

CITY OF FOLLY BEACH

Tim Goodwin, Mayor



Folly Beach, SC 29439

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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 6:00 PM
Tuesday, February 13, 2024**

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

1. Work Session Items

- a. STR Ordinance 1st Reading Review-Aaron Pope.

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: February 13th, 2024
Re: STR Ordinance 1st Reading.

Mayor and Council,

The final draft of proposed STR ordinance amendments is up for first reading. The changes are summarized below. Any additional changes made at the 2/13 work session will need to be incorporated with a motion to amend during 1st reading in the regular meeting. A summary of the changes is below:

117.01 (A) Purpose: Clerical changes.

- Amended to state the ordinance is to regulate licensing not use.
- (A)(5) amended to remove reference to residential districts and emphasize units over areas to avoid zoning adjacent language.

117.01 (B) Definitions.

- Added definition of eligible family member using ordinance from 2022 plus niece or nephew. This definition is used for inheritance ISTRs.
- Added good standing definition to include timely renewal (10 business day grace period) and inactivity (28 day minimum rental period). I
- Amended ISTR to include heirs and hardship. Hardship language drafted with two options : OPTION 1 to relate to medical certification that the owner can't perform Activities of Daily Living. OPTION 2: to be based on contracts/leases for caregiving.
- Amended OSTR definition to include 72 night limit and partial unit. Set the language for the 72 days for partial units for future ones, not the existing ones.
- Added provisional license.
- Added property transfer.

117.03:

- Added replacement criteria for license renewals after demolition. (same bedrooms and heated square feet)
- Added deadline for renewal and minimum activity to maintain good standing.
- Added bedroom advertising.

A new draft waitlist procedure is also proposed. This version is based solely on length of ownership. It is still structured for a Phase 1 and Phase 2. Phase 1 would move to award in order of tenure, and Phase 2 would be awarded first come first serve.

Aaron Pope, AICP
City Administrator

STR Work Session 2/13/24

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

STR Ordinance Amendments

Clarifying purpose

§ 117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.

- (A) The purpose of this chapter is to regulate the ~~use of residential~~ **licensing of dwelling** units as short term rentals ~~in order to~~:
- (1) Protect the integrity of the city's neighborhoods and the quality of life of its citizens;
 - (2) Establish a system to track the short term rental inventory in the city;
 - (3) To protect the health and safety of occupants of short term rental units;
 - (4) To ensure a level playing field for individuals in the short term rental market; and
 - (5) To protect the residential character of the ~~residential districts~~ of **dwelling units within** the city.

STR Ordinance Amendments

Updating definitions

ELIGIBLE FAMILY MEMBER. For the purposes of this Chapter, an eligible family member is a spouse, parent, stepparent, sibling, step sibling, sibling-in-law, child, stepchild, niece, nephew, grandparent, or step grandparent. These are proposed eligible beneficiaries who could receive an ISTR if the inherit a property on Folly Beach from the property owner of record on 2/7/2023.

GOOD STANDING. A license shall be considered in good standing if:

(A) The license has not been denied, revoked, or suspended in the current license year. A license which has been denied, revoked, or suspended in the current license year shall not be renewed except upon successful appeal of the denial, revocation, or suspension.

(B) The license has not expired. A license shall be deemed expired ten (10) days after the final day of the previous business license year. This creates a 10 business day window after the due date before a license loses good standing and can not be renewed. Any renewal between the due date and the final day of grace period is subject to fee.

(C) The dwelling unit for which the license was issued has been rented for a minimum of twenty-eight (28) nights in the current business license year. This establishes a minimum 28 night rental requirement to remain in good standing. This will be in effect for renewals beginning in 2025.

STR Ordinance Amendments

Updating definitions

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

- (A) Is not the legal residence of the owner.
- (B) Is inherited from the owner of record on February 7, 2023.
 - (1) Proof of inheritance shall be shown through a deed of distribution, court order, will or similar document.
 - (2) Application for an ISTR due to inheritance must be made within ninety (90) days of transfer of ownership.
 - (3) An ISTR based on inheritance shall only be issued to an eligible family member. This provision allows ISTR licenses for the first inheritor of properties (no subsequent inheritance ISTR allowed)

STR Ordinance Amendments

Updating definitions

(C) Is owned by the owner of record on February 7, 2023 upon certification that the owner no longer resides on the premises and is no longer capable of performing at least three activities of daily living.

(1) Activities of daily living are defined as personal hygiene tasks (bathing, grooming, oral, nail and hair care); medication management; walking independently; dressing; transferring in and out of bed; and maintaining continence.

(2) Certification that an owner can no longer perform activities of daily living shall be provided on a form approved by the city and completed by a licensed medical doctor, Doctor of Osteopathic medicine, physician assistant, or advanced practice registered nurse.

(3) Certification for an ISTR issued due to medical hardship shall be submitted annually. This version would require medical documentation for a hardship ISTR.

(C) Is owned by the owner of record on February 7, 2023 upon certification that the owner no longer resides on the premises and is housed in a care facility or requires care at another private location.

