



# Short-Term Lodging

**Proposed Zoning Ordinance Amendment**

**Item Type: Input Needed on Draft Strawman**

Development Process Committee

December 12, 2017

Donna Pesto, Deputy Zoning Administrator

Lily Yegazu, Sr. Assistant to the Zoning Administrator

# Timeline Update

- June-August
  - Citizen Survey, Community Meetings, Stakeholder Input (ongoing)
  - Amendment Introduction to Board's Development Process Committee (DPC) and Planning Commission (PC) Land Use Process Committee
- September-October
  - Survey Results and Draft Strawman Presented to DPC and PC Land Use Process Committee
- November-December
  - PC Workshop (11/1)
  - Draft Presented to DPC (12/12)

# Last DPC Discussion

- Topics of last DPC discussion - who can operate STL, how many nights per year, is operator required to be present, how many renters, what to do about parking, and how enforcement will be performed were discussed, among others
- General Consensus – principal domicile requirement; ministerial process and fee; prohibition on events; majority support for 90 day rental limit, but advertise range
- Varying Positions – operator to be present during rentals, number of lodgers, parking, concerns regarding effective enforcement

# PC Work Shop Discussion

- Topics of discussion – parking, HOA/COA authority and use of amenities by guests, fire/safety inspections and compliance, combinations of STLs with other home-based businesses, maximum number of guests, effective enforcement, liability issues, authorized agent to address issues
- General Consensus – principal domicile requirement; prefer owner present for most rentals, concern for HOA/COA ability to preclude, want revocation provisions for violations
- Varying Positions – could allow multiple contracts, parking, concerns regarding staff needed for effective enforcement, maximum number of guests, fire/safety regulations

# Proposal for Two Models

Short-Term Lodging models with different land use considerations:

1. Singular STL in any type of dwelling when operated by a homeowner/permanent renter of the dwelling.
2. Multiple or Aggregated STL in a rental multiple family dwelling unit building when operated by a corporation/business/other commercial property management entity.

*(Presentation includes separate strawman on this topic. Additional outreach with industry and PC Land Use Committee proposed. Can bring back to DPC in late January for further discussion.)*

# STL Operations in Multiple Family Rental Building

- Two models of aggregated STL operations in multiple family rental buildings:
  - STLs operated in a **larger percentage** of the total unit count during the **lease-up period** (typically 2 years) for the building
  - STLs operated in a **smaller percentage** of the total unit count on a “**permanent,**” full-time basis

# STL Operations in Multiple Family Rental Buildings

## Staff Proposal:

- Limited to **Transit Station Areas** only
- For new buildings, Board may approve Rezoning or Special Exception to permit **50% of total units** in a building to be used for STLs for a period **not to exceed 2 years**.
- For “**permanent**” STLs in a building, Board may approve in conjunction w/Rezoning, amendment to a Rezoning or development plan, or as Special Exception to permit **10% of total units** in a building to be used for STLs.
- Not applicable to work force housing or affordable housing units.

# STL Operations in Multiple Family Rental Buildings

- Staff Proposed Standards and Limitations:
  - Advertisements must **address parking availability** and location.
  - Require **life/safety measures** such as interconnected smoke detectors in units and corridors; multi-purpose fire extinguisher; low level exit signage; and diagram depicting at least 2 evacuation routes from building.
  - Operator to keep a **log of lodgers** with records available to County official; and pay all required taxes.
  - **Commercial/group activities**, events, etc. are **prohibited** in STL units.



# STLs Operated by an Owner/Renter

## Topics to Consider

At the end of the discussion, staff will be requesting Board input on the following topics:

- ✓ Scope of advertised range for number of overnight rentals permitted per year?
- ✓ Support for limiting number of overnight rentals when operator is not in the dwelling? If so, scope of advertised range?
- ✓ Support for “Authorized Agent” concept?
- ✓ Desired specificity for maximum number of lodgers? Per bedroom? Total number of adults+children? Other?
- ✓ Require a registry or STL permit only?
- ✓ Fees versus revenue?

# STLs Operated by an Owner/Renter

- **Limit on number of nights:**
  - Proposed – up to 90 nights
  - Advertised range - up to a maximum of 180 nights to keep use accessory to the principal use of the dwelling.
- **Limit on number of nights w/o Operator:**
  - Proposed – 30-90 nights
  - Advertised Range – up to a maximum of 180 nights (this range gives Board option to allow all rentals without Operator present.)
    - **Concern:** Any limit complicates enforcement, as is difficult to verify whether an Operator is in the unit.

# STLs Operated by an Owner/Renter

- Option for Authorized Agent

- If Board wants to allow rentals when Operator is not present, staff recommends requiring Operators to identify an “Authorized Agent” on the permit application.
- “Authorized Agents” will be responsible to address issues that may arise with STLs (either from renter’s perspective or neighbor’s perspective) in addition to the Operator, in the event an Operator is unavailable.

# STLs Operated by an Owner/Renter

**Proposed Maximum # of Lodgers: 6**, excluding minor children or other minors for whom the lodger has guardianship

## Other Options to Consider:

- Maximum number of adults per bedroom (2?)
- Maximum number based exclusively on Building Code standards

## Concerns:

- Not practical to enforce ‘an adults per bedroom’ standard.
- Proposed limit of 6 adults per STL allow for family lodging regardless of family size and discourages “party” rentals.
- Building Code maximum occupancy limitations apply to all occupancy regardless of the Zoning Ordinance requirements and regardless of whether occupants are adults or minors.

