



**CITY OF COLONIAL HEIGHTS, VIRGINIA
MEETING OF THE PLANNING COMMISSION
City Hall, Council Chambers, 201 James Avenue
Tuesday, October 3, 2023
6:00 p.m.
AGENDA**

- I. Call to Order**
- II. Roll Call**
- III. Determination of Quorum**
- IV. Approval of Minutes for the September 6, 2023 meeting**
- V. Approval of Agenda**
- VI. Community Planning Month Declaration**
- VII. Reading of Manner for Addressing Planning Commission.**

ANY MEMBER OF THE PUBLIC addressing the Planning Commission shall approach the lectern, give his name and address in an audible tone of voice for the record, AND ADDRESS THE COMMISSION AS A BODY RATHER THAN SPEAK TO ANY MEMBER. Unless further time is granted by the Commission, ANY MEMBER OF THE PUBLIC shall address the Commission one time for a maximum of five (5) minutes, regardless of the number of issues he desires to discuss. PROVIDED however, that the main proponent of any application, petition, or plan that is the subject of a public hearing shall be allowed to address the Commission initially for a maximum of ten (10) minutes and later in rebuttal for a maximum of three (3) minutes.
- VIII. Hearing of Citizens Generally**
- IX. Public Hearings**
 - A. PC RESOLUTION NO. 23-05 and Ordinance Resolution Number 23-20**

Concerning amendments to §§ 286-320.08, 286-320.10, 286-320.14, and 286-320.16 of Chapter 286, Zoning, of the Colonial Heights City Code, to comply with regulations issued by the Federal Emergency Management Agency's National Flood Insurance Program.

B. PC RESOLUTION NO. 23-06 and Ordinance Resolution Number 23-21

Concerning amending Colonial Heights City Code in the following ways: 1) amending § 258-52 of Chapter 258, Taxation, by including a short-term rental dwelling as a hotel for purposes of the transient lodging tax and defining a “Transient” as a person who obtains lodging at a hotel for fewer than 30 consecutive days; (2) adding to § 286-202.10 of Chapter 286, Zoning, definitions for “Operator”, “Short-Term Rental”, and “Short-Term Rental Dwelling”; 3) adding “Short-term rentals, hosted and non-hosted” to § 286-300.04 of Chapter 286 as a permitted commercial use type in the RL Low Density Residential District; 4) adding to Chapter 286 a new § 286-410.70 regulating short term rentals; and 5) adding to §286-518.18 of Chapter 286 an off-street parking requirement for short term rental dwellings.

X. Old Business

XI. New Business/Reports

- 1. Chairman – Mr. Hartson**
- 2. Director of Planning and Community Development – Mr. Carter**
- 3. City Engineer or his designee – Asst. Director of Public Works – Mr. Ryan**
- 4. Others, as necessary or appropriate**
 - a. City Manager – Mr. Smith**
 - b. City Attorney – Mr. Fisher**

XII. Adjournment



MINUTES
CITY OF COLONIAL HEIGHTS
Regular Meeting of the Planning Commission
Wednesday, September 6, 2023

I. Call to Order

The meeting was called to order at 6:00 p.m.

II. Roll Call

Present:

Mr. Hartson

Mrs. Schiff

Mr. Wade

Mr. Kwiek

Mrs. Levenson-Melvin

Mrs. Hamilton

Absent:

Mr. Kohan

III. Determination of Quorum

A quorum was determined.

IV. Approval of Minutes for the August 1, 2023 meeting

Mrs. Schiff made a motion to approve the minutes, Mr. Wade seconded the motion, and all Commissioners voted to approve the minutes as written.

Approved 6-0

V. Approval of Agenda

Mrs. Schiff made a motion to approve the agenda, Mr. Kwiek seconded the motion, and all Commissioners voted to approve the motion.

Approved 6-0

VI. Introduction of New Assistant Director Mr. Aaron Bond

Mr. Carter introduced the new Assistant Director of Planning, Mr. Aaron Bond, to the Commissioners. He shared that Mr. Bond has a Master's degree in Urban and Regional

Planning from the University of Illinois and a degree in Bachelor of Arts from the University of Virginia. Mr. Bond is a certified Planner by the American Institute of Certified Planners (AICP) and has worked for several localities including Chesterfield County. Mr. Bond worked as a Planner in the City of Richmond before coming to Colonial Heights.

VII. Hearing of Citizens Generally

No citizens spoke.

VIII. Public Hearings

A. PC RESOLUTION NO. 23-03; Ordinance Number 23-18

CP-23-01; Request for Comprehensive Plan Amendment – 105 Norfolk Ave.

Request to amend the City’s Comprehensive Plan (Master Plan) Land Use Map classification for 105 Norfolk Avenue, parcel identification number 41000402043, from Low Density Single-Family designation to Community Commercial designation.

Mr. Carter began his presentation by sharing that the public hearing being held today is because of the new information that was introduced upon the Commission’s request from staff and the applicant based on the comments received during the August public hearing.

Mr. Carter shared a brief background of the application. The owner of the convenience store located at 801 Boulevard proposes to expand the store onto a separate property of the owner, which is located east of the existing convenience store, at 105 Norfolk Ave. The owner proposes to expand the convenience store by 384 square feet on the north and east sides of the existing building. To accomplish this, the property at 105 Norfolk Avenue must be rezoned to allow convenience store use. To receive support for the rezoning, the applicant is requesting to change the land use map designation for the subject property from the Low Density Single-Family designation to the Community Commercial designation.

