are permitted by right.

R-3, Medium Density Residential District. The R-3 district is intended to provide for residential development and other compatible uses at medium densities in areas with adequate infrastructure and access to public and commercial services. In addition to small-lot single-household development, duplexes and other compatible housing types may be allowed, as are public and institutional uses that are in scale with neighborhood uses. The R-3 District permits single-household dwellings and duplexes with four thousand (4000) square feet per dwelling unit. Townhomes are permitted in the R-3 District upon approval of a conditional use permit. Densities of up to ten and eighty-nine hundredths (10.89) units per acre are permitted by right.

R-4, High Density Residential District. The R-4 district is intended to provide for residential and other compatible uses at high densities in locations with adequate infrastructure and proximity to necessary services and employment. R-4 districts may include any type of housing, as well as public uses, institutional uses, private recreation and limited retail and service uses, when accessory to a multi-household development. The R-4 District permits, single-household dwellings, duplexes, townhomes and apartments with two thousand (2000) square feet per dwelling unit. Minimum lot size is four thousand (4000) square feet. Densities of up to twenty-one and seventy-eight hundredths (21.78) units per acre are permitted by right.

B-1, Limited Business District. The B-1 district is intended to provide for office, retail, restaurant and service uses that are compatible with nearby residential areas because they are in scale with adjacent neighborhood development and have pedestrian-oriented designs. While they generate a moderate level of traffic, they do not involve the constant traffic flows characteristic of community-scaled retail activities. These districts can provide a transition from retail districts and heavily traveled thoroughfares

to residential areas. Single-household dwellings and residential as part of a mixed use development are permitted by right. All other residential uses require approval of a conditional use permit. A minimum lot size of six thousand (6000) square feet is required. In addition to the minimum lot size, one thousand (1000) square feet of additional lot area is required per dwelling unit.

B-3, Community Business District. The B-3 district is intended to provide for office, retail and service uses meeting the needs of the community as a whole. Residential uses are limited to upper floors of mixed-use buildings or in transitional buildings between commercial and residential uses in mixed use developments. They will include a wide range of business uses and other uses compatible with a moderate-sized business area, at densities lower than those permitted in the central business area. New districts of this type will be strongly encouraged to develop as fully planned entities. Single-household dwellings and residential as part of a mixed use development are permitted by right. All other residential uses require approval of a conditional use permit. One thousand (1000) square feet of lot area is required per dwelling unit.

B-4, Urban Commercial District. The B-4 district is intended to: (a) Provide for a wide range of residential, commercial and other sales and service operations, serving the entire metropolitan area in Downtown Lynchburg and other mixed use centers throughout the City; (b) Encourage a compatible mix of multi-household residences, business and related activities of relatively high densities and with adequate services where appropriate; and (c) Assure public access to the James River for recreational purposes and to protect the aesthetic qualities of the riverfront. All types of residential uses are permitted by right with no minimum requirements for lot sizes.

B-5, General Business District. The B-5 district is intended to provide for a variety of commercial and similar uses that require large sites and which often produce substantial nuisance effects. The location of these districts should provide for a high level of access, relatively large amounts of level land, and opportunities to shield adjacent residential districts from nuisance effects. Residential uses as part of a mixed use development are permitted by right. All other residential uses require approval of a conditional use permit. A minimum lot size of six thousand (6000) square feet is required. In addition to the minimum lot size, one thousand (1000) square feet of additional lot area is required per dwelling unit.

IN-2, Institutional 2 District. The IN-2 district is intended to provide for institutional uses such as schools, colleges, universities, senior living facilities, medical facilities and churches with multiple buildings contained in a campus setting. This district provides flexibility for institutions while identifying areas intended for future development. IN-2 districts are for larger institutional campuses located primarily adjacent to districts other than residential districts. All types of residential uses are permitted by right if operated by the institution. Residential uses not operated by the institution require approval of a conditional use permit. There are no minimum lot size requirements.

Discussion: Should short term rentals be allowed in the districts indicated?

R-C, R-1, R-2, R-3, R-4, B-1, B-3, B-4, B-5 & IN-2.

