

## **STAFF REPORT**

City Council, August 15, 2016

**Title:**            **Short-Term Rentals**

City Council will continue their public hearing from June 20, 2016 to consider amendments to allow short-term rentals within the City of Brevard and its planning jurisdiction.

**Speaker:**       Daniel Cobb AICP, Planning Director

**From:**           Daniel Cobb, AICP, Planning Director

**Prepared by:** Daniel Cobb, AICP, Planning Director  
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**Approved by:** Jim Fatland, CPFO, City Manager

### **Background**

At their August 17, 2015 meeting City Council requested information regarding the issue of short-term rentals (STRs), much like those offered on websites such as Airbnb.com and VRBO.com. Staff presented basic background information in September 2015 and Council directed Staff to take the issue to Planning Board to explore possible changes to the Unified Development Ordinance (UDO) that would allow for short-term rentals but also mitigate potential negative impacts on residential neighborhoods.

The Planning Board began its discussions at their October 20, 2015 meeting, and held further discussions at their meetings in November, January, February, and March. The Board approved its recommended draft ordinance language at their meeting on March 15, 2016. This version of the amendments was originally presented to City Council on April 18, 2016, changes were discussed and added for consideration in May.

Since Council's meetings in April and May the amendments have been modified slightly to account for specific concerns raised by City Council. The most recent version of the draft amendments was presented during a public hearing that was properly advertised and opened at City Council's last meeting on June 20, 2016. This hearing was continued to provide Staff and the city's attorney time to research outstanding legal questions related to density.

### **Discussion**

The main purpose and intent of the amendments continues to be the protection of the peace and tranquility of residential neighborhoods, as well as the safety of Brevard's residents and visitors.

The attached draft language reflects Council's desire of a simple ordinance that accomplishes the above goal with the least amount of regulation, as well as clarifying the difference between *residential* uses and *lodging* uses.

## **Policy Analysis**

There are several topics to consider when reviewing these proposed changes. One concern that has been discussed in several meetings (however there is no hard data to provide for review) is a fear that converting existing long-term, affordable rentals to more lucrative short-term rentals, removes units from the city's housing stock, thereby exacerbating the housing market's limited supply of affordable housing options.

Additionally, there is an unquantifiable effect of converting a traditional single-family home to a short term rental. If the residents change from week to week, the permanent neighbors are unable to form meaningful relationships with those in their neighborhood.

Conversely, the constant influx of visitors can be considered an additional benefit to the community, and providing additional lodging options in and around the City supports this. Hotel options are fairly limited, and often booked to capacity during the height of tourist season. Proprietors of short-term rentals who have discussed their operations with Staff have indicated that they often act as an ambassador for Brevard by showing their guests around the community and sending them to local restaurants and shops. Some have stated their guests come for a short stay and end up moving to the community.

The City's Comprehensive Plan does not specifically list lodging as a goal, objective, or policy. However, alternative forms of lodging offer more opportunity for varying demographics to find what fits them best to make Brevard a destination.

NCGS 160A-383 requires that the City's review of the proposed zoning amendment include a written statement analyzing the reasonableness and the consistency of the amendment with any adopted plans and policies of the City. This statement is included as Attachment B.

## **Staff Recommendation**

Staff recommends City Council adopt the attached ordinance as presented.

## **Fiscal Impact**

North Carolina state law allows for reasonable fees to be collected to offset the costs of administration of development ordinances. The review fee for a Special Use Permit is \$250 and zoning permits for minor improvements related to residential projects is typically \$50. However Staff feels a specific fee for STRs should be established and recommends a fee of \$200 which is the same fee required for a home occupation.

## **Attachments**

- A. Text Amendments – Short-Term Rentals
- B. Statement of Consistency

## 1 UDO Amendments for Short-Term Rentals

### 3 2.2. - Use categories and tables of permitted uses.

4 Residential: Premises available for long-term human habitation by means of ownership and rental, but  
5 excluding short-term leasing or rental of less than a month's duration.

