



CITY OF WASHINGTON, ILLINOIS

Committee of the Whole Agenda Communication

Meeting Date: September 9, 2024

Prepared By: Jon Oliphant, AICP, Planning & Development Director

Agenda Item: Short-Term Rental Amendment Follow-Up Discussion

Explanation: Two residents appeared at a June City Council meeting to speak about two homes in the city limits that are being utilized as short-term rental (STR) units. While the City's zoning code does not specifically address the allowance of STR's, among the permitted uses in any residential zoning district is the following:

"The taking of boarders, renting or leasing of rooms by a resident family, provided the total number of boarders and roomers does not exceed two (2) in any one-family or two-family dwelling, or one (1) per dwelling unit in any multiple dwelling."

Many Illinois municipalities have regulations to address STR's. While STR definitions can vary slightly, it generally refers to renting a residential unit for a temporary time period and can be differentiated depending on whether the owner resides within the unit during the duration of the rental period or not. The former is viewed as an accessory residential use and is sometimes allowed as a permitted use through a permit or registration process while the latter is more often a special use and can have more stringent locational constraints such as limits on the number that may be allowed within a particular area on the micro level or the city as a whole. State law sets 31 days as the maximum rental period to be considered an STR. The rental of two or more units in a building with four or more units needs a license from the Illinois Department of Public Health. Homes being rented are exempt from licensing but must register with the State.

Initial discussion at the July Committee of the Whole meeting indicated interest in the future adoption of an ordinance to establish STR regulations. There is an understanding that STR's are currently located in Washington and most cities. They have become a popular means of short-term occupancy as well as serving as a revenue source for property owners.

A draft ordinance is attached. It is intended to provide a framework for their operation and to help ensure that the public's health, safety, comfort, convenience, and general welfare are protected. Staff recommends not placing a limit on the number of STR's citywide or setting a neighborhood locational restriction at the current time. The Council could decide to set further restrictions if desired. The following are some of the primary recommended regulations:

- The operation of a non-owner-occupied STR in a residential district would be permitted only after the approval of a special use permit and conformance with the STR regulations.
- The operation of an owner-occupied STR in a commercial district or an owner-occupied STR in a residential district would be permitted without needing a special use if the STR regulations are met. Commercial STR's are included in this ordinance to ensure that they also meet the regulations, particularly the collection and remittance of the Motel Tax and a completed inspection.
- As noted above, any STR would require the approval of a special use or the issuance of a Certificate of Registration (COR). Staff has inserted a clause that would not require the approval of a special use or the issuance of a COR for STR's that would be rented for less than 15 days within a calendar year, which is commonly referred to as the "Masters Rule," as it is most famously applied in Augusta, Georgia, near and during The Masters Tournament. Section 280A(g) of the Internal Revenue Code provides that if a dwelling unit is rented for less than 15

days during a taxable year, that income is not considered taxable. However, staff does not feel strongly about including this provision. It is intended to allow owners the limited ability to rent their units without having to receive a special use or COR. It is acknowledged that it would be extremely challenging to know how many days a property is rented as an STR without having prior notification for tracking purposes. **Staff seeks feedback on whether to include a limit on the maximum number of days per year that an STR could legally operate without needing to obtain a special use or a COR or to strike this altogether.**