Mr. Carter presented the following information to the Commissioners as a follow-up to their request made during the August 1, 2023, Planning Commission meeting:

1. A list of past code violations for the Property
2. Inventory of zoning districts along Norfolk Ave.
3. Inventory of commercial uses along Norfolk Ave.
4. Information regarding a potential drainage issue for the alley and site.
5. Information regarding gaming machines and cause of calls for Police Dept.
6. Examples of public notice.

The Planning Commission requested the applicant address impacts expressed at the public hearing on August 1, 2023. The applicant has submitted a revised application with a proffer statement addressing these impacts.

Mr. Carter explained for the benefit of all participants that a proffer is a legally binding commitment from the property owner that governs the use and operation of a property, regardless of ownership, when a governing body chooses to approve a rezoning. The proffer transfers with the property and is legally enforceable to the same extent as a zoning

ordinance regulation.

Proffers must:

- Be written and from the property owner
- Intend to mitigate impacts generated by the application
- Be related to the physical development and operation of a use
- Meet state code provisions

Mr. Carter shared that the gas station/convenience store use located at 801 Boulevard was cited for more than 5 gaming machines. The citation was issued to this property and many other businesses along the Boulevard due to the emerging prevalence of gaming machines and the previous Director's determination that more than 5 was not an accessory use but primary use. The primary use is not allowed in the BB zoning district. The property owner contacted the City and brought the property into compliance. The property was compliant upon the last inspection on August 28. The property owner has proffered to maintain the current number of gaming machines (4) and not to exceed that number. The Police Department's concerns are with gaming machines becoming the primary use of the site. The Police Dept. found the proffer to be acceptable and thanked the applicant for their cooperation.

Mr. Carter explained that due to topography, water flows away from other properties and flows towards the Boulevard. Any flooding is not caused by 801 Boulevard.

Mr. Carter shared that the application depicts the security wall packs proposed to be installed. No other lighting is proposed. City Code prohibits lighting from exceeding one (1) footcandle at the property line. The applicant must comply with this regulation.

Mr. Carter said the pictures of vegetation along fences between properties appear to be off-site. The tall grass ordinance does not regulate overgrown trees or bushes; hence the existing situation cannot be construed as being in violation of the City code. The plan proposes to develop this area so vegetation will be removed.

Mr. Hartson invited Mr. Hawkins, the representative of the applicant to address the Commissioners. Mr. Hawkins explained that the proffer that has been created in consultation with the Planning Department is very appropriate as it gives what the applicant needs and goes above the requirements of the City Code in terms of buffers and landscaping.

Mr. Hartson opened the floor for the public hearing.

Ms. Betty Harger, property owner of 107 Norfolk Ave said that her son lives in the property at 107 Norfolk Ave. She followed up on the concerns she had raised during the previous meeting as well as over the email that she sent the Commissioners. She said the rezoning application has to be denied because the property at 105 Norfolk Ave has not been kept up and that the foot and vehicle traffic generated by the convenience store imposes safety issues on neighbors.

Ms. Stephanie Westone, the property owner of 120 Suffolk Avenue thanked the staff and applicant for providing more information that helped get a better understanding of what is

going to happen to the said property. She mentioned that she was not in favor of the rezoning idea as this sets a precedence for commercial properties moving into residential areas and changing the character of the neighborhood.

Ms. Freeland, the property owner of 111 Norfolk Avenue, pointed out information about the cases reported on the property with the Police which was asked during the August meeting. Mrs. Schiff responded that the Staff report indicated that there were 37 calls on the property during the last 2 years.

She raised a concern about the implications the rezoning of the property might have on trash pickup for houses along Norfolk and Suffolk Ave as of the cars parked in the alley. The alleyway is used by the trash company to pick up the trash from the neighboring houses. Mr. Hartson asked Ms. Freeland if she had instances of trash not being picked up and if such instances were reported to which she responded saying she does.

Ms. Ivy, the owner of the property at 203 Norfolk Avenue, said her concern with the rezoning application continues to be about the future of the existing property on 105 Norfolk Ave.

Ms. Walker, a resident of the property at 122 Norfolk Avenue shared her fears that the gaming machines in the convenience store would disturb the peace and calmness of the neighborhood.

Ms. Sandra, the owner of 126 Suffolk Avenue, shared her concern about the traffic and noise that vehicles generate in the alleyway. Though these may not be attributed directly to the property at 801 Boulevard, she said, the nature of the business conducted at the property contributes to the traffic situation.

Mrs. Arcaro, a resident of 110 Tudor Road shared her concern about preserving the small-town character of Colonial Heights. She remarked that the hours of operation for most of the surrounding businesses are 9 a.m. to 5 p.m. This business stays open considerably later leading to safety issues in the neighborhood.

Mr. Landes from 115 Suffolk Avenue, shared his concern that the rezoning will disturb the calm and quiet feel of the neighborhood with commercial activities encroaching on the residential neighborhood. He added that the character of the neighborhood changes from being strictly residential to mixed-use creating an unpleasant and uncomfortable environment for residents. He also shared that in several instances, used beer bottles are found in his trash can which come from the customers of the convenience store. Overall, he said he was not in favor of rezoning.