7 Lodging: Premises available for short-term human habitation, including daily and weekly rental.

#### 9 2.2.C – Use Matrix

	GR	RMX	NMX	DMX	CMX	IC	GI
<b>Lodging</b>							
Bed and Breakfast Home	PS	PS	PS	PS	PS	PS	–
Bed and Breakfast Inn	SUP	PS	PS	PS	PS	PS	–
Accessory Rental Cottage/Cabin	PS	PS	PS	–	–	–	–
Hotels/Motels/Inns	–	–	–	P	P	P	–
Rooming or Boarding House	–	–	P	P	P	P	–
Recreational Vehicle Park	–	–	–	–	–	–	–
Short-Term Rental (Host-Absent)	SUP	SUP	PS	PS	PS	PS	–
Homestay (Host-Present)	PS	PS	PS	PS	–	PS	–

### 11 Chapter 3 – Additional standards

#### 12 3.34 – Short-Term Rentals and Homestays

##### 13 A. Intent

14 It is the intent of this ordinance and standards below to preserve and protect the long-  
15 established, traditional single-family neighborhoods within the City while allowing those  
16 desiring to operate short-term rentals or homestays to do so without detriment to those  
17 neighborhoods. Short-Term Rentals and Homestays are lodging uses, as they are typically  
18 rented for less than 30 days.

##### 19 B. General requirements

- 20 1. Occupancy: Overnight occupancy shall not exceed two persons per bedroom plus two  
21 additional persons. The number of “bedrooms” used in calculating occupancy limits shall  
22 be taken from the property’s application. For example: a two bedroom rental would  
23 have an occupancy limit of 6 (2 x 2 bedrooms = 4 + 2 additional = 6 total).
- 24 2. Appearance: Dwelling units used as short-term rentals or homestays in GR or RMX  
25 zoning districts shall maintain their residential character and outside appearance. No  
26 signs shall be permitted. All exterior lighting shall be residential in nature and shall not  
27 be directed towards adjacent properties.
- 28 3. Parking: Parking requirements shall be provided for the type of dwelling unit, per  
29 Chapter 10 of this ordinance.

##### 30 C. Permits required

- 31 1. The owner, or authorized agent thereof, of any property upon which a Homestay or  
32 Short-Term Rental proposes to operate shall secure a permit from the City of Brevard  
33 Planning & Zoning Department.
- 34 2. The application shall designate a “Primary Contact” which is to be a local responsible  
35 party who is available by phone 24-hours per day while the property is being rented.

- 36 D. Violations: Any act constituting a violation of these standards shall subject the owner to  
 37 enforcement procedures as set forth in Chapter 18 of this ordinance.
- 38 E. Duration of permit:
- 39 1. Rentals permitted with standards (PS)
- 40 a. Short-Term Rental and Homestay permits are temporary, and shall not establish a  
 41 vested right to renewal. Short-Term Rental and Homestay permits shall be valid for  
 42 a period of one year from the date upon which approval is granted.
- 43 b. Annual renewal applications shall be filed 30 days prior to expiration of the current  
 44 permit.
- 45 c. Applications for renewal shall include a written report demonstrating compliance  
 46 with the previously approved permit.
- 47 d. The approving authority may deny a request for permit renewal and require the  
 48 applicant to terminate the Short-Term Rental or Homestay upon a determination  
 49 that the Short-Term Rental or Homestay operated in violation of a requirement of  
 50 this section or other applicable condition or requirement; or, that the Short-Term  
 51 Rental or Homestay has generated unanticipated effects that are detrimental to the  
 52 residential character of the neighborhood in which the Short-Term Rental or  
 53 Homestay is located.
- 54 2. Rentals permitted with the issuance of a Special Use Permit (SUP)
- 55 a. Per 16.11.D, the effect of approval of a Special Use Permit by the Board of  
 56 Adjustment is binding on the property, and all subsequent development and use of  
 57 the property must be in accordance with the approved plan and conditions. Special  
 58 Use Permits do not need to be renewed annually.
- 59 b. Per 16.11.F, the Board of Adjustment may revoke an approved Special Use Permit  
 60 upon finding that a violation of Brevard City Code, the City of Brevard Unified  
 61 Development Ordinance, or a specific condition or requirement of the Board of  
 62 Adjustment has occurred.
- 63 B. Exemptions: The following activities shall not be considered as a Short-Term Rental or  
 64 Homestay use and the requirements of this subsection shall not apply to them.
- 65 1. Incidental residential vacation rentals, defined to mean no more than two such rentals  
 66 in any calendar year where the total number of nights rented does not exceed 14.
- 67 2. Rentals of property in any permitted hotel, motel, inn, rooming or boarding house, or  
 68 bed and breakfast establishment.
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70 **10.3.A – Minimum parking ratios**

71 *A. Minimum parking ratios:*

Use Type	Required Parking Spaces
Residential (All types)	2 spaces
Residential Accessory Dwelling Unit	1 space
Retail Uses	1 per 500 square feet
Office Uses	1 per 500 square feet
Theaters	1 per 3 seats

