

CITY OF FOLLY BEACH

Tim Goodwin, Mayor



Folly Beach, SC 29439

www.cityoffollybeach.com

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**Chris Bizzell, Council Member
William Farley, Council Member
Billy Grooms, Council Member**

**Katherine Houghton, Council Member
Eddie Ellis, Council Member
D.J. Rich, Mayor Pro-Tem**

**City Council Work Session Meeting 5:45PM
Wednesday, January 10, 2024**

City Hall
21 Center Street
2nd Floor Council Chambers
Folly Beach, SC 29439

AMENDED 1/8/2024 11:49AM

1. Work Session Items

- a. Review of STR Discussion, Meeting #5-Aaron Pope.
 - Waitlists
 - Review of Amendments

PUBLIC NOTICE

ALL MEDIA WERE NOTIFIED PURSUANT TO STATE LAW

City Council will not vote on matters discussed during Work Sessions or Executive Sessions.

However, matters discussed may be voted on during the evening City Council meeting. In keeping with the Americans with Disabilities Act, persons needing assistance, alternative formats, ASL interpretation, or other accommodation, please contact the Municipal Clerk at 843- 513-1833 during regular business hours at least 24 hours prior to the meeting. Hearing devices are available upon request for those with hearing difficulties.

The City of Folly Beach, in an effort to go green, will no longer have the Ordinances and Resolutions included in the agenda. Citizens interested in having a copy, please see the Municipal Clerk.



City of Folly Beach

Date: January 9th, 2024

Re: Review of STR Discussion, Meeting #5

Mayor and Council,

LSTR: Proposal for LSTR has been reduced to only apply to 4% owners and heirs (all properties).

- LSTR not proposed for under construction, multifamily, commercial, or future buyers.
- LSTR proposed only for 4% owners or the inheritor of any property on Folly. (language to be refined) *The rental of any inherited dwelling for which the prior owner was the owner of record upon death. Proof of inheritance shall be shown through a deed of distribution, trust, will, or other similar document.*
 - An option would be to limit the availability for an LSTR to the heirs of only current property owners. Inheritors of properties purchased after the referendum would not be eligible. *The rental of any inherited dwelling for which the prior owner was the owner of record on February 7, 2023. Proof of inheritance shall be shown through a deed of distribution, trust, will, or other similar document.*
- Extrapolation of national and state death rates applied to the number of properties owned on Folly Beach leads to a low number of potential LSTR licenses through this method. That number is reduced further if a percentage of heirs choose to sell rather than hold the property.

Waitlist:

- Proposes a two step waitlist:
 - Phase 1 opens for 30 days and eligibility is proposed for any current Folly Beach property owner who does not have an ISTR.
 - Council may choose other eligibility requirements for the first round. This could be a method to give first round waitlist priority in exchange of cap exemptions or to give preference based on residency status, ownership tenure, etc.
 - All Phase 1 licenses are awarded by lottery until all Phase 1 applicants have received a license.
 - Phase 1 is capped at 800 applicants.
 - After all Phase 1 licenses are awarded, Phase 1 licenses awarded from a first come, first serve wait list that is opened the day Phase 1 waitlist closes .
 - General proposed qualifications for all lists.
 - Waitlist limited to one per owner.
 - Waitlist spot must be used when offered, cannot be postponed.
 - If property is rented without license, waitlist spot is lost.

- No fee
- Waitlists publicly viewable.

Advertising Incorrect Number of Bedrooms:

Proposed amendment would add advertising more bedrooms that approved on CO or tax records a violation of the rental regulations.

SC Vacation Rental Act:

- Allows future purchasers to honor up to 90 days of rentals as required by State law. Limited to rentals disclosed under the act during the sale.
- No option for LSTR for rentals up to 72 days.
- Expires at the end of the last disclosed rental period.

Property Transfer:

- Transfers that are not considered to meaningful transfers of ownership.
- Proposal for ISTR license status to be unaffected by transfers defined by State law as no assessable transfers.
- Allows for spousal transfer, transfer between trusts and corporate entities and their individual owners/beneficiaries, life estates, foreclosure, transfers between commonly owned legal entities.

Demolition:

- ISTR licenses are only issued with a CO and are lost when structure is demolished.
- Proposal is to allow new licenses if the replacement structure is under the same ownership and has the same number (or fewer) bedrooms.

Annual Renewal Grace Period:

Proposes a 30 day grace period. Penalty of 5% late fee.

Partial 6%:

Changing these to LSTR (limits the rental to 72 days) for licenses issued going forward.

No 2022 License:

No exemption

Under Construction:

No exemption.

Minimum Activity:

14 nights recommended.

Purchasers:

No Exemption.

Heirs:

LSTR offered to heirs.

Commercial, Multiunit, or HOA:
No exemption proposed at this time.

