

ORD - 3578

AN ORDINANCE TO AMEND SECTIONS 102, 111, 401, 501, 601, 901, 1110, 1125, 1521 AND 2203 OF THE CITY ZONING ORDINANCE AND SECTION 5.2 OF THE OCEANFRONT RESORT DISTRICT FORM-BASED CODE AND ADD SECTIONS 209.6 AND 241.2 OF THE CITY ZONING ORDINANCE PERTAINING TO THE DEFINITION, REQUIREMENTS AND USE OF HOME SHARING AND SHORT TERM RENTALS

Sections Amended: City Zoning Ordinance Sections 102, 111, 401, 501, 601, 901, 1110, 1125, 1521, and 2203 and Oceanfront Resort District Form-Based Code Section 5.2

Sections Added: City Zoning Ordinance Sections 209.6 and 241.2

WHEREAS, the public necessity, convenience, general welfare and good zoning practice so require;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA:

That Sections 102, 111, 401, 501, 601, 901, 1110, 1125, 1521, and 2203 of the City Zoning Ordinance and Section 5.2 of the Oceanfront Resort District Form-Based Code are hereby amended and reordained, and Sections 209.6 and 241.2 of the City Zoning Ordinance are hereby added and ordained, to read as follows:

ARTICLE 1. GENERAL PROVISIONS

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Sec. 102. Establishment of districts and official zoning maps.

(a) In order to carry out the purposes and provisions of this ordinance, the following districts are hereby established:

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(a1) There are hereby established the ~~Shore Drive Corridor Overlay District.~~ following overlay districts:

(1) Shore Drive Corridor Overlay District ("SD");

(2) North End Overlay District ("NE");

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- (3) Old Beach Overlay District ("OB");
- (4) Historic Kempsville Area Overlay District ("HK");
- (5) Workforce Housing Overlay District ("WF"); and
- (6) Short Term Rental Overlay District ("STR").

Such districts shall be designated on the official zoning map by the an appropriate notation "~~SD~~" following the designation of the underlying zoning district. As an illustration, property in the Shore Drive Corridor Overlay District and in the B-4 Mixed Use District shall be designated on the official zoning map as having the classification "B-4(~~SD~~)."

~~(a2) There is hereby established the North End Overlay District. Such district shall be designated on the official zoning map by the notation "(NE)" following the designation of the underlying zoning district. As an illustration, property lying within the North End Overlay District and the R-5R Residential Resort District shall be designated on the official zoning map as having the classification "R-5R(NE)."~~

~~(a3) There is hereby established the Old Beach Overlay District. Such district shall be designated on the official zoning map by the notation "(OB)" following the designation of the underlying zoning district. As an illustration, property in the Old Beach Overlay District and in the R-5D Residential Duplex District shall be designated on the official zoning map as having the classification "R-5D(OB)."~~

~~(a4) There is hereby established the Historic Kempsville Area Overlay District. Such district shall be designated on the official zoning map by the notation "(HK)" following the designation of the underlying zoning district. As an illustration, property in the Historic Kempsville Area Overlay District and in the B-2 Community Business District shall be designated on the official zoning map as having the classification "B-2(HK)."~~

~~(a5) There is hereby established the Workforce Housing Overlay District. Such district shall be designated on the official zoning map by the notation "(WF)" following the designation of the underlying zoning district. As an illustration, property in the B-4 Mixed Use District and in the Workforce Housing Overlay District shall be designated on the official zoning map as having the classification "B-4(WF)." The Workforce Housing Overlay District shall be limited to property located within those areas of the city designated in section 2103 of this ordinance that has been rezoned to incorporate the Workforce Housing Overlay District as an overlay to the underlying zoning classification of the property.~~

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92 **Sec. 111. Definitions.**

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96 Home sharing. A dwelling in which a room or rooms are offered for rental for  
97 compensation for a period of less than thirty (30) consecutive days by an owner who  
98 utilizes the dwelling as his principal residence and occupies the dwelling during any  
99 such rental period.