Restaurants	1 per 4 seats
Manufacturing/Warehousing/Light Assembly	.25 per 1,000 square feet of non-office space
Bed and Breakfast Inns/Hotels/Motels	1 per bedroom or suite
Civic Uses (Assembly Uses Only)	1 per 4 seats (If benches or pews are used then the standard shall be measured as 1 per 6 feet)

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**10.5.G – Location of off-street parking**

G. Location of off-street parking:

1. Off-street parking shall not be permitted within any public right-of-way.
2. Off-street parking shall not be permitted within any front yard setback area.
3. Except for properties located in the Corridor Mixed Use (CMX) zoning district, off-street parking shall not be permitted between any principal structure and the street upon which such structure fronts. Where a structure fronts upon two or more streets, parking may be permitted between the principal structure and the adjacent street of lesser classification when parking cannot reasonably be placed in another location.
4. The following uses and parking types shall be exempt from Sections 10.5(G.2) and 10.5(G.3) above:
  - a. Single-family and duplex residential structures in GR, RMX and NMX districts, including those used for Short-Term Rental uses, except those which are subject to Chapter 2, Section 2.3(E.2).
  - b. Handicapped parking spaces as required by the North Carolina Accessibility Code or other federal, state, or local regulations.
  - c. Bicycle parking spaces required by this Ordinance.
  - d. Existing non-residential and multi-family development undergoing significant or substantial improvement or change of use as defined in Chapter 19 of this Ordinance, provided that all newly created parking spaces associated with such redevelopment shall conform with Sections 10.5(G.2) and 10.5(G.3) unless the approving authority deems that compliance would be impractical due to existing site constraints.

**Chapter 19 – Definitions**

*Bed and breakfast establishments:* Establishments primarily engaged in providing short-term lodging and the service of the breakfast meal in facilities known as bed and breakfast inns and bed and breakfast homes. These establishments provide short-term lodging in private homes or small buildings converted for this purpose. Bed and breakfast establishments are characterized by a highly personalized service and meet the following requirements:

1. They do not serve food or drink to the general public for pay;
2. They serve only the breakfast meal, and that meal is served only to overnight guests of the business;
3. They include the price of breakfast in the room rate; and
4. They serve as the permanent residence of the owner or the manager of the business.

109 *Homestay*: A private, owner-occupied single-family residence that offers one or more guest rooms for  
110 overnight accommodations which are rented for periods of less than 30 days for compensation, so long  
111 as the lodging use is subordinate to the main residential use of the building. The key distinction of a  
112 Homestay from a Short-Term Rental is that the host is present in a Homestay.

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114 *Rooming or boarding house*: Short or long-term accommodations that serve a specific group or  
115 membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or similar  
116 accommodations, or single room occupancy units that provide a number of related services including,  
117 but not limited to housekeeping, meals, and laundry services; excludes hotels, motels, inns, bed and  
118 breakfasts, homestays, and short-term rentals.

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120 *Short-Term Rental*: A private residential property that is rented for periods of less than 30 days for  
121 compensation in which the owner does not reside in the home being rented. The key distinction of a  
122 Short-Term Rental from a Homestay is that the host is absent in a Short-Term Rental.

**STATEMENT OF REASONABLENESS & CONSISTENCY  
WITH CITY POLICIES AND PLANS  
SHORT-TERM RENTAL ZONING ORDINANCE AMENDMENTS**

NCGS 160A-383 requires that the City's review of the proposed zoning amendment include a written statement analyzing the reasonableness and the consistency of the amendment with any adopted plans and policies of the City. City Council finds that the proposed zoning amendment is **consistent** with the City of Brevard 2015 Comprehensive Plan as demonstrated by excerpt included below:

2015 Comprehensive Plan – Element 2: Economic Health

*The objectives and policies in this element aim to further existing efforts to foster entrepreneurship, retain and attract employers, remain an attractive retirement and tourism destination, and support and strengthen existing businesses. To continue to provide the public services necessary to achieve these goals, the City's tax revenues need to keep pace with increasing costs of providing those services.*

The amendments as proposed are intended to promote the public health, safety, and general welfare of the City of Brevard. Further, these ordinances and intend to preserve and protect the long-established, traditional single-family neighborhoods within the City while allowing those desiring to operate short-term rentals or homestays to do so without detriment to those neighborhoods. Short-Term Rentals and Homestays are lodging uses, as they are typically rented for less than 30 days.