# STLs Operated by an Owner/Renter

- Proposed **Life Safety** Standards:
  - Interconnected **smoke detectors** and **carbon monoxide** detectors, where applicable
  - Multi-purpose **fire extinguisher**
  - An **emergency exit plan** showing the path to the nearest exit from the area of the dwelling or mobile home must be posted within each bedroom used for STL
- By signing STL Permit, **operator affirms** that :
  - Life safety standards are met within each unit offered for STL
  - STL unit may be inspected by County staff with reasonable notice

# Fees

- Proposal – Zoning Permit/Registration fee of **\$100/year** (which may be a 2 year approval at \$200, if the Board chooses not to enact a registry ordinance)
  - Advertised Range – \$60 - \$250/year
- Pros and cons of adopting a registry, permit or both
- Adjust existing Category 5 Special Exception fee for Bed and Breakfast from **\$16,375 to \$8,180**
  - Advertised to allow \$4,090 to \$16,375.

# Possible Revenue

- Revenue from the Transient Occupancy Tax (TOT) is 6% of the fee charged for the overnight stay. Using assumptions<sup>1</sup> of 64 rentals per year per STL host, \$72/night average, and 1,549 hosts in Fairfax County, the TOT would generate \$428,268/year, of which **\$285,512** goes to the Fairfax County General Fund (1/3 of the TOT is a Virginia State tax.)
- BPOL is not likely to result in meaningful revenue, since the gross receipts under \$100,000/year are subject to a license/tax of \$50 or less. The average annual income for an STL host is estimated at less than \$5,000/year, which level pays no BPOL.

<sup>1</sup> Figures based on averages provided by Airbnb and Host Compliance and assume 100% compliance.

# Potential Enforcement Strategies

- Staff is working to identify resources to obtain Short-Term Lodging operation/use data from a third party “data mining” company.
  - Cost for such subscription service is approximately \$30,000/year.
  - Service would be utilized by DCC, DPZ and Tax Admin.
  - Data would allow identification of all hosts in Fairfax County.
- Allow delayed effective date or grace period for Operators to obtain a permit.
  - Consider issuance of one warning letter upon receipt of a complaint.



# Comparison of Proposed Regulations

	Proposed Regulations	Arlington County
Residency Requirement	Minimum 185 days per year	Minimum 185 days per year
Number of Nights/Year	Option A: 90 if operator present & 30 if operator absent (to be advertised up to 180 days) Option B: Allow rental with Operator absence with Authorized Agent requirement	No limit
Type of Dwelling	All types excluding accessory dwelling units & detached accessory structures	All including attached accessory dwelling units provided its under one contract with the principal dwelling and limited to 2 lodgers. Prohibited in detached accessory buildings
Occupancy Limit	6 maximum excluding minors but not to exceed that allowed by Building Code (to be advertised from 4 to unlimited)	Larger of 6 lodgers, or 2 lodgers per bedroom, can't exceed that allowed by Building Code
Number of Contracts/Night	One (to be advertised up to 3 contract/night)	No limit
Life Safety Standards	Interconnected smoke detectors, multi-purpose fire extinguisher, carbon monoxide (where applicable), and emergency exit plan	Smoke detectors and fire extinguishers, and carbon monoxide detectors (where applicable)

# Comparison of Proposed Regulations

	Proposed Regulations	Arlington County
Commercial activities such as weddings, parties, etc.	Prohibited	Prohibited
Registry Required	No	No
Permit Fee	\$200/2 years	\$63/year
Permit Duration	Two years (could be advertised for one year period)	One year
Permit Revocation	For failure to comply with any provision of the ZO or any other local ordinance, state or federal law regulations	If (1) the conditions of Permit are not met, (2) 3 or more violations are reported within a one (1) year period, and/or (3) refusal to cooperate with complaint investigation. If revoked, cannot re-apply for a new Permit until one (1) year from the date revoked.
Parking	Parking information to be provided on all advertisement	Not required
Authorized Agent	Required to respond to issues that arise when Operator is absent	Not required
Operator	Both owners and tenants	Both owners and tenants

# Next Steps?

- Continue participation in multi-jurisdictional work group to gain/share ideas about regulations & registry
- Return to full Board for Authorization early 2018



# Questions?

Call: 703-324-1314 or

Email: Lily Yegazu at [lily.yegazu@fairfaxcounty.gov](mailto:lily.yegazu@fairfaxcounty.gov)

## Amendment Website

<https://www.fairfaxcounty.gov/dpz/short-term-rentals.htm>

# VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

## CHAPTER 458

*An Act to amend the Code of Virginia by adding in Chapter 1 of Title 15.2 a section numbered 15.2-110, relating to local permitting or licensure; requiring consent of homeowners' association prohibited.*

[H 1146]

Approved March 23, 2016

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 1 of Title 15.2 a section numbered 15.2-110 as follows:**

***§ 15.2-110. Authority to require approval by common interest community association.***

*No locality shall require, prior to the issuance of any permit, certificate, or license, including a building permit or a license for a business, profession, or child care facility, that the governing board of an association subject to the Condominium Act (§ 55-79.39 et seq.), the Property Owners' Association Act (§ 55-508 et seq.), or the Virginia Real Estate Cooperative Act (§ 55-424 et seq.) consent to the activity for which the permit, certificate, or license is sought. The provisions of this section shall not be applied to limit or otherwise impinge upon the provisions of a condominium instrument as defined in § 55-79.41, the declaration of a common interest community as defined in § 55-528, or the declaration of a real estate cooperative as defined in § 55-426.*