(1) Proof of care shall be through a lease agreement of similar document, or a contract for at home care.

(2) Certification for an ISTR issued due to medical hardship shall be submitted annually and must be accompanied by a notarized confirmation from the owner or owner's representative that the owner continues to require care. This version would require only a lease or contract for private assistance.

STR Ordinance Amendments

Updating definitions

OWNER-OCCUPIED SHORT TERM RENTAL BUSINESS LICENSE (OSTR). A license issued for a dwelling unit to be rented no more than seventy two (72) nights annually that: ~~a dwelling unit that is the legal residence of the owner to be used as a short term rental.~~

(A) That is the legal residence of the owner.

(B) That is the legal residence of the owner but given a 6% property tax rate by Charleston County and is licensed after February 7, 2023. This amendment clarifies the total nights allowed for an OSTR. Any partial rated structure with a valid OSTR license prior to 2024 would be allowed to rent maximum nights.

STR Ordinance Amendments Updating 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. All rental nights allowed by a PSTR shall count towards the seventy (72) rental nights allowed by an LSTR license should the dwelling become the legal residence of the owner. Allows compliance with SC Vacation Rental Act.

SHORT TERM RENTALS. Residential dwellings A dwelling unit, or any portion thereof, rented for any period less than 30 days and used in a manner consistent with the residential character of the dwelling. Tourist accommodations, including hotels, motels, inns, and bed and breakfasts, are not considered **SHORT TERM RENTALS**.

TIME SHARES. “Vacation time sharing plans” as defined in S.C. Code § 27-32-10(9) are not short-term rentals. However, any “vacation time sharing lease plan” as defined in S.C. Code § 27-32-10(8) that is less than three years is considered a short term rental. “Vacation multiple ownership interests” as defined in S.C. Code § 27-32-250(1) are not short term rentals.

TRANSFER OF PROPERTY. An assessable transfer of interest in real estate triggering an appraisal and reassessment for taxation purposes as defined by SC Code 12-37-3150. Allows non assessable transfers of ISTR without loss of license.

STR Ordinance Amendments

No license is transferable

§ 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 business licenses.**

(B) There will be no limit on the number of owner-occupied short term rental business licenses **or provisional short term rental licenses** issued.

(C) The maximum number of investment short term rental business licenses issued shall be 800, henceforth referred to as the cap.

(1) No new investment short term rental business licenses shall be issued unless the total number of investment short term rental business licenses are below the cap.

(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.

(3) A wait list will be established as soon as practical and maintained by the city. New licenses shall be offered to applicants according to procedures adopted by City Council.

(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 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 business licenses terminate ninety (90) days after the date of issuance or upon the completion of the last eligible rental period if earlier than ninety (90) days and are not transferrable.

STR Ordinance Amendments

Replacement units, grace period, minimum activity

§ 117.03 LICENSE, REGISTRATION, AND TAX REQUIREMENTS.

Any owner wishing to operate a short term rental must maintain a current business license, 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.

(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-. **except that a 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 as the original structure. Allows a structure to be replaced and maintain an ISTR.**

.....

(4) Failure to maintain good standing shall be considered grounds for denial of an application to renew and existing license

(a) To remain in good standing, an application to renew an existing license must be submitted no later than ten (10) business days after the final day of the previous business license year. **Grace period.**

(b) To remain in good standing, a license must be used for at least twenty-eight (28) nights annually. **Minimum activity.**

STR Ordinance Amendments

Advertising bedrooms

(D) *Violations and penalties.*

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

- (a) Operating a short term rental without complying with the requirements of this chapter and the city code of ordinances;
- (b) Advertising a property as being available as a short term rental without first complying with the requirements of this chapter;
- (c) Operating a short-term rental without a business license, registration permit, and accommodations tax account;
- (d) Advertising a short-term rental without listing the business license number and rental registration permit number;
- (e) Operating a short-term rental in such a manner that individual rooms are rented at the same time under separate rental contracts;
- (f) Advertising a short term rental as being available for more overnight occupants, **or more than the number of bedrooms**, than have been permitted pursuant to this chapter;.....

Waitlist

- Phase 1 waitlist by tenure.
 - Applications accepted for a 30-day period beginning on XXX date (staff proposes waitlist open after renewals)
 - Available licenses awarded to Phase 1 applicants until all applicants have received a license.
 - Licenses awarded based on date of property acquisition. All entrants in Phase 1 to provide date of property ownership supported by deed.
 - Applications ranked from longest tenure to shortest.
- Phase 2 waitlist by first come first serve.
 - Applications accepted on an ongoing basis after 30-day window for Phase 1 applications.
 - Available licenses awarded from Phase 2 on a first come first serve basis.
 - Phase 2 list is ongoing into perpetuity.
- Base Criteria for Phase 1 and Phase 2
 - Must be current owner of property.
 - Only one entry per owner.
 - Only one entry per dwelling unit.
 - If selected, must apply within 30 days (no squatting).
 - No fee.
 - Loss of waitlist placement if convicted of renting without license (may reenter after 1 year).
 - Waitlist to be made public.