- The definition of an STR would limit the occupancy to no more than two guests per guestroom and to no more than 29 consecutive days.
- Special use permits are non-transferable, non-assignable, and would only need to be approved once per property provided the STR continues to be operated by the same owner, conforms with the STR regulations, and passes a subsequent reinspection (if applicable). A COR must be applied for and issued annually within the first year of approval of the special use permit.
- An inspection would need to be completed by the Code Enforcement Officer, his/her designee, or a third-party inspection firm prior to the possible approval of the special use and issuance of the COR. This would be completed within 30 days after receipt of a complete application. Any subsequent inspections would only be required if improvements were made to the STR since the issuance of the last permit. At this time, staff feels that any such inspections can be conducted without the need for a third-party firm, though the workload associated with that will be monitored. The City would reserve the right to inspect any STR's to determine continued compliance with the standards.
- All STR's, regardless of the type or location, must collect and remit the Motel Tax as stipulated in Chapter 117 of the Municipal Code.
- Residential STR's must have a minimum of one off-street parking space per each guestroom to be used by the guests of each STR unit.
- The owner or operator of an STR must provide the City with a commercial liability insurance coverage of at least \$1 million per occurrence.
- The STR owner or operator would be assigned a unique numeric identifier to illustrate compliance with the STR regulations. This must be placed on the hosting platform used by the owner or operator.
- The Noise Control standards in Chapter 95 of the Municipal Code would apply to the operation of an STR as is the case for any property within the city limits.
- The City would have the ability to revoke or suspend a special use permit or COR should there be violations of the STR provisions.
- If each of the regulations are met, the Planning and Zoning Commission would recommend approval of the special use permit to the Council. The Council would then approve the special use if the Council confirms the requirements are satisfied.

Fiscal Impact: STR's can provide a revenue stream to the City and even the playing field with the hotels and motels. That revenue can offset some of the expense that would be required for the administration of such a program. STR's can also be an income source for property owners. However, the allowance of them should not be done at the expense of the nearby residents and any potential nuisance issues that may result. This draft ordinance does not limit the number of days per calendar year that an STR can operate aside from the maximum 29-day consecutive day period. While some municipalities have such a provision, staff feels that a limit is arbitrary and difficult to enforce. **Staff seeks feedback from the Council on whether a calendar year cap should be instituted.**

Action Requested: Staff requests feedback from the Council at the September 9 Committee of the Whole meeting on the draft ordinance to establish a process for the operation of STR's in the city limits. The next step will be to schedule a public hearing at a Planning and Zoning Commission meeting, likely in November, prior to a first reading ordinance at a future Council meeting.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE ZONING CODE TO REGULATE THE
OPERATION OF SHORT-TERM RENTALS WITHIN THE CITY**

WHEREAS, the City of Washington, Tazewell County, Illinois (the “City”), is a home rule unit of government; and

WHEREAS, the City has established municipal zoning regulations for the purpose of improving and protecting the public health, safety, comfort, convenience and general welfare of the people; and

WHEREAS, “Short-Term Rentals” (“STRs”) are part of a relatively new and developing market, which allows persons to rent a guestroom or an entire structure, building, or dwelling for a duration typically not to exceed thirty (30) consecutive days; and

WHEREAS, STRs offer advantages to the City by providing temporary accommodations to guests, which also allows for property owners within the City to utilize their real property in a manner which provides for an economical benefit on the City and the property owner; and

WHEREAS, the corporate authorities of the City, in the interest of the public health, safety and welfare have determined that it is appropriate to regulate STRs by use of the City’s zoning authority due to the STRs’ impact, both from an economical and a public welfare standpoint; and

WHEREAS, due to the foregoing, the corporate authorities of the City requested that the Planning and Zoning Commission (the “Commission”) make recommendations regarding proposed textual amendments to the City’s Zoning Code as set forth herein regarding STRs; and

WHEREAS, public hearing(s) on the requested textual amendments were held before the Commission on _____, 2024 in the manner prescribed by the City’s Municipal Code and by Illinois law; and

WHEREAS, after holding such public hearing(s), the Commission has unanimously recommended the adoption of the textual amendments as requested by the corporate authorities; and

WHEREAS, the corporate authorities of the City have determined that it is necessary and in the best interest to amend the Zoning Code to allow for STRs and to establish zoning rules and regulations relative to such STRs; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON, TAZEWEEL COUNTY, ILLINOIS AS FOLLOWS:

Section 1. The City of Washington hereby finds as fact the recitals set forth above and are incorporated herein as though fully set forth;

Section 2. That Chapter 154 of the City Municipal Code is hereby amended to add Sections 154.830 to 154.835, which shall provide for the regulations related to STRs in the City of Washington and said provisions shall state as follows:

“SHORT-TERM RENTALS

§154.830 PURPOSE

§154.831 DEFINITIONS

§154.832 SHORT-TERM RENTAL PERMITTING/CERTIFICATE OF REGISTRATION REQUIREMENTS

§154.833 SPECIAL USE PERMIT REQUIRED

§154.834 CERTIFICATE OF REGISTRATION IN COMMERCIAL DISTRICTS AND OWNER-OCCUPIED SHORT-TERM RENTALS IN RESIDENTIAL DISTRICTS

§154.835 REGULATIONS APPLICABLE TO ALL SHORT-TERM RENTALS

§154.830 PURPOSE

Short-Term Rentals are relatively new and part of a developing market, which is ever evolving and marketed predominantly through e-commerce such as Hosting Platforms. Such Short-Term Rentals offer economic advantages and benefits to the City and to property owners in the City who seek to operate such Short-Term Rentals. In order to fulfil said benefit and alleviate any potential adverse impacts in the City, the City has determined that it is reasonable and necessary to regulate Short-Term Rentals in the interest of public health, safety, and the welfare of the City’s residents.

§154.831 DEFINITIONS

For the purposes of Sections 154.830 to 154.835, whenever any of the following words, terms or definitions are used herein, they shall have the meanings ascribed to them in these sections:

COMMERCIAL DISTRICT: Shall mean property located within the C-1, C-2, and C-3 Districts in the City of Washington.

GUEST: A person or persons staying in a Short-Term Rental overnight and having a permanent residence at an address other than the address of the Short-Term Rental temporarily occupied.

GUESTROOM: A room or group of rooms within a structure, building, or dwelling that is kept, used, maintained as or advertised or held out to the public to be a Short-Term Rental where sleeping or room accommodations are furnished for payment.

HOSTING PLATFORM: A marketplace entity, in whatever form or format which facilitates Short-Term Rentals through advertising, matchmaking or other means, using any medium or facilitation, or from which the operator of the hosting platform derives revenue,

including booking fees or advertising revenues from providing or maintaining the marketplace information.

MOTEL TAX: The tax as imposed by Chapter 117, “Motel Tax” of the City Municipal Code.

NON-OWNER-OCCUPIED SHORT-TERM RENTAL: A Short-Term Rental that is not Owner-Occupied and the entire structure, building, or dwelling is reserved exclusively for use by Guests.

OPERATOR: The Owner of the Short-Term Rental or the Owner’s agent who operates the Short-Term Rental by renting out Guestrooms to Guests, as provided herein.

OWNER: Any person, partnership, corporation, limited liability company, or association that is the legal, record owner of the property where the Short-Term Rental is operated thereon.

OWNER-OCCUPIED SHORT-TERM RENTAL: A Short-Term Rental that is primarily owner-occupied, except for the duration of when the property or a portion thereof is rented by a Guest.

RESIDENTIAL DISTRICT: Shall mean property located within the R-1, R-2, R-1A, and Country Estates Districts in the City of Washington.

SHORT-TERM RENTAL: A structure, building, or dwelling, including, but not limited to, an apartment, house, cottage, condominium, duplex, or other furnished accommodation where no more than two (2) Guests are allowed to stay in Guestrooms for no less than twenty-four (24) hours or no more than twenty-nine (29) consecutive days. All such accommodations are to be reserved in advance, via any method, including e-commerce such as a Hosting Platform. Short-Term Rentals shall include the rental of a single Guestroom and the rental of the entire structure, building, or dwelling to such reserved Guests.

§154.832 SHORT-TERM RENTAL PERMITTING/CERTIFICATE OF REGISTRATION REQUIREMENTS

- (A) The operation of a Non-Owner-Occupied Short-Term Rental in the City is permitted in a Residential District only after completing the special use permitting process as described herein.
- (B) The operation of a Short-Term Rental in the City is permitted in a Commercial District and in a Residential District if it is an Owner-Occupied Short-Term Rental only after making a written application for a Certificate of Registration with the City as described herein.

