



MEMORANDUM

TO: Frederick County Board of Supervisors

FROM: M. Tyler Klein, AICP, Senior Planner

SUBJECT: Ordinance Amendment – Short-Term Lodging

DATE: April 7, 2022

Proposal:

This is a proposed amendment to Chapter 165 – Zoning to add “short-term lodging (STL)” to the definitions section, provide additional regulations for short-term lodging and add the use to the RA (Rural Areas), RP (Residential Performance) and MH1 (Mobile Home Community) Zoning Districts. As proposed by staff, STL’s would be permitted by-right through an administratively reviewed permit process (draft permit application also provided).

Staff understands from data provided by the Commissioner of Revenue (COR), 25 or more short-term lodging units may be currently operating in Frederick County. The intent of the ordinance amendment proposal is to ensure short-term lodging operations are properly managed from a zoning perspective. The COR already has required all STL’s to have a valid business license for the purpose of collecting lodging/occupancy taxes.

Current Zoning Ordinance Standards:

The Zoning Ordinance does not presently include a specific use or regulations for short-term lodging. Similar uses such as “rooming house/boarding house” and “bed and breakfast” are already included in the ordinance (allowed as conditional uses in certain districts) but are defined in such a manner that they would not otherwise permit short-term lodging.

DRRC & Planning Commission Meeting Summary:

The Development Review and Regulations Committee (DRRC) discussed the proposed ordinance amendment at their March 25, 2022, meeting. The DRRC discussed requiring a conditional use permit (CUP) or not for short-term lodging, and there was no consensus among the committee. The item was sent forward, as presented by staff, for further discussion.

The Planning Commission received a presentation of the proposed changes and discussed the proposed ordinance amendments on April 6, 2022. The Planning Commission discussion focused on the appropriate number of parking spaces that should be reserved for short-term lodging guests and how to best handle private shared driveways/access easements. The Planning Commission recommended the Board of Supervisors consider increasing the number of off-street parking spaces required to one (1) space per bedroom and requiring the owners/operators of STL’s to obtain written consent of use of shared driveways from sharing parties. The items were sent forward to the Board of Supervisors for further discussion.

Conclusion and Requested Action:

The attached document shows the existing ordinance with the proposed changes as drafted by Staff. **Staff is seeking direction from the Board of Supervisors on whether to incorporate changes proposed by the Planning Commission (summarized above) and whether to forward this Zoning Ordinance text amendments for public hearings.**

MTK/pd

Attachments:

- 1. Revised ordinance with additions shown in bold underlined italics.**
- 2. Short-Term Lodging Permit Application (*Draft*)**

Chapter 165 – Zoning Ordinance

ARTICLE I

General Provisions; Amendments; and Conditional Use Permits

Part 101

General Provisions

§165-101.02 Definitions and word usage.

SHORT-TERM LODGING

Short-term lodging (STL) is any occupancy of all or part of a dwelling or mobile home for a period of 30 days or less.

ARTICLE II

Supplementary Use Regulations; Parking; Buffers; and Regulations for Specific Uses

Part 204

Additional Regulations for Specific Uses

§165-204.35 Short-Term Lodging

Where permitted, short-term lodging shall meet the following requirements:

- A. **The maximum number of lodgers per night shall not exceed 10-persons, except where Uniform Statewide Building Code permits only a fewer number of occupants.**
- B. **No more than five (5) guestrooms are permitted for short-term lodging.**
- C. **The maximum number of rental contracts per night is one (1). All lodgers occupying the short-term lodging must be associated with the same rental contract.**
- D. **A dwelling or manufactured home used for short-term lodging shall comply with the following standards:**
 - 1) **Be available for inspection by the County during reasonable hours and in accordance with the Zoning Ordinance. Comply with the requirements of the applicable version of the Virginia Uniform Statewide Building Code or Virginia Manufactured Home Safety Regulations, as determined by the Building Official.**
 - 2) **Have a working multi-purpose fire extinguisher, smoke detectors and carbon monoxide detectors (when required for a fireplace or gas service).**
 - 3) **Have a plan posted inside the door of each sleeping room showing the exit pathway from the sleeping room used for short-term lodging to the nearest exit from the dwelling or manufactured home.**
 - 4) **Have one (1) designated off-street parking space available for lodgers, which the Operator has the authority to reserve for short-term lodging purposes.**

- E. Special events, as defined in Part 101 of the Ordinance, are prohibited in association with short-term lodging use.***
- F. No short-term lodging activity shall take place on the property until the Department of Planning and Development has approved a short-term lodging administrative permit for the use and the Commissioner of the Revenue has approved a business license for the use.***

ARTICLE IV

Agricultural and Residential Districts

Part 401

RA Rural Areas District

§165-401.02 Permitted Uses.

OO. Short-Term Lodging

ARTICLE IV

Agricultural and Residential Districts

Part 402

RP Residential Performance District

§165-402.02 Permitted Uses.