Mr. Hartson concluded the public hearing and invited Mr. Hawkins to respond to the questions and concerns raised by the residents.

Mr. Hawkins introduced Mr. Patel, the Vice President of RAH INC, the owner of the property, and Mr. Desai, the Site Manager of the property, to the Commissioners. Mr. Hawkins shared that the hours of operation of the business are 6 a.m. to 11 p.m. which is not

as long as that of Wawa across the street.

Mr. Hawkins shared that the applicant currently has only four gaming machines and has proffered to have only four gaming machines in the future. However, this may be a moot point as the recent developments related to the legislation regulating the gaming machines in the State may result in the total elimination of the operation of such skill-based gaming machines in the future depending on the outcome of the ongoing case in the Court of Law.

Mr. Hawkins added that the residence on 105 Norfolk will remain a residence and cannot be changed to a business-occupied property in the future according to the proffer that the applicant has submitted. The two parking spaces shown in the drawing are designated for residential use at 105 Norfolk Avenue and are not intended to be used by the business.

Mr. Hawkins clarified that the alleyway is owned by the City and maintenance of the alley is the responsibility of the City. Mr. Hawkins added that the proffers address all the concerns of the residents.

Mr. Hartson opened the floor for the Commissioners to ask questions of the applicant and the staff.

Mrs. Hamilton shared from the Planning Director's report that the applicant could expand the structure without going over to 105 Norfolk Avenue, thereby not necessitating the rezoning.

Mr. Carter clarified that the rezoning application was made because the proposed expansion to house the coolers in the manner presented in the application was better suited. He added that most of the concerns raised by the residents such as the traffic in the alley, light, and parking in the alley exist today and will continue to exist irrespective of the Commission's decision on the application.

Mrs. Levenson-Melvin thanked the staff for providing all the additional information that the Commissioners had requested.

Mr. Wade shared that there has to be a balancing act to ensure that the real estate taxes and property taxes are not increased to meet the City's growing expenses. Economically this can be achieved by creating revenue to grow business. The proffers made by the applicant ensure the residential property at 105 Norfolk Avenue remains residential in the future as well and is kept well.

Mr. Kwiek appreciated the Staff's efforts in compiling an enormous amount of information for the Commissioners and the citizens within a short period of time. He thanked the public for their participation and for sharing their feedback and concerns on the application.

Mr. Wade made a motion to approve Resolution 23-03 and Ordinance Number 23-18, which recommends approval of the Comprehensive Plan Amendment application 23-01, Mr. Kwiek seconded the motion.

Vote: 2-4

Yes:

Mr. Hartson

Mr. Wade

No:

Mrs. Schiff

Mrs. Levenson- Melvin

Mrs. Hamilton

Mr. Kwiek

Motion: Failed

Mrs. Schiff made a motion to recommend the denial of Resolution 23-03 and the Comprehensive Plan Amendment application 23-01, and Mrs. Levenson-Melvin seconded the motion.

Vote: 4-2

Yes:

Mrs. Schiff

Mrs. Levenson- Melvin

Mrs. Hamilton

Mr. Kwiek

No:

Mr. Hartson

Mr. Wade

Motion: Pass

**B. PC RESOLUTION NO. 23-04; Ordinance Number 23-19
RZ-23-01; Request for Rezoning – 105 Norfolk Ave.**

Mr. Hartson opened the floor for the public hearing but stated all previous comments stated about the rezoning would be considered. No citizens spoke. Mr. Hartson concluded the public hearing.

Mr. Wade made a motion to approve Resolution 23-04 and Ordinance Number 23-19 that recommends approval of the Rezoning application 23-0, Mr. Kweik seconded the motion.

Vote: 2-4

Yes:

Mr. Hartson

Mr. Wade

No:

Mrs. Schiff

Mrs. Levenson- Melvin

Mrs. Hamilton

Mr. Kwiek

Motion: Failed

Mrs. Schiff made a motion that recommends denial of Resolution 23-04 and Rezoning

Application 23-01. Mrs. Levenson-Melvin seconded the motion.

Vote: 4-2

Yes:

Mrs. Schiff

Mrs. Levenson- Melvin

Mrs. Hamilton

Mr. Kwiek

No:

Mr. Hartson

Mr. Wade

Motion: Pass

IX. Old Business

None

X. New Business/Reports

Reports

1. Chairman – Mr. Hartson

Mr. Hartson asked Mr. Carter if there was a potential for the City of Colonial Heights to develop a technology overlay district. Mr. Fisher pointed out that the question should be passed to the Director of Economic Development, Ms. Epps. Mr. Smith offered to pass the question to Ms. Epps on behalf of the Chair.

2. Director of Planning and Community Development – Mr. Carter

Mr. Carter shared that the Commissioners would be shortly receiving the invitations to the Boards and Commissions dinner, scheduled on September 28, 2023, and requested the Commissioners to RSVP.

Mr. Carter shared about the upcoming items before the Commission.

- Public hearing on revisions to the City's Floodplain ordinance based on the directions received from FEMA and the Department of Conservation and Recreation (DCR), Virginia, as the Floodplain maps and panels have been updated.
- Public hearing for short term rental ordinance for the City.