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103 Hotel and motel. A building or group of attached or detached buildings containing  
104 dwelling or lodging units in which fifty (50) percent or more of the units are lodging units,  
105 and for which compensation is exchanged for short-term occupancy of the dwelling or  
106 lodging units. A hotel shall include a lobby, clerk's desk or counter and facilities for  
107 registration and keeping of records relating to hotel guests. ~~This term also includes~~  
108 ~~metels.~~

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112 Principal residence. Principal residence shall be the location where a person  
113 lives fifty (50) percent or more of the time. A person shall not have more than one (1)  
114 principal residence.

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118 Short term rental. A dwelling that does not meet the definition of home sharing in  
119 which a room or rooms, or the entire dwelling are rented for less than thirty (30)  
120 consecutive days for compensation.

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122 **ARTICLE 2. GENERAL REQUIREMENTS AND PROCEDURES APPLICABLE TO**  
123 **ALL DISTRICTS**

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125 **A. REGULATIONS RELATING TO LOTS, YARDS, HEIGHTS, OFF-STREET**  
126 **PARKING, OFF-STREET LOADING, AND CERTAIN USES**

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130 **Sec. 209.6. Home sharing.**

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132 To the extent permitted by state law, each dwelling offered as a home share  
133 must maintain registration with the Commissioner of Revenue's office and pay all  
134 applicable taxes.

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136 **C. CONDITIONAL USES AND STRUCTURES**

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**Sec. 241.2 Short term rental.**

Short term rentals shall be subject to the following conditions unless specifically modified by action of the city council in granting a conditional use permit or creating a short term rental overlay district:

1. Any property utilized as a short term rental shall provide adequate off street parking for its guests. A minimum of one parking space per bedroom is required. If such parking cannot be provided on-site, the owner must submit a parking plan indicating how the parking requirement will be met. Such plan shall be reviewed and approved by the Zoning Administrator. Stacking of vehicles shall be allowed and no on-street parking shall be part of the plan;
2. No events with more than fifty (50) people present, shall be held absent a special events permit. Events with more than fifty (50) people are limited to no more than three (3) events in a calendar year. No more than one hundred (100) people shall be present at any event held on the property;
3. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the short term rental within thirty (30) minutes. Physical response to the site of the short term rental is not required;
4. No signage shall be on site, except that each short term rental is allowed one (1), four (4) square foot sign, posted on the building which identifies the short term rental. Architectural signs naming the structure are excluded from this limitation;
5. To the extent permitted by state law, each short term rental must maintain registration with the Commissioner of Revenue's office and pay all applicable taxes;
6. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan;

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7. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code Sections 31-26, 31-27 and 31-28;
8. A short term rental shall have no more than two (2) rental contracts during any consecutive seven (7) day period;
9. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000.00) underwritten by insurers acceptable to the city;
10. There shall be no outdoor amplified sound after 10 PM or before 10 AM;
11. The maximum number of persons on the property after 11:00 PM and before 7:00 AM ("Overnight Lodgers") shall be three (3) individuals per bedroom;
12. Any short term rental that has registered and paid transient occupancy taxes to the Commissioner of the Revenue prior to July 1, 2018 shall be considered grandfathered and shall not be required to obtain a conditional use permit, but must meet the conditions of section 241.2. Any expansion of the footprint of the dwelling housing the short term rental that expands the overall square footage by more than 25% or 1,000 square feet, whichever is less, shall have its grandfathered status revoked and must immediately obtain a conditional use permit to continue such use. Grandfathered status shall run with the land;
13. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors shall be installed in each short term rental;
14. Accessory structures shall not be used or occupied as short term rentals;
15. In addition to other remedies available for violations of the City Zoning Ordinance, upon the occurrence of a violation of the provisions of this section; a violation of a condition imposed in a conditional use permit; or if the conditions for grandfathered status are no longer satisfied, the City Council may revoke the conditional use permit or grandfathered status of a property after notice and hearing as provided in Virginia Code Section 15.2-

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2204; provided, however, that written notice as prescribed therein shall be given at least fifteen (15) days prior to the hearing;

16. All conditional use permits issued for short term rentals shall expire five (5) years from the date of adoption. The renewal process of the conditional use permit will be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any conditional use permit for a STR, where the STR has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.

