

CITY OF FOLLY BEACH

Tim Goodwin, Mayor



Folly Beach, SC 29439

www.cityoffollybeach.com

843-588-2447

**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 Special 2:00 PM
Tuesday, January 23, 2024**

1. Work Session Items

- a. Review of STR Discussion, Meeting #6-Aaron Pope.
 - Topics Removed For Consideration.
 - Topics With Draft Amendments.
 - Topics With Final Proposed Amendments.
 - Waitlists.

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 23rd, 2024

Re: Review of STR Discussion, Meeting #6

Mayor and Council,

There has been significant progress towards finalizing STR ordinance amendments and the waitlist procedure. Ordinance changes need to be given first and second reading to be in effect for the next license year. This will require a special meeting for 1st reading (along with any additional sessions) with 2nd reading at the regular meeting in February. Staff will then have 2 weeks to advertise the changes and prepare for renewals on March 1. The waitlist, while important, does not affect the licensing process. There are no new ISTR licenses available this year to be awarded. Resolving the list along with the ordinance changes is the preferred plan of action, but it is not necessary. A summary of the latest proposals is below.

Topics not considered for further action:

- Retroactive grace period for licenses that expired prior to moratorium.
- Allowing licenses for properties under construction.
- Allowing purchasers of licensed properties to apply for an ISTR license.
- Exempting multiunit buildings from the cap.
- Exempting commercially zoned properties from the cap.
- Exempting properties governed by an HOA from the cap.

Topics with draft amendment language:

- Revoking licenses below minimum rental activity.
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 considered in good standing except upon successful appeal of the denial, revocation, or suspension.
(B) The license has not expired. A license shall be deemed expired thirty (30) days after the final day of the previous business license year.
(C) *The dwelling unit for which the license was issued has been rented for a minimum of fourteen (14) nights in the current business license year.*
- Licensing partial 6% rated structures (portions of homes that are not separate units). Proposed as part of LSTR.

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 has been granted a 4% property tax rate by Charleston County and 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 ***on February 7, 2023***. Proof of inheritance shall be shown through a deed of distribution, trust, will, or similar document. 90 days

(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.

- Allowing heirs to obtain ISTR licenses. Proposed as part of LSTR for all property owners of record on 2/7/23.

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 has been granted a 4% property tax rate by Charleston County and 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 on February 7, 2023. Proof of inheritance shall be shown through a deed of distribution, trust, will, or 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.

- Allowing existing 4% owners to convert to ISTR licenses (without changing ownership) due to hardship.

Staff requests more time to develop a proposal to define hardship triggers.

Topics with final proposed amendment language:

- Provisional licenses for SC Vacation Rental Act.

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.

- Requiring the number of bedrooms advertised to match rental registration:

(D) Violations and penalties.

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

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

- Grace period for annual renewals of business licenses.

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 considered in good standing except upon successful appeal of the denial, revocation, or suspension.
 - (B) The license has not expired. A license shall be deemed expired thirty (30) days after the final day of the previous business license year.***
 - (C) The dwelling unit for which the license was issued has been rented for a minimum of fourteen (14) nights in the current business license year.

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 a of a full and complete application made no later than thirty (30) days after the final day of the previous business license year.***
- License loss related to demolition of structure.
 - (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.**
- Allowable property transfers.

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.

Waitlist

A two tiered waitlist is proposed.

- Phase 1 awarded by lottery after a limited application period. All applicants in Phase 1 receive licenses prior to Phase 2.
 - Options for Phase 1:
 - No weighting or preference (open to all property owners).
 - No weighting with preference (open to specific groups).

Weighted with preference (open to specific groups, higher odds based on qualifications)

- Phase 2 awarded in order received and is ongoing after Phase 1 ends.

Aaron Pope, AICP
City Administrator

STR Work Session 1/23/24

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 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.
- Information on 926 ISTR licenses shows*:
 - 122,142 total nights rented.
 - 129 night average.
 - 149 night median.
- Breakdown of nights rented shows:
 - (No rental) 219 properties with 0 nights.
 - (1 week) 224 properties with 7 or fewer nights.
 - (2 weeks) 227 properties with 14 or fewer nights.
 - (3 weeks) 229 properties with 21 or fewer nights.
 - (4 weeks) 232 properties with 28 or fewer nights.
- Staff recommends demonstration of least 14 nights rented to remain in good standing.