3. City Engineer or Designee –Director of Public Works – Mr. Ryan

Mr. Ryan updated the Commissioners on the status of the ongoing projects in the City.

- SRTS North Elementary Phase 2– Nearing completion. A walk-through with the contractor is scheduled for September 6, 2023.
- 200 ft sidewalk near the Middle School – Construction to begin next Summer
- Westover Right Turn Lane - The construction is ongoing, and scheduled to be

- completed by the end of October.
- Lakeview Modernization – Expected to complete by the end of October.
- Appomattox River Greenway Trail Phase V - Received bids from two contractors which were both higher than the allocation by \$1 Million. Efforts will be made to procure additional funding to deliver the project next year.
- High School Sidewalks – Right of Way acquisition is in process.
- Boulevard at Temple Intersection Improvements – The project is currently in the right-of-way phase.
- Branders Bridge Right Turn Lane – Project is completed and accepted.
- State of Good Repair paving– The project is expected to begin by September 18, 2023 and complete by April 15, 2024.
- Appomattox Greenway Trail Boulevard Spur - Awaiting authorization to open preliminary engineering to start from VDOT.
- Ridge Road Reconstruction – Design is in process.
- Lexington & Conduit Outfall – Right of Way acquisition complete.
- Towneplace Suites – Under construction.
- Panera Plan – Under construction.
- Colonial Heights High School Addition – Under construction.
- The Sanctuary (505 Lakeview) – Under construction.
- Rio Car Wash Site Plan – Under construction.
- Popeye’s Site Plan –Stormwater plan is under review.
- Southlake Pond Fill – The site plan is under review.
- Charles Dimmock and Jennick Car Wash (Flagstop) – Construction to begin soon
- Temple Ave Storage – Site plan and stormwater review in progress.

Mr. Wade and Mrs. Hamilton extended their appreciation to the Department of Public Works and Engineering team for their efforts and good work in the Lakeview Modernization Project. Mrs. Hamilton expressed her appreciation for the Department’s efforts in clearing the litter in the woodlands near Martin Luther King Bridge.

4. Others, as necessary or appropriate

a. City Manager – Mr. Smith

Mr. Smith shared that the Towneplace Suites is scheduled to open for business in the month of September 2023.

Mr. Smith brought the Commissioners’ attention to a new event being organized by the Department of Parks and Recreation on October 28th from 10 a.m. to 5 p.m., at Fort Clifton which is going to be a combined Fall-Halloween event.

b. City Attorney – Mr. Fisher

Mr. Fisher shared that the draft short term rental ordinance has been prepared after obtaining extensive inputs from the Planning Commission and the City Council. The draft ordinance will be presented before the Planning Commission at the October meeting for consideration.

Mr. Fisher shared that the revisions to the floodplain ordinance which will also be presented before the Commission in the October meeting are directions from the State based on the inputs from FEMA. The City has very little scope to make any

changes.

XI. Adjournment

Mr. Wade made a motion to adjourn the meeting, Mrs. Schiff seconded the motion, and all Commissioners voted to adjourn the meeting. The meeting was adjourned at 8:15 pm.

X

Mitchell Hartson
Chairman

X

Joseph Carter Jr.
Secretary



**Planning Commission
October 3, 2023**

Zoning Ordinance Amendment – § 286-320 FOD Floodplain Overlay District

Request

Staff is requesting the Planning Commission to hold a public hearing on the zoning ordinance amendment and forward the ordinance to the City Council for consideration with a recommendation of approval.

Background

Federal Emergency Management Agency (FEMA) finalized the flood hazard determination for the City of Colonial Heights in July 2023. The new Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) will be effective January 11, 2024.

As a condition of continued eligibility in the National Flood Insurance Program (NFIP), the City is required to adopt the floodplain management regulations that meet the standards of 44 CFR Part 60.3(d) of the NFIP regulations prior to the effective date of January 11, 2024, by amending the existing regulation to incorporate the additional requirements.

The Department of Conservation and Recreation (DCR), Virginia shared a model ordinance recommending specific higher standards to reduce the risk of higher than necessary insurance rates and provide sufficient protection.

Staff compared the model ordinance from DCR with the existing ordinance of the City and made the following changes to the existing ordinance to meet the 44 CFR requirements:

1. The FIS and FIRM effective date was changed from August 2, 2012, to January 11, 2024.
2. The referenced table number for floodway data was updated based on the new FIS.
3. Elevation and construction standards for accessory structures were added in §286-320.10 (D).
4. The language “100-year flood elevation” was changed to “one percent (1%) chance flood elevation” in § 286-320.14 (B1) and (F) and § 286-320.16 “Base Flood Elevation” to incorporate the preferred language indicated in the model code.
5. Definitions for “Appurtenant or Accessory Structure”, “New Construction”, and “Severe Repetitive Loss Structure” were added in § 286-320.16.

The revisions to the ordinance have been reviewed by the Virginia Department of Conservation and Recreation (DCR), and have been found acceptable to meet the requirements of the NFIP regulations. The amendments are required to remain eligible to participate in the National Flood Insurance Program.