Aaron Pope, AICP
City Administrator

STR Work Session 1/9/24

STR Review Timeline

STR Cap First Year Overview

- License/revenue/violation information.

STR Ordinance Technical Amendments/Codifying Policies

- Provisional licenses for SC Vacation Rental Act.
- Requiring the number of bedrooms advertised to match rental registration.
- Licensing partial 6% rated structures (portions of homes that are not separate units).
- Grace period for annual renewals of business licenses.
- License loss related to demolition of structure.
- Allowable property transfers.

STR Ordinance Substantive Amendments

- Retroactive grace period for licenses that expired prior to moratorium.
- Allowing licenses for properties under construction.
- Revoking licenses below minimum rental activity.
- Allowing purchasers of licensed properties to apply for an ISTR license.
- Allowing heirs to obtain ISTR licenses.
- Exempting multiunit buildings from the cap.
- Exempting commercially zoned properties from the cap.
- Exempting properties governed by an HOA from the cap.
- Allowing existing 4% owners to convert to ISTR licenses (without changing ownership).

Draft Waitlist Procedure and Timeline

Additional Study Areas

- Septic Pump Out Requirements.
- Limited Short Term Rental Licenses
- **Enforcement**

LSTR

- LSTR proposed for 4% property owners (currently eligible for an OSTR)
- LSTR proposed for legal heirs of any property.
- No other proposed LSTR eligibility.

§ 117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.

INVESTMENT SHORT TERM RENTAL BUSINESS LICENSE (ISTR). A license issued for a dwelling unit that is not the legal residence of the owner to be used as a short term rental **and is rented for more than seventy-two (72) days annually.**

Limited Short Term Rental License (LSTR). A license issued for a dwelling unit to be used as a short-term rental for no more than seventy-two (72) days annually. An LSTR may only be issued for:

- A) The rental of a dwelling unit that is the legal residence of the owner, or
- B) The rental of any inherited dwelling for which the prior owner was the owner of record upon death. Proof of inheritance shall be shown through a deed of distribution, trust, will, or other similar document.
- C) The rental of a portion of dwelling unit that is the legal residence of the owner but given a 6% property tax rate by Charleston County.

~~**OWNER-OCCUPIED SHORT TERM RENTAL BUSINESS LICENSE (OSTR).** A license issued for a dwelling unit that is the legal residence of the owner to be used as a short term rental.~~

PROVISIONAL SHORT TERM RENTAL LICENSE (PSTR). A license issued for a dwelling unit to be used as a short-term rental for no more than ninety (90) days to allow compliance with the requirements of the South Carolina Vacation Rental Act, specifically South Carolina Code § 27-50-250. A PSTR shall only be issued to the purchaser of an existing Short-Term Rental with a ISTR or **LSTR** ~~OSTR~~ license in good standing, is valid only for rental contracts disclosed under the terms of the Act, and shall expire at the end of the last authorized rental period.

§ 117.02 SHORT TERM RENTAL BUSINESS LICENSES.

(A) The city shall issue investment short term rental business licenses, ~~and owner-occupied short term rental business licenses,~~ **limited short term rental licenses, and provisional short term rental licenses.**

(D) *Non-transferable.*

- (1) Investment short term rental license wait list status terminates upon transfer of property and is non-transferable.
- (2) Investment short term rental business licenses terminate upon transfer of property and are non-transferable.
- (3) ~~Owner-occupied~~ **Limited** short term rental business licenses terminate upon transfer of property and are non-transferable.
- ~~(4) Owner-occupied short term rental business licenses terminate upon loss of 4% property tax assessment status and are non-transferable.~~
- (4) **Provisional short term rental licenses terminate upon completion of the last authorized rental period and are not transferable.**

Waitlist

- Multiple models exist.
- 42 ordinances reviewed (total caps, zone caps, building caps)
 - 9 with no waitlist.
 - 26 with a first come first serve waitlist.
 - 5 with a lottery based waitlist
 - 2 with a tiered waitlist.
- Riverside County, CA
 - Moratorium on STR licenses in certain areas in September 2022-December 2023. Limited the number of licenses in certain areas of the County in December of 2023.
 - County created a 90 day opening for Tier 1 applicants who proved continuous payment of taxes for one year prior to moratorium.
 - Lottery of Tier 1 until the cap was hit.
 - After cap hit, all remaining Tier 1s converted too Tier 2 and join the general lottery pool.
- Tillamook, OR
 - Established a moratorium on licenses in 2022. In 2023 approved sub area limits on licenses.
 - Post moratorium there was a 30 opening to register.
 - Licenses issued by lottery up to the initial cap.
 - After initial draw, future openings handled on a first come first serve basis.
- Both tiered list were only for initial selection until cap hit. Future years are a single waitlist.
- No weight given to residency status, ownership tenure, etc. Tiered waitlist dissolved after initial selection.