B. Structures and land shall be used for one of the following uses:

16. Short-Term Lodging

ARTICLE IV

Agricultural and Residential Districts

Part 403

MH1 Mobile Home Community District

§165-403.02 Permitted uses.

O. Short-Term Lodging



Frederick County, VA

Short-Term Lodging (STL) Permit Application

SUBMISSION REQUIREMENTS

1. **APPLICATION FORM:** The application (pages 2 through 5) should be complete with original signatures.
2. **APPLICATION FEE:** Application fee in the amount for \$200 for permit for a two (2) year permit. Payment should be made in the form of a check payable to the "Treasurer of Frederick County" or electronic means through the Commissioner of Revenue.
3. **SAFETY/EXIT PATHWAY PLAN:** Please provide a copy of the plan posted inside the door of each sleeping room showing the exit pathway from the sleeping room used for STL to the nearest exit from the dwelling or manufactured home.
4. **REVIEW AGENCY COMMENTS:** Comments/approvals from the Frederick County Building Official (Building Inspections Department), the Frederick County Fire Marshal, and the Virginia Department of Health (VDH, only required if property has a well and on-site sewage disposal system).

The following standards govern the establishment and operation of a short-term lodging (STL) use as an accessory use to the principal occupancy of a dwelling, pursuant to the Frederick County Zoning Ordinance:

A dwelling or manufactured home used for STL shall comply with the following standards (pursuant to §165-204.35):

- **Be available for inspection** by the County during reasonable hours and in accordance with the Zoning Ordinance. Comply with the requirements of the applicable version of the Virginia Uniform Statewide Building Code or Virginia Manufactured Home Safety Regulations, as determined by the Building Official.
- Have a working multi-purpose **fire extinguisher, smoke detectors and carbon monoxide detectors** (when required for a fireplace or gas service).
- Have a **plan posted** inside the **door of each sleeping room showing the exit pathway** from the sleeping room used for STL to the nearest exit from the dwelling or manufactured home. (A copy of which shall be attached to this STL Permit Application).
- Have **one (1) designated off-street parking space** available for lodgers, which the Operator has the authority to reserve for STL purposes.
- The maximum number of lodgers per night may not exceed **10 persons**, except where the Uniform Statewide Building Code requires fewer occupants.
- The maximum number of rental **contracts per night is one (1)**. All lodgers occupying a STL must be associated with the same rental contract.
- **Special events**, including weddings, parties, banquets, fund raising, commercial or advertising activities, and any other gathering of persons other than the authorized lodgers, whether for direct or indirect compensation—are **prohibited** in association with any STL.

Aa STL Operator must:

- Obtain **written consent from the owner** of the property for the STL use if the STL Operator is not the owner of the real property that will be used for short-term lodging.
- Be responsible for determining whether any regulations, prohibitions, and covenants applicable to the dwelling or manufactured home prohibit STL.
- **Designate** at least one (1) person who consents to serve as a Local Emergency Contact by the Owner to accept service of any legal papers relating to the STL use for the STL operator.
- **Maintain a guest log** including the name, address, and telephone number of all overnight lodgers. The guest log must be made available upon request to any County employee or agent tasked with enforcing the Zoning Ordinance or other applicable part of the County Code.
- **Remain in compliance** with the Commissioner of the Revenue regarding Business License, Business Equipment, and the Transient Occupancy Tax (TOT) collection and remittance.

The Zoning Administrator's issuance of a permit does not abrogate, nullify, or invalidate any other provision of federal, state, or local law; any restrictive covenant; or any property owners' association by-law.

I acknowledge and understand the above requirements. Failure to follow any of the above standards may result in the revocation of my permit and/or penalties.

Signature of STL Operator

Date

SHORT-TERM LODGER OPERATOR

STL Operator Name:	
Street Address of STR:	Unit:
City:	Zip Code:
PIN #:	Zoning District:
Magisterial District:	
Operator Phone Number:	Email:

OWNER OF THE PROPERTY *(if different from the Operator)*

Property Owner Name:	
Street Address:	State:
City:	Zip Code:
Owner Phone Number:	Email:

LOCAL EMERGENCY CONTACT *(must be **different** from Operator and available to respond locally to emergencies)*

Local Authorized Agent Name:	
Street Address:	State: Virginia
City:	Zip Code:
Agent Phone Number:	Email:

OFF-STREET PARKING LOCATION: Please provide a statement in the box below identifying the location of at least one (1) designed off-street parking space available for lodgers, which you as the Operator have the authority to reserve for STL purposes.