Scope and Timeline for Ordinance Adoption

To meet the mandatory requirement of adopting this ordinance before January 11, 2024 the Planning Commission must make a recommendation to the City Council so that the City Council's first reading can occur in October.

Public Comments

The staff has not received any public comments.

Staff Recommendation

Staff recommends Planning Commission recommend approval to the City Council.

Draft Motion

Below is a draft motion for the Planning Commission to consider for Recommendation:

- I move that the Planning Commission adopt a resolution recommending City Council amend §§ 286-320.08, 286-320.10, 286-320.14, and 286-320.16 of Chapter 286, Zoning, of the Colonial Heights City Code, to comply with regulations issued by the Federal Emergency Management Agency's National Flood Insurance Program.

Attachments:

1. Ordinance No. 23-20



PLANNING COMMISSION RESOLUTION NO. 23-05

To recommend that the City Council approve Ordinance No. 23-20, a copy of which is attached, to amend §§ 286-320.08, 286-320.10, 286-320.14, and 286-320.16 of Chapter 286, Zoning, of the Colonial Heights City Code, to comply with regulations issued by the Federal Emergency Management Agency's National Flood Insurance Program

Approved this 3rd day of October 2023.

APPROVED:

Chairman

ATTEST:

Secretary

AN ORDINANCE NO. 23-20

Amending §§ 286-320.08, 286-320.10, 286-320.14, and 286-320.16 of Chapter 286, Zoning, of the Colonial Heights City Code, to comply with regulations issued by the Federal Emergency Management Agency's National Flood Insurance Program.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLONIAL HEIGHTS:

1. Sections 286-320.08, 286-320.10, 286-320.14, and 286-320.16 of Chapter 286, Zoning, of the Colonial Heights City Code, are amended as follows:

§ 286-320.08 Establishment of zoning district.

A. Basis of district.

- (1) The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM prepared by the FEMA, Federal Insurance Administration, dated ~~August 2, 2012~~ January 11, 2024, and any subsequent revisions or amendments thereto.

The City may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as defined in Table ~~323~~ of the above referenced FIS and as shown on the FIRM, which is declared to be a part of this ordinance, and which shall be kept on file in the office of the Floodplain Administrator.

- (4) The A Zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one-percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

(a) The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a ~~100-year floodplain~~ one percent (1%) annual chance flood boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one-percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports and U.S. Geological Survey Flood-Prone Quadrangles, then the applicant for the proposed use, development or activity shall determine this base flood elevation. For development proposed in the approximate floodplain, the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated at least one foot above the base ~~floor~~ flood elevation.

§ 286-320.10 **District provisions.**

D. Elevation and construction standards. In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with this ordinance, the following provisions shall apply:

(4) Accessory structures – Accessory structures in the SFHA shall comply with the elevation requirements specified in D(2) of this section; or if not elevated or dry floodproofed, shall:

- (a) Not be used for human habitation;
- (b) Be limited to no more than 600 square feet in total floor area;
- (c) Be useable only for parking of vehicles or limited storage;
- (d) Be constructed with flood damage-resistant materials below the base flood elevation;
- (e) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
- (f) Be anchored to prevent flotation;
- (g) Have electrical service and mechanical equipment elevated to or above the base flood elevation;
- (h) Shall be provided with flood openings which shall meet the following criteria:
 - (1) There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls
 - (2) The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
 - (3) The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
 - (4) Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

§ 286-320.14 **Variances: factors to be considered.**

B. In passing upon applications for variances, the BZA shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the ~~400-year~~ one percent (1%) chance flood elevation.

F. The BZA shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the ~~400-year~~ one percent (1%) chance flood elevation (i) increases the risks to life and property, and (ii) shall result in increased premium rates for flood insurance.

§ 286-320.16 **Definitions.**

A. For the purposes of these provisions relating to the Floodplain Overlay District, the following terms shall be defined as follows:

APPURTENANT OR ACCESSORY STRUCTURE

A non-residential structure that is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

Accessory structures are not to exceed 600 square feet.

BASE FLOOD ELEVATION

The Federal Emergency Management Agency designated one percent annual chance water surface elevation and the elevation determined per § 4.6. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is ~~100-year flood~~ or a one percent (1%) annual chance flood.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after January 11, 2024 and includes any subsequent improvements to such structures. Any construction started after the effective date of the community's first floodplain management ordinance and before January 11, 2024 is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

SEVERE REPETITIVE LOSS STRUCTURE

A structure that: (a) is covered under a contract for flood insurance made available under the NFIP; and (b) has incurred flood related damage – (i) for which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

2. This ordinance shall be in full force and effect on January 11, 2024.

Approved:

Mayor

Attest:

City Clerk

I certify that the above ordinance was:

Adopted on its first reading on _____.

Ayes: _____. Nays: _____. Absent: _____. Abstain: _____.

The Honorable Kenneth B. Frenier, Councilmember: _____

The Honorable Elizabeth G. Luck, Councilmember: _____

The Honorable John E. Piotrowski, Councilmember: _____

The Honorable Dr. Laura F. Poe, Councilmember: _____

The Honorable John T. Wood, Councilmember: _____

The Honorable Robert W. Wade, Vice-Mayor: _____

The Honorable T. Gregory Kochuba, Mayor: _____

Adopted on its second reading on _____.

Ayes: _____. Nays: _____. Absent: _____. Abstain: _____.