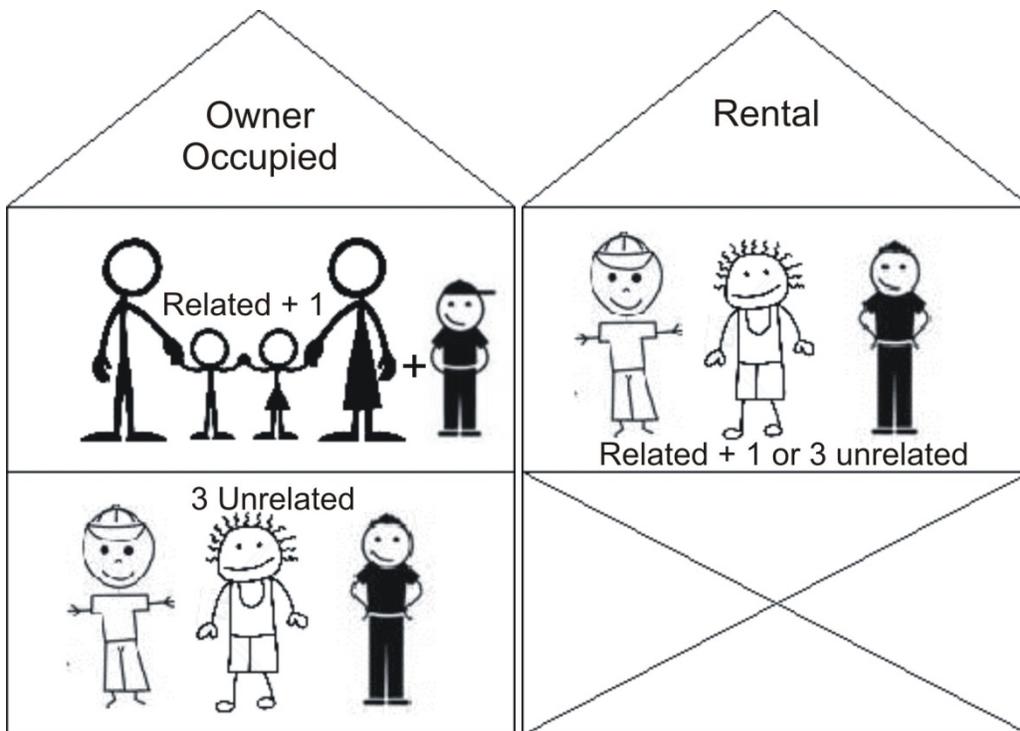
The *Zoning Ordinance* requires owner occupancy in the R-1, & R-2 Districts to allow the use of an accessory dwelling unit. The accessory dwelling may be established in the principal dwelling unit, provided there is one (1) main entrance located in the front of the building and the building has no outside characteristics, such as stairs, other than those common to a single-household dwelling. The accessory dwelling may also be established in an accessory building provided it is no more than nine hundred (900) square feet and has no more than one (1) bedroom.

Discussion: Should owner occupancy be a required in the R-C, R-1, R-2 & R-3 Districts in order to allow short term rental uses?

Discussion: Should the principle structure use a common entrance so that it retains the appearance of a single-household residence?

The *Zoning Ordinance* defines “Related People” as: “Related individuals include people who are related by blood, are married to each other or are in a substantially similar relationship, and children under their care.”

The *Zoning Ordinance* sets occupancy standards of no more than three (3) unrelated individuals per dwelling unit unless authorized by a conditional use permit.



Discussion: Should short term rentals be limited to no more than three (3) individuals?

Discussion: Should short term rental occupancy be part of existing occupancy standards or in addition to existing occupancy standards?

The *Zoning Ordinance* requires one (1) parking space per dwelling unit. An accessory dwelling unit would require one (1) additional parking space. Off-street parking spaces are required to be located on the same lot with the structure. On-street parking located within one thousand (1000) feet and connected by pedestrian facilities may be used to satisfy parking requirements.

Discussion: Should an additional parking space be required per short term rental unit?

The draft ordinance would require an annual registration of properties used as a short term rental. An assessment provided by “Host Compliance” (a short term rental monitoring service) identified three hundred sixty-five (365) individual short term rental listings in the City during August 2018. City staff has no method of identifying where short term rental listings are occurring without the use of a host compliance service. Currently city staff can only identify properties being used for short term rental after a complaint has been received.

The registration requirement would allow city staff to identify properties being used as short term rental and provide for monitoring. The proposed \$150 registration fee would be used to help offset the City’s cost to contract with a vendor to identify short-term rental locations along with staff costs for billing, collection, and enforcement. The fee is the equivalent of collecting the City’s six and five tenths percent (6.5%) lodging tax if the property is being used for short term rental for thirty (30) days per year at an estimated \$75 per night.

$$\$75 \text{ per night} \times 30 \text{ days} \times 6.5\% = \$146.25$$

The collected registration fees would offset host compliance fees and costs associated with monitoring the registrations.

Out of seventeen (17) Virginia localities surveyed where short term rentals are permitted by right, all localities require a registration fee. Fees range from \$25 to \$100 annually. In addition to the registration fee all localities surveyed charge a two percent (2%) to eight and five tenths percent (8.5%) lodging tax.

The current proposal does not recommend charging a lodging tax as the City has no accurate way of determining the number of nights or price charged per night for a short term rental. One listing platform “Airbnb” would collect lodging tax and remit to the city; however, other platforms such as “VRBO” will not. Collecting lodging tax would also result in an increased amount of staff time for the Commissioner of Revenue’s Office.

Discussion: Should registration for short term rentals be required and should a registration fee be charged?

In addition to or in lieu of a registration fee, should a lodging tax be charged for short term rentals?

Should failure to register a short term rental result in a \$500 penalty?

The proposed ordinance would require that all units listed as short term rental comply with the requirements of the Uniform Statewide Building Code. One of the most important aspects of any *Zoning Ordinance* is to ensure the general, health, safety and welfare of the localities residents and visitors. While, the requirement would not result in annual inspections of the short term rental units, the requirement could result in ceasing a short term rentals use in case of violations.

Discussion: Should short term rental units comply with applicable building codes?

The draft ordinance proposes a “three strikes” provision. If a property used as a short term rental is documented with three violations of any local or state ordinance related to the short term rental use, such as noise, trash, parking issues, etcetera, and this provision would allow the city to revoke approval for the short term rental. This provision would aid in protecting the city’s neighborhoods beyond typical zoning enforcement.

Discussion: Should the ordinance provide for revoking approval for short term rentals if three (3) violations are documented?