Waitlist

- Staff proposes an initial, lottery based Phase 1 waitlist and then a first come first serve Phase 2 waitlist.
- Initial application period open to all current property owners of record who do not currently hold an ISTR.
 - Other criteria as determined by Council: length of ownership, multifamily units, under construction homes, ownership prior to moratorium, proof of Atax payments, etc. (Initial lottery list selection replaces ongoing weighted list)
- Applications accepted for 30 days post ordinance approval.
- Phase 1 licenses awarded annually by lottery until all initial applicants have received licenses.
 - If more than 800 applications received, only first 800 licenses awarded by lottery.
- Phase 2 waitlist opened upon closing of application period for Phase 1 list.
- Phase 2 licenses awarded first come first serve.
- Waitlist criteria:
 - Must be current owner of property.
 - Only one entry per owner.
 - If selected, must apply within a certain time limit (no squatting).
 - No fee.
 - Loss of waitlist status if convicted of renting without license.
 - Waitlist to be made public.

STR Ordinance Technical Amendments/Codifying Policies

- NO SUBSTANTIAL CHANGE TO FUNCTION OF CAP OR NUMBER OF LICENSES.

STR Ordinance Technical Amendments/Codifying Policies Advertising Bedrooms

- Number of bedrooms to be rented required for rental registration approval (parking, septic, occupancy).
- Required documentation is a CO or tax records.
- First year approximately two dozen homes submitted registrations with additional, undocumented bedrooms.

§ 117.02 SHORT TERM RENTAL BUSINESS LICENSES.

(D) *Violations and penalties.*

(1) *Violations.* Violations of this chapter include but are not limited to...

(f) Advertising a short term rental as being available for more overnight occupants than have been permitted pursuant to this chapter;

(g) Expanding the allowable occupancy of a short term rental without obtaining a new permit;

(h) Advertising more bedrooms available for rent than the number of bedrooms documented by either a certificate of occupancy or Charleston County tax records;

STR Ordinance Technical Amendments/Codifying Policies SC Vacation Rental Act

- SC Vacation Rental Act requires buyers to honor 90 days of rentals.
- City currently issues a temporary license to allow for *rentals disclosed as part of sale*.

§ 117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.

PROVISIONAL SHORT TERM RENTAL LICENSE (PSTR). A license issued for a dwelling unit to be used as a short-term rental for no more than ninety (90) days to allow compliance with the requirements of the South Carolina Vacation Rental Act, specifically South Carolina Code § 27-50-250. A PSTR shall only be issued to the purchaser of an existing Short-Term Rental with ISTR or OSTR license in good standing, is valid only for rental contracts disclosed under the terms of the Act, and shall expire at the end of the last authorized rental period.

§ 117.02 SHORT TERM RENTAL BUSINESS LICENSES.

(A) The city shall issue investment short term rental business licenses, ~~and~~ owner-occupied short term rental business licenses, **and provisional short term rental licenses**.

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(1) Investment short term rental license wait list status terminates upon transfer of property and is non-transferable.

(2) Investment short term rental business licenses terminate upon transfer of property and are non-transferable.

(3) Owner-occupied short term rental business licenses terminate upon transfer of property and are non-transferable.

(4) Owner-occupied short term rental business licenses terminate upon loss of 4% property tax assessment status and are non-transferable.

(5) **Provisional short term rental licenses terminate upon completion of the last authorized rental period and are not transferable.**

STR Ordinance Technical Amendments/Codifying Policies Defining Property Transfer

- Licenses terminate on “transfer of property.”
- Defines which transfers trigger ISTR loss.
- **§ 117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.**
PROPERTY TRANSFER. An assessable transfer of interest in real estate triggering an appraisal and reassessment for taxation purposes as defined by SC Code 12-37-3150.

Transfers that would NOT trigger a license revocation.

- Transfer into a trust where individual/spouse are the sole beneficiary. (putting property into a trust for owner/spouse)
- Transfer out of a trust to the sole present beneficiary/spouse. (transfer from a trust to an individual/spouse)
- Adding or changing the spouse listed as a beneficiary of a trust. (adding a spouse to a trust)
- Deed of distribution or will transferring property to a spouse. (spouse dies)
- Long term lease of 20 years or with an option to buy for no more than 80% of true cash value.
- Federal tax-exempt transfer of ownership interest in a corporate entity (transfer between spouses, transfer to a corporation controlled by the transferor).
- Transfer to a life estate or life lease retained by transferor. (creating life estate to own property)
- Transfer through foreclosure (until the redemption period expires). (bank owned properties)
- Transfers between commonly controlled corporate entities. (transfers between legal entities owned by the same people)
- Transfers into a single member LLC not taxed separately. (owner to owner LLC)

STR Ordinance Technical Amendments/Codifying Policies

Demolition of unit triggers loss of license.