The Honorable Kenneth B. Frenier, Councilmember: _____

The Honorable Elizabeth G. Luck, Councilmember: _____

The Honorable John E. Piotrowski, Councilmember: _____

The Honorable Dr. Laura F. Poe, Councilmember: _____

The Honorable John T. Wood, Councilmember:

The Honorable Robert W. Wade, Vice-Mayor:

The Honorable T. Gregory Kochuba, Mayor:

City Clerk

Approved as to form:

City Attorney



**Planning Commission
October 3, 2023**

Zoning Ordinance Amendment - Short Term Rentals

Request

Staff is requesting the Planning Commission to hold a public hearing on the zoning ordinance amendment and forward the ordinance to City Council for consideration with a recommendation of approval.

Background

Short Term Rentals, the renting of real property (portions thereof or in whole) for a period of less than 30 days, has become a national phenomena in the real estate market. Short Term Rentals impacts the real estate market of communities and the operations of local governments in different ways.

Recent bills introduced to the state legislature, [HB1362](#) and [HB2271](#), both presented legislation that would restrict the City's ability to regulate Short Term Rentals that were "managed" by a licensed VA realtor since the City does not currently have a specific ordinance or regulation for the use. The primary objective of this task is to have an ordinance adopted by City Council to regulate Short Term Rentals before the end of the calendar year, at which point the City's ability to craft new Short Term Rental regulations could be restricted.

Planning staff performed research on the use and other regulations adopted by Virginia localities and presented the findings to the Planning Commission in May 2023. Staff asked questions of the Planning Commission for feedback. This feedback was presented to City Council in June where City Council scheduled a work session for July 19, 2023 to consider the findings and recommendations.

On July 19, 2023, the City Council, gave the following direction to staff for drafting the ordinance to regulate the short term rental properties in the City:

1. Allow both hosted and non-hosted short-term rentals (STRs) via an administrative process. Hosted STR must have the property owner living on the same premises.
2. Provide a maximum of 180 days per year for operating as a short-term rental.
3. Require annual permits with a fee of \$500.
4. Conduct an inspection prior to the operation of the unit as a STR.
5. Limit the number of guests to a maximum 2 persons per bedroom with total maximum of 6.
6. Impose the transient lodging tax on STRs.
7. Accessory units can be used as STRs.
8. Limit the number of STRs to 5% of the houses in each neighborhood (the draft ordinance

includes neighborhood boundaries established by the City's Community Development Block Grant (CDBG) program).

9. Prohibit the use of STRs for commercial uses or events.
10. Allow no more than one party to rent the space at one time.
11. Impose penalties for non-compliance with the ordinance.
12. Prohibit advertising signage.
13. Require off-street parking.
14. No renting to minors.
15. Require the posting of contact information of operator within the dwelling.

On September 12, 2023, the City Manager reported to City Council that Staff incorporated all of these requirements in the draft ordinance. City Council found the ordinance acceptable to be forwarded to Planning Commission for consideration.

Scope and Timeline for Ordinance Adoption

To meet the primary objective of adopting this ordinance before the end of the calendar year, the Planning Commission must make a recommendation to City Council so that City Council's first reading can occur in November.

Public Comments

Staff has not received any public comments; however, Staff has been contacted on several occasions with inquiries on how to establish a Short Term Rental.

Staff Recommendation

Staff has drafted the ordinance with all of City Council's directives. Staff recommends Planning Commission recommend approval to City Council.

Draft Motion

Below is a draft motion for the Planning Commission consider for Recommendation:

- I move that the Planning Commission adopt a resolution recommending City Council amend Chapter 258 and 286 of City Code by approving Ordinance No. 23-21 that will define the use known as Short Term Rental, and establish regulations that govern the operation of said use.

Attachments:

1. Ordinance No. 23-21
2. Ordinance STR Research Report from May 2, 2023



PLANNING COMMISSION RESOLUTION NO. 23-06

To recommend that the City Council approve Ordinance No. 23-21, a copy of which is attached, to amend the Colonial Heights City Code in the following ways: 1) amending § 258-52 of Chapter 258, Taxation, by including a short-term rental dwelling as a hotel for purposes of the transient lodging tax and defining a “Transient” as a person who obtains lodging at a hotel for fewer than 30 consecutive days; (2) adding to § 286-202.10 of Chapter 286, Zoning, definitions for “Operator”, “Short-Term Rental”, and “Short-Term Rental Dwelling”; 3) adding “Short-term rentals, hosted and non-hosted” to § 286-300.04 of Chapter 286 as a permitted commercial use type in the RL Low Density Residential District; 4) adding to Chapter 286 a new § 286-410.70 regulating short term rentals; and 5) adding to §286-518.18 of Chapter 286 an off-street parking requirement for short term rental dwellings

Approved this 3rd day of October 2023.