- (C) Notwithstanding anything herein to the contrary, no Owner or Operator shall be required to obtain a special use permit hereunder or otherwise apply for a Certificate of Registration with the City if the Owner or Operator rents a Short-Term Rental for less than fifteen (15) days in a calendar year.

§154.833 SPECIAL USE PERMIT REQUIRED

(A) Generally.

- (1) No person, partnership, corporation, limited liability company, or association, either as Owner or Operator, or in any other capacity, shall operate or allow to be operated a Non-Owner-Occupied Short-Term Rental in a Residential District without having first obtained a special use permit to do so for each location. The use of any property as a Non-Owner-Occupied Short-Term Rental in a Residential District without a special use permit is expressly prohibited. No special use permit shall be initially issued unless a public hearing is held, notice of such public hearing is provided, and the application is reviewed by the Planning and Zoning Commission for its findings and recommendations, and it is then authorized by the City Council. The public hearing, notice, and Planning and Zoning Commission review required hereunder shall be conducted as set forth in Sections 154.120 through 154.126 of the City Municipal Code.
- (2) The approved special use permit is non-transferable and non-assignable.
- (3) Within one year after the approval of a special use permit, the Owner/Operator shall apply for a Certificate of Registration annually in accordance with Section 154.834 herein. The Certificate of Registration shall be obtained from the Code Enforcement Officer or his/her designee, provided that the previously issued permit was not revoked or suspended, the Non-Owner-Occupied Short-Term Rental passes a subsequent reinspection (only if improvements were made to said Short-Term Rental) by the Code Enforcement Officer, or his/her designee, or a third-party inspection firm and the Short-Term Rental is current on all motel taxes and all necessary fees. Every renewal application shall satisfy all requirements set forth in these sections.

- (B) Application Process. Applications for Non-Owner-Occupied Short-Term Rental special use permits shall be filed with the Code Enforcement Officer or his/her designee and processed in the same manner as that is required for special uses as set forth in Sections 154.120 through 154.126 of the City Municipal Code. Said applications shall be of such form, accompanied by such information, as shall be established from time to time by the Planning and Zoning Commission. Notwithstanding anything herein to the contrary, no action shall be taken on an application until it is complete and duly executed by the applicant.

(C) Standards.

(1) The Planning and Zoning Commission shall not recommend a Short-Term Rental special use permit to the City Council for approval unless the following requirements have been met:

- (a) The Short-Term Rental complies with all City building, fire, property maintenance and other code requirements and all other City, County, State, and federal regulations;
- (b) The Short-Term Rental has been inspected by the Code Enforcement Officer, his/her designee, or a third-party inspection firm and such an inspection revealed that the public's health, safety, and welfare will be protected and that generally the rental does not pose a hazard to life, health, or the public safety;
- (c) The Short-Term Rental has prepared an emergency exit floor plan;
- (d) For Short-Term Rentals located in a Residential District, the Short-Term Rental must have a minimum of one off-street parking spot per each Guestroom for use by the Guests of each Short-Term Rental unit at the property;
- (e) The Owner or Operator of the Short-Term Rental provides the City with an insurance certificate indicating that the Owner, Operator, and the property are covered by commercial liability insurance with limits of not less than one million dollars (\$1,000,000.00) per occurrence, for bodily injury and property damage arising from and after the issuance of the special use permit. The insurance policy shall be issued by an insurer duly authorized to provide insurance policies within the State of Illinois. Furthermore, any such insurance policy must include a provision requiring at least thirty (30) day advance notice to the City prior to a cancellation or lapse of the policy. Any such policy shall remain in full force and effect for the duration of the special use permit; and
- (f) The Short-Term Rental complies with all motel tax requirements, including but not limited to all reporting requirements, of the Illinois Department of Revenue and the City for the operation of a Short-Term Rental.

If the foregoing requirements are met, the Planning and Zoning Commission shall recommend approval of the special use permit to the City Council. Upon recommendation by the Planning and Zoning Commission, the City Council shall approve the permit if the City Council confirms the requirements set forth herein are satisfied.