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SHORT-TERM RENTAL OPERATOR CERTIFICATION

As an OPERATOR, my signature on this form certifies that I understand the requirements of the Short-Term Rental (STR) Permit, all information is true and accurate, and that I agree to the following:

1. To abide by the standards set forth in §165-204.35 and any other applicable requirements of the Zoning Ordinance and to any other applicable federal, state, and local laws and regulations, whether related to the building in which the use is conducted or to the use itself;
2. That the dwelling or manufactured home will be open for inspection by County personnel during reasonable hours; and
3. That I acknowledge that the application property may be located within an area that is subject to additional restrictions pursuant to covenants, bylaws, regulations, or other limitations imposed pursuant to the Property Owners' Association Act, Condominium Act, or the Virginia Real Estate Cooperative Act. As such, I acknowledge that issuance of this Permit DOES NOT abrogate, nullify, override, or otherwise have any effect on the applicability of any such regulations, declarations, or limitations applicable to this property. Compliance with any such regulations, declarations, or limitations is the responsibility of the Operator/Owner.
4. To remain in compliance with the Commissioner of the Revenue regarding Business License, Business Equipment, and the Transient Occupancy Tax (TOT) collection and remittance.
5. That this permit expires, without notice at 11:59 P.M. on the last day of the period of validity, and requires renewal every two (2) years.
6. That failure to abide by the regulations set forth in the Zoning Ordinance §165-204.35 may result in permit revocation.

I certify that I understand the requirements of the Short-Term Lodging Permit and will comply with all standards set forth in the Zoning Ordinance and any other applicable regulation, limitation, or requirement.

Signature of STL Operator

Date

SHORT-TERM RENTAL OWNER CERTIFICATION

I certify that I am the owner of the property identified on this application and I consent to the use of the property for short-term lodging, as will be operated by the applicant identified herein. I acknowledge that any violation related to the short-term rental is deemed to be a violation by both the Operator and the Owner.

Signature of Property Owner

Date

EMERGENCY CONTACT CERTIFICATION

I certify that I understand the responsibilities of the Local Emergency Contact for the short-term lodging operation and consent to perform the duties outlined on in this Permit Application, in conformance with the Zoning Ordinance.

Signature of Local Authorized Agent

Date

FOR INTERNAL USE ONLY – To-Be-Completed by Planning and Development Department Staff	
Zoning Administrator Signature:	
Date of Approval of Short-Term Lodging (STL):	
Short-Term Lodging (STL) Permit Number:	STL #:
Period of Validity (Two-Years from Date of Approval)	
Fee:	\$200.00
Receipt Number:	

FIRE MARSHAL COMMENT SHEET

BUILDING INSPECTIONS COMMENT SHEET

VIRGINIA DEPARTMENT OF HEALTH (VDH) COMMENT SHEET



Action:

BOARD OF SUPERVISORS: April 13, 2022

RESOLUTION

DIRECTING THE PLANNING COMMISSION TO HOLD A PUBLIC HEARING REGARDING CHAPTER 165, ZONING ORDINANCE

CHAPTER 165 - ZONING

ARTICLE I

General Provisions; Amendments; and Conditional Use Permits

PART 101 - GENERAL PROVISIONS

§165-101.02. Definitions and word usage

SHORT-TERM LODGING

CHAPTER 165 - ZONING

ARTICLE II

Supplementary Use Regulations; Parking; Buffers; and Regulations for Specific Uses

PART 204 – Additional Regulations for Specific Uses

§165-204.35. Short-Term Lodging

WHEREAS, a request to amend Chapter 165 – Zoning Ordinance to add “short-term lodging (STL)” to the definitions section, provide additional regulations for short-term lodging and add the use to the RA (Rural Areas), RP (Residential Performance) and MH1 (Mobile Home Community) Zoning Districts; and

WHEREAS, the Development Review and Regulations Committee (DRRC) reviewed the proposed changes at their March 24, 2022 regular meeting; and

WHEREAS, the Planning Commission discussed the proposed changes at their regularly scheduled meeting on April 6, 2022 and agreed with the proposed changes; and

WHEREAS, the Board of Supervisors discussed the proposed changes at their regularly scheduled meeting on April 13, 2022; and

WHEREAS, the Frederick County Board of Supervisors finds that in the public necessity, convenience, general welfare, and good zoning practice, directs the Frederick County Planning Commission hold a public hearing regarding an amendment to Chapter 165 – Zoning; and

NOW, THEREFORE, BE IT REQUESTED by the Frederick County Board of Supervisors that the Frederick County Planning Commission shall hold a public hearing to consider changes to address Chapter 165 – Zoning Ordinance to add “short-term lodging (STL)” to the definitions section, provide additional regulations for short-term lodging and add the use to the RA (Rural Areas), RP (Residential Performance) and MH1 (Mobile Home Community) Zoning Districts. Passed this 13th day of April 2022 by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Blaine P. Dunn

Shawn L. Graber

Judith McCann-Slaughter

Josh Ludwig

Robert W. Wells

J. Douglas McCarthy

A COPY ATTEST

Michael L. Bollhoefer
Frederick County Administrator