APPROVED:

Chairman

ATTEST:

Secretary

AN ORDINANCE NO. 23-21

Amending the Colonial Heights City Code in the following ways: 1) amending § 258-52 of Chapter 258, Taxation, by including a short-term rental dwelling as a hotel for purposes of the transient lodging tax and defining a "Transient" as a person who obtains lodging at a hotel for fewer than 30 consecutive days; 2) adding to § 286-202.10 of Chapter 286, Zoning, definitions for "Operator", "Short-Term Rental", and "Short-Term Rental Dwelling"; 3) adding "Short-term rentals, hosted and non-hosted" to § 286-300.04 of Chapter 286 as a permitted commercial use type in the RL Low Density Residential District; 4) adding to Chapter 286 a new § 286-410.70, regulating short-term rentals; and 5) adding to § 286-518.18 of Chapter 286 an off-street parking requirement for short-term rental dwellings.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. Sections 258-52, 286-202.10, 286-300.04, and 286-518.18 of the Colonial Heights City Code are amended, and new Section 286-410.70 is added to Chapter 286 of the Colonial Heights City Code, as follows:

§ 258-52. **Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

HOTEL

Any public or private hotel, inn, hostel, tourist home or house, motel, rooming house, short-term rental dwelling as defined in § 286-202.10 of this Code, or other lodging place within the City offering lodging, as defined in this section, for compensation to any transient, as hereinafter defined.

TRANSIENT

Any person who, for a period of not more fewer than ~~90~~ 30 consecutive days, either at his own expense or at the expense of another, obtains lodging at any hotel.

§ 286-202.10 **Commercial use types.**

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.

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. A dwelling used for short-term rental may be either hosted or non-hosted.

HOSTED – the owner of the short-term rental dwelling lives on the property, either in the same structure as the short-term rental tenant(s) or in another structure on the property.

NON-HOSTED – the owner or agent of the short-term rental dwelling does not live on the property being rented.

SHORT-TERM RENTAL DWELLING

A dwelling that is used for short-term rental.

§ 286-300.04 Permitted uses.

The following uses are permitted by right or by special exception permit in the RL Low Density Residential District, subject to all other applicable requirements contained in this ordinance. An (S) indicates a special exception permit is required. An asterisk (*) indicates that the use is subject to additional, modified or more stringent standards as listed in Article IV, Use and Design Standards.

- (1) Agricultural use types:
 - Stable, private (S)*

- (2) Residential use types:
- Accessory apartments*
 - Family day care home*
 - Group home
 - Home occupation*
 - Manufactured home, emergency*
 - Single-family dwelling, attached (S)*
 - Single-family dwelling, detached*
 - Temporary family health care structures*

- (3) Civic use types:
- Community recreation*
 - Cultural service
 - Educational facilities, college/university (S)*
 - Educational facilities, primary/secondary (S)*
 - Public parks and recreational areas
 - Religious assembly*
 - Safety service*
 - Utility service, major (S)*
 - Utility service, minor

- (4) Office use types:
- (None)

- (5) Commercial use types:
- ~~(None)~~ Short-term rentals, hosted and non-hosted*

- (6) Industrial use types:
- (None)

- (7) Miscellaneous use types:
- Amateur radio tower*

§ 286-410.70 Short-term rentals.

A. Intent. These regulations are adopted to preserve the residential character of the City's neighborhoods; to prevent any potential negative impact by short-term rentals; and to preserve the quality and quantity of other residences for year-round residential use. No more than five percent of the total number of units within a neighborhood are allowed to operate as a short-term rental dwelling during a calendar year. For the purposes of these regulations, "neighborhood"

shall mean each of the neighborhoods identified in the City's most recently approved Community Development Block Grant (CDBG) Consolidated Plan; and the Department of Planning and Community Development (the "Department") shall maintain a map of such neighborhoods.

B. Permits. Any operator desiring to offer a dwelling as a short-term rental shall obtain an annual permit by submitting the prerequisite form (the "Application") to the Department. The application fee for the annual permit shall be \$500. The applicant shall state on the application whether the short-term rental shall be hosted or non-hosted and shall provide the responsible party's contact information, including name, address, telephone number, and email address. The Department shall review the completed application within 30 days of the Department's receipt of a complete application. Application approval shall be based on the dwelling meeting certain criteria described in this section to operate as a short-term rental. If denied, the Department shall provide the applicant, in writing, with the reason or reasons for the denial. Any operator who offers his property as a short-term rental without an approved permit shall be assessed a \$500 civil penalty per violation until the operator has an approved annual permit or ceases operation of the use. The \$500 per violation penalty shall be assessed for every seven days the short-term rental operates without a valid permit and the penalty shall be paid at the time of application for a short-term rental dwelling annual permit before the application is processed.

C. Inspection of the Property. After the Department receives a completed application, and as part of the application review process, the dwelling shall be inspected by the Administrator, the Building Official, and the Fire Marshal, or their designees, for compliance with the applicable regulations of the Uniform Statewide Building Code, Fire Prevention Code, and this Chapter. The following criteria must be met for a dwelling to be approved as a short-term rental:

i. Smoke and carbon monoxide detectors must be installed and functioning in areas specified in applicable law.

ii. All windows or doors must operate as designed.

iii. No basement space shall be used as a sleeping area unless there are properly-functioning windows or doors that conform to applicable law.

iv. A functional fire extinguisher shall be installed and visible in any kitchen area.

v. There shall be no building code or property maintenance violations.

vi. There must be at least one off-street parking space for tenants to use per short-term rental dwelling.