§154.834 CERTIFICATE OF REGISTRATION IN COMMERCIAL DISTRICTS AND OWNER-OCCUPIED SHORT-TERM RENTALS IN RESIDENTIAL DISTRICTS

(A) Generally.

- (1) No person, partnership, corporation, limited liability company, or association, either as Owner or Operator, or in any other capacity, shall operate or allow to be operated a Short-Term Rental in a Commercial District or an Owner-Occupied Short-Term Rental in a Residential District without having first obtained a Certificate of Registration to do so for each location. The use of any property as a Short-Term Rental in a Commercial District or an Owner-Occupied Short-Term Rental in a Residential District without a Certificate of Registration is expressly prohibited.
- (2) Expiration. Certificates of Registration shall be issued for a period of one (1) year from the date of issuance, unless revoked sooner. The permit is non-transferable and non-assignable.
- (3) If a Certificate of Registration was issued for the prior year, the approval for a renewed Certificate shall be obtained from the Code Enforcement Officer or his/her designee, provided that the previously issued Certificate was not revoked or suspended, the Short-Term Rental passes a subsequent reinspection (only if improvements were made to the Short-Term Rental since the issuance of the last permit) by the Code Enforcement Officer, or his/her designee, or a third-party inspection firm, and the rental is current on all motel taxes and all necessary fees. Every renewal application shall satisfy all requirements set forth in these sections.

(B) Application. Applications for a Certificate of Registration for Short-Term Rentals that will be located in a Commercial District or Owner-Occupied Short-Term Rentals located in a Residential District shall be filed with the Code Enforcement Officer or his/her designee. Said applications shall be of such form, accompanied by such information, as shall be established from time to time by the Planning and Development Department. Notwithstanding anything herein to the contrary, no action shall be taken on an application until it is complete and duly executed by the applicant.

(C) Issuance. The Code Enforcement Officer or his/her designee, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not meet the standards established in Section 154.833(C) herein. The Code Enforcement Officer shall approve the application if said standards are satisfied.

§154.835 REGULATIONS APPLICABLE TO ALL SHORT-TERM RENTALS

(A) Fees. The City requires a nonrefundable one-hundred-dollar (\$100.00) processing fee to be paid at the time of application for the special use permit or application for a Certificate of Registration and any renewal applications. An additional nonrefundable one-hundred-dollar (\$100.00) processing fee shall be due and payable for such applications that need to be reviewed by the Planning and Zoning Commission as a special use permit.

- (B) Number of Units. If a location for a Short-Term Rental has more than one (1) unit at that location (e.g. more than one apartment or condominium), then only one special use permit (or Certificate of Registration) for that location is required.
- (C) Delinquent Motel Taxes. No special use permit or Certificate of Registration shall be issued (or renewed annually, as applicable) for a Short-Term Rental that is delinquent in its payment of the motel tax due to the State of Illinois or the City as provided for in Chapter 117, "Motel Tax," of the City Municipal Code.
- (D) Continued Compliance. An Owner or Operator that is granted a special use permit or Certificate of Registration under these sections shall continue to comply with all of the standards set forth herein, as well as any other requirements set forth in these sections or the City Municipal Code.
- (E) Short-Term Rental Permit/Certificate Number. Upon approval of a special use permit or a Certificate of Registration hereunder, the City shall assign the Owner or Operator a unique numeric identifier for the permit or Certificate illustrating compliance with the provisions hereunder. Such a number shall be placed on all Hosting Platforms utilized by the Owner or Operator related to the Short-Term Rental.
- (F) Posting Requirements. Upon approval of a special use permit or a Certificate of Registration hereunder, every Owner/Operator shall post, in a conspicuous place within the Short-Term Rental, the special use permit or Certificate of Registration along with the name and telephone number of the Operator or his/her/its authorized agent. Such posting shall also include an emergency exit floor plan, the location of fire and safety equipment, and notice that the Short-Term Rental shall have quiet hours from 10:00 p.m. and 7:00 a.m. Sunday through Thursday and 11:00 p.m. and 7:00 a.m. Friday and Saturday.
- (G) Applicability of Motel Tax. All Short-Term Rentals are subject to the Motel Tax as set forth in Chapter 117, "Motel Tax," of the City Municipal Code. All Short-Term Rentals are required to comply with the same requirements set forth in said Chapter 117 as "hotel rooms" or "motel rooms" including the collection and payment of tax and are further subject to all penalties set forth in such Chapter 117 of the City Municipal Code for failure to comply with those requirements. Notwithstanding anything to the contrary in Chapter 117, Section 117.003(A), the Motel Tax shall be levied and imposed regardless of the duration of the Guest's stay in a Short-Term Rental.
- (H) Inspections. The City reserves the right to inspect any Short-Term Rentals or request documentation from an Owner or Operator of a Short-Term Rental for purposes of determining compliance or continued compliance with any of the standards or requirements of these sections or the City Municipal Code. Notwithstanding anything herein to the contrary, upon application for an initial special use permit or a Certificate of Registration hereunder, the Code Enforcement Officer, or his/her designee, or a