LSTR Heirs and Partial Ratings

- LSTR proposed for 4% property owners (currently eligible for an OSTR).
- LSTR proposed for legal heirs of any property.
- LSTR proposed for partially rated structures.

§ 117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.

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 has been granted a 4% property tax rate by Charleston County and 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 on February 7, 2023. Proof of inheritance shall be shown through a deed of distribution, trust, will, or similar document. An application for an LSTR based on inheritance must be submitted within 90 days of the death of the previous owner and may be applied for on behalf of the deceased's estate.
- (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.

ISTR for Hardships

- Further study needed.

Waitlist

- Phase 1 waitlist by lottery.
 - 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.
- 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.

Waitlist Phase 1 Options

- Non weighted (limit 1 entry per owner or property):
 - Open to all current owners of record.
 - Owners as of February 7, 2023.
- Non weighted/restricted entry(limit 1 entry per owner or property):
 - Current owners of dwelling units in multiunit buildings (3 or more units).
 - Current owners of dwelling units located within the Downtown Commercial or Island Commercial districts.
- Weighted:
 - Open to all current owners of record.
 - One extra entry per dwelling unit for each 2 years of property ownership.
 - Ownership tenure provided by owner (deed).
 - One extra entry per dwelling unit for properties located in the DC or IC districts.
 - One extra entry per dwelling unit for properties located in a multiunit building.

Examples:

- SFU in residential district owned for 10 years: 5 entries.
- SFU in residential district owned for 1 year: 1 entry.
- SFU in the commercial district owned for 10 years: 6 entries (1 for location, 5 for tenure).
- MFU in the commercial district owned for 10 years: 7 entries (1 for location, 1 for multiunit, 5 for tenure).
- MFU in the residential district owned for 10 years: 6 entries (1 multiunit, 5 for tenure).

STR Ordinance Amendments

§ 117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.

(A) The purpose of this chapter is to regulate the use of ~~residential~~ 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 the city.~~

STR Ordinance Amendments

§ 117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.

(B) The following definitions apply:

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 considered in good standing except upon successful appeal of the denial, revocation, or suspension.

(B) The license has not expired. A license shall be deemed expired thirty (30) days after the final day of the previous business license year.

(C) The dwelling unit for which the license was issued has been rented for a minimum of fourteen (14) nights in the current business license year.

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. An ISTR License allows the rental of a dwelling unit for more that 72 nights 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 has been granted a 4% property tax rate by Charleston County and is the legal residence of the owner; or

B) The rental of any inherited dwelling unit 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 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 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.

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**.

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.

STR Ordinance Amendments

§ 117.02 SHORT TERM RENTAL BUSINESS LICENSES.

- (A) The city shall issue investment short term rental business licenses, ~~limited short term rental licenses~~, and ~~owner-occupied short term rental business licenses~~ **provisional short term rental licenses**.
- (B) There will be no limit on the number of ~~owner-occupied short term~~ **limited short term or provisional short term** rental business 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~~ **Limited short term** rental business licenses terminate upon transfer of property and are non-transferable.
- (4) ~~Owner-occupied~~ **Limited short term** 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 upon loss of 4% property tax assessment status and are non-transferable.**

STR Ordinance Amendments

§ 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. **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 a of a full and complete application made no later than thirty (30) days after the final day of the previous business license year.**

(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.**

(2) A business license shall only be issued to owners of a residential unit. Lessees of residential dwelling units may not apply for a business license to rent the unit.

(3) A designated agent may apply for a short term rental business license on behalf of an owner. An application for a business license submitted by a designated agent must provide the correct taxpayer identification and contact information for the owner including name, address, phone number, email, and any other information as required on the application form.

STR Ordinance Amendments

§ 117.03 LICENSE, REGISTRATION, AND TAX REQUIREMENTS.

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