D. Permit renewals. Each permit issued shall be valid for one calendar year upon approval, from January 1 to December 31, and must be renewed annually along with the payment of the \$500 permit fee. An application may be only for the current or upcoming calendar year and may not be submitted more than six (6) months in advance of the upcoming calendar year. Approval of a short-term rental dwelling is owner-specific; and any change of ownership shall require a new application, permit fee, and inspection. It is the owner's responsibility to submit the application to the City at least 30 days in advance of the expiration date to receive approval to renew the permit to continue operating the short-term rental. Operation of a short-term rental without a valid permit is considered a violation of this ordinance.

E. Prohibition of rental activity. Any operator shall be prohibited from offering a property for short-term rental upon violations on more than three occasions of applicable State or local law. Also, the Administrator shall revoke the permit of any operator who has committed multiple violations on more than three occasions of such law. Once revoked, the operator is not eligible for a new permit for a period of one year from the date of permit revocation.

F. Conditions for operating a short-term rental dwelling. The following conditions apply for all short-term rental dwellings operating in the City:

(1) **Transient lodging tax.** All short-term rentals are required to comply with the charging, collection, and reporting of the transient lodging tax as set forth in Article VIII of Chapter 258 of this Code.

(2) **Hosted or non-hosted.** All short-term rentals must meet the definition of either hosted or non-hosted defined in § 286-202.10.

(3) **Maximum and minimum days to rent.** A short-term rental dwelling shall not be rented for more than 180 days per calendar year, and the minimum rental period shall be one full-day per rental contract. The operator must keep complete records of the number of days the short-term rental dwelling is rented as such for the preceding year and submit such records to the Administrator upon request and upon application to renew an existing short-term rental permit. Exceeding the allowed number of days the short-term rental is rented as such and inaccurate and/or falsified reporting of the number of days a short-term rental is rented is cause for denial of any request for permit renewal for the upcoming calendar year.

(4) **Responding to emergencies.** Either the homeowner or his designated agent must be available to respond to emergencies or complaints promptly.

(5) **No renting to minors.** At least one member of every rental party must be an adult. No operators shall enter into a contract for a short-term rental dwelling with any person younger than 18 years of age.

(6) **Prohibition against multiple tenancy.** An operator is prohibited from having in effect at the same time more than one short-term rental contract per parcel for the same rental period, regardless of the number of structures on the parcel.

(7) **Maximum number of guests.** Occupancy of any short-term rental dwelling shall not exceed a number equal to twice the number of bedrooms in the dwelling up to a maximum of six guests.

(8) **Unauthorized uses.** No short-term rental shall offer, provide, or allow any commercial use or event, including but not limited to, parties, banquets, weddings, receptions, meetings, or film productions. The short-term rental dwelling shall not be used for a family day home, group home, or assisted living home.

(9) **No on-site signs.** No signs shall be posted on the site advertising the property as a short-term rental.

(10) **Posting of information inside the short-term rental dwelling.** The property owner must conspicuously post the following information inside any short-term rental dwelling prior to operating as a short-term rental:

(a) The property address;

(b) The name, physical address, telephone number(s), and email address of the property owner or his/her agent responsible for responding to emergencies and complaints;

(c) Instructions for emergency shut-off of gas, electricity, and water, including the locations of gas and water valves and circuit breakers;

(d) The identification and location of emergency exits;

(e) Recycling and solid waste collection schedules;

(f) Section 218-4 of the Colonial Heights City Code, "Loud noise prohibited"; and

(g) Instructions to dial 9-1-1 in case of an emergency.

(11) **Pets.** The property owner shall decide whether renters are allowed to bring pets; however, the number and type of pets must comply with Chapter 98 of the City Code and the total shall include the number of pets on the premises, including any owned by the operator.

§ 286-518.18 **Minimum parking required.**

Use Type	Parking Required
Commercial Use Types	***
Retail Sales	***
Shopping center	1 space per 250 square feet of gross leasable area
Other retail	1 space per 200 square feet
<u>Short-term rental dwelling</u>	<u>1 space per dwelling</u>
Studio, fine arts	Schedule B

2. This ordinance shall be in full force and effect upon its approval on second reading.

Approved:

Mayor

Attest:

City Clerk

I certify that the above ordinance was:

Adopted on its first reading on _____.

Ayes: _____. Nays: _____. Absent: _____. Abstain: _____.

The Honorable Kenneth B. Frenier, Councilmember: _____

The Honorable Elizabeth G. Luck, Councilmember: _____

The Honorable, John E. Piotrowski, Councilmember: _____

The Honorable Dr. Laura F. Poe, Councilmember: _____

The Honorable John T. Wood, Councilmember: _____

The Honorable Robert W. Wade, Vice-Mayor: _____

The Honorable T. Gregory Kochuba, Mayor: _____

Adopted on its second reading on _____.

Ayes: _____. Nays: _____. Absent: _____. Abstain: _____.

The Honorable Kenneth B. Frenier, Councilmember: _____

The Honorable Elizabeth G. Luck, Councilmember: _____

The Honorable, John E. Piotrowski, Councilmember: _____

The Honorable Dr. Laura F. Poe, Councilmember: _____

The Honorable John T. Wood, Councilmember:

The Honorable Robert W. Wade, Vice-Mayor:

The Honorable T. Gregory Kochuba, Mayor:

Approved as to form:

City Clerk

City Attorney