third-party inspection firm shall have thirty (30) calendar days after receipt of a complete application to conduct the initial inspection of the Short-Term Rental.

- (I) Records of Short-Term Rentals. The Code Enforcement Officer or his/her designee shall maintain a record of all special use permits and Certificates of Registration (and all renewals) granted for Short-Term Rentals. These records shall include contact information for all Owners and/or Operators, as applicable.
- (J) Noise Restrictions. The Owner/Operator of an approved Short-Term Rental shall ensure that all Guests abide by the provisions of Chapter 95, "Noise Control," of the City Municipal Code.
- (K) Revocation or Suspension of a Special Use Permit or Certificate of Registration hereunder. Any special use permit or Certificate of Registration may be revoked or suspended by the City Administrator or his/her designee if the City Administrator or his/her designee finds:
 - (1) That the Operator has violated and/or fails to comply with any of the provisions of these sections regulating Short-Term Rentals;
 - (2) The Operator knowingly furnished false or misleading information or withheld relevant information on any application required by these sections or knowingly caused or suffered another to furnish or withhold such information on his, her, or its behalf;
 - (3) The Operator fails to pay any applicable State or City tax or fee; or
 - (4) The Owner, Operator, or their Guests, violate any local, state or federal law relating to the property and/or the occupation and/or operation thereof. Any illegal conduct being conducted on the premises may be considered grounds for suspension or revocation of a special use permit or Certificate of Registration granted hereunder.

The City Administrator, or his or her authorized designees, before revoking or suspending any permit or Certificate of Registration for a period of more than fourteen (14) days, shall give the Operator at least ten (10) days' written notice of the charges against him, her, or it and the opportunity for a public hearing before the Planning and Zoning Commission and the City Administrator, at which time the Operator may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing. The Planning and Zoning Commission shall make a recommendation to the City Administrator regarding the revocation and/or suspension; however, the City Administrator is not bound to accept such recommendation in his/her final determination.

In addition to the foregoing provisions, the proper authorities of the City may institute any appropriate action or proceedings, including the obtaining of an injunction to prevent a violation of these sections. The defendant in any such action

shall be responsible for the reasonable costs of such action, which shall include, but not be limited to, the City's court costs and attorney fees. Such sums shall be made a part of any judgment entered and shall be enforceable as part of the final judgment.

(L) Penalty. Any person, partnership, corporation, limited liability company, or association, either as Owner or Operator, or in any other capacity, who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of these sections 154.830-154.835 shall be punished by a fine not less than One Hundred Dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they are in conflict with this ordinance.

Section 4. If any provision of this ordinance is adjudged invalid, such adjudication shall not affect the validity of the ordinance as a whole or of any portion not adjudged invalid.

Section 5. This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED AND APPROVED this _____ day of _____ 2024.

AYES: _____

NAYS: _____

ATTEST:

MAYOR

CITY CLERK