- Rental licenses are tied to specific structures with certificates of occupancy.
- When structure is demolished, the license is terminated.
- Licenses can be issued if the replacement unit has the same number (or fewer) bedrooms.

§ 117.03 LICENSE, REGISTRATION, AND TAX REQUIREMENTS.

(A) *Business license.* A business license must be obtained and renewed annually by the submittal of a form and fee as established by the city for each residential dwelling unit or portion thereof offered as a short term rental.

(1) No business license shall be issued for the rental of a residential unit which is planned or under construction until a certificate of occupancy is issued for the unit. A business license issued for the rental of an existing residential unit may be renewed, or a new license issued for the rental of a replacement unit on the same site upon issuance of a new certificate of occupancy and satisfaction of all other requirements for short term rental licenses. The replacement unit must be under the same ownership, contain the same or fewer heated square feet, and contain the same number or fewer bedrooms that the original structure.

STR Ordinance Technical Amendments/Codifying Policies

Defining good standing/allowing grace period for annual renewal

- Licenses expire annually on April 30th.
- The cap can only function with a clear deadline for rental licenses.
- 1 appeal for missing 2023 deadline. Appeal was denied.

§ 117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.

GOOD STANDING. A license shall be considered in good standing if it was issued in the current license year, has not expired, or been denied, revoked, or suspended in the current license year. A license which has expired, or been denied, revoked, or suspended in the current license year shall not be considered in good standing except upon successful appeal of the denial, revocation, or suspension.

§ 117.02 SHORT TERM RENTAL BUSINESS LICENSES.

....(2) Any ~~existing~~ investment short term rental business license ~~issued prior to February 7, 2023~~ which remains in good standing may continue to be renewed annually, even if the number of investment short term rental business licenses exceeds the cap.

§ 117.03 LICENSE, REGISTRATION, AND TAX REQUIREMENTS.

Any owner wishing to operate a short term rental must maintain a current business license **in good standing**, comply with rental registration permit requirements, and make proper payment of local, county, and state taxes.

(A) *Business license.* A business license must be obtained and renewed annually by the submittal of a form and fee as established by the city for each residential dwelling unit or portion thereof offered as a short term rental. **Failure to timely make application for the renewal of a license in good standing shall be considered grounds for denial of the application. An application to renew a license in good standing shall be considered timely upon submittal of a full and complete application made no later than thirty (30) days after the final day of the previous business license year.**

STR Ordinance Technical Amendments/Codifying Policies

Partial 6% rating

- Some dwelling units have a blended rate (legal residence with partial 6%).
- An LSTR would allow these owners 72 day rentals.

§ 117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.

OWNER-OCCUPIED SHORT TERM RENTAL BUSINESS LICENSE (OSTR). A license issued for a dwelling unit that is the legal residence of the owner to be used as a short term rental. **An LSTR may be issued for the rental of the portion of a legal residence that does not contain a separate dwelling unit and is taxed at 6%.**

LEGAL RESIDENCE. A dwelling unit assigned a 4% property tax ratio by the Charleston County Assessor's Office under the requirements of S.C. Code § 12-43-220.

STR Ordinance Substantive Amendments

- CHANGES TO THE FUNCTION OF CAP THAT RESULT IN ADDING LICENSES OR DISQUALIFYING LICENSES.

STR Ordinance Substantive Amendments
Grace period for properties with no valid 2022 license.

- No exemption proposed.

STR Ordinance Substantive Amendments

Licensing units with a building permit prior to referendum.

- No exemption proposed for properties that were under construction when moratorium began.

STR Ordinance Substantive Amendments

Inactivity affects good standing.

- Loss of license due inactivity would create a higher turnover rate of licenses.
- # of nights rented is a more uniform standard than \$ earned.
- Minimum rental period is 2 nights.
- Staff recommends demonstration of least 14 nights rented to remain in good standing.

STR Ordinance Substantive Amendments Allowing Purchasers to obtain licenses.

- No exemption proposed.

STR Ordinance Substantive Amendments Allowing heirs to obtain licenses.

- Heirs eligible to apply for LSTR licenses.

STR Ordinance Substantive Amendments

Exempting multiunit, commercial, or HOA properties from the CAP.

- No exemptions proposed.
- Approximately 695 6% properties zoned commercial/multifamily.
- Approximately 343 have licenses.
- If concentration of licenses is desired outcome, initial waitlist is an option.

STR Ordinance Substantive Amendments

Allowing OSTR license holders to obtain license for properties changed to 6% because of hardship.

- No exemptions for ISTR proposed at this time.
- If desired outcome is to allow current full time residents to have an option after tax classification changes due to hardship, LSTR could be used.
- This would allow the same number of rental nights and LSTR would end if property changed ownership.