**ARTICLE 4. - AGRICULTURAL DISTRICTS**

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the AG-1 and AG-2 Agricultural Districts. Those uses and structures in the respective agricultural districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

Use	AG-1	AG-2
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<u>Home sharing meeting the requirements of section 209.6</u>	<u>P</u>	<u>P</u>
....		
<u>Short term rental</u>	<u>C</u>	<u>C</u>
<u>Short term rental within the Sandbridge Special Service District*</u>	<u>P</u>	<u>P</u>
<u>Short term rental within a STR Overlay District</u>	<u>P</u>	<u>P</u>

\*Sandbridge Special Service District defined in City Code Section 35.1-3.

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(b) *Accessory uses and structures.* Uses and structures which are customarily accessory and clearly incidental and subordinate to principal uses and structures, including but not limited to, an accessory activity operated for profit in a residential dwelling unit where (i) there is no change in the outside appearance of the building or premises or any visible or audible evidence detectable from outside the building lot, either permanently or intermittently, of the conduct of such business except for one (1) nonilluminated sign not more than one (1) square foot in area mounted flat against the residence; (ii) no traffic is generated, including traffic by commercial delivery vehicles, by such activity in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such activity is

251 met off the street and other than in a required front yard; (iii) the activity is conducted on  
 252 the premises which is the bona fide residence of the principal practitioner, and no  
 253 person other than members of the immediate family occupying such dwelling units is  
 254 employed in the activity; (iv) such activity is conducted only in the principal structure on  
 255 the lot; (v) there are no sales to the general public of products or merchandise from the  
 256 home, except for agricultural products, or agricultural-related products, incidental to an  
 257 agricultural operation on which the dwelling unit is located; and (vi) the activity is  
 258 specifically designed or conducted to permit no more than one (1) patron, customer, or  
 259 pupil to be present on the premises at any one time. Notwithstanding the provisions of  
 260 clauses (ii) and (vi) hereof, ministers, marriage commissioners and other persons  
 261 authorized by law to perform the rites of marriage may permit a maximum of eight (8)  
 262 persons on the premises at any one time in connection with the performance of such  
 263 rites, provided that all other requirements of subdivision (b)(2) are met. The following  
 264 are specifically prohibited as accessory activities: Convalescent or nursing homes,  
 265 tourist homes, massage or tattoo parlors, body piercing establishments, radio or  
 266 television repair shops, auto repair shops, or similar establishments. Rental of rooms in  
 267 a dwelling or the entire dwelling thirty (30) consecutive days or more is an accessory  
 268 use to the dwelling.

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 272 **ARTICLE 5. RESIDENTIAL DISTRICTS.**

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 276 **Sec. 501. Use regulations.**

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 278 (a) *Principal and conditional uses.* The following chart lists those uses permitted  
 279 within the R-40 through R-2.5 Residential Districts. Those uses and structures in the  
 280 respective residential districts shall be permitted as either principal uses indicated by a  
 281 "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X"  
 282 shall be prohibited in the respective districts. No uses or structures other than as  
 283 specified shall be permitted.

Use	R-40	R-30	R-20	R-15	R-10	R-7.5	R-5D	R-5R	R-5S	R-2.5
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Home sharing meeting the	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

<u>requirements of section 209.6</u>										
....										
<u>Short term rental</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Short term rental within the Sandbridge Special Service District*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Short term rental within a STR Overlay District</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

\*Sandbridge Special Service District defined in City Code Section 35.1-3.

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(b) *Accessory uses and structures.* Uses and structures which are customarily accessory and clearly incidental and subordinate to principal uses and structures and where such accessory structures do not exceed the height of the principal structure and, in all residential zoning districts, except for R-30 and R-40, do not exceed five hundred (500) square feet of floor area or twenty (20) percent of the floor area of the principal structure, whichever is greater. In the R-30 and R-40 residential zoning districts, accessory uses and structures shall not exceed thirty (30) percent of the floor area of the principal structure. Such accessory uses and structures include but are not limited to:

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(7) Rental of rooms in a dwelling or the entire dwelling thirty (30) consecutive days or more is an accessory use to the dwelling.

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**ARTICLE 6. - APARTMENT DISTRICTS**

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**Sec. 601. - Use regulations.**

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the A-12 through A-36 Apartment Districts. Those uses and structures in the respective apartment districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X"



313 shall be prohibited in the respective districts. No uses or structures other than as  
 314 specified shall be permitted.  
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Use	A-12	A-18	A-24	A-36
....				
<u>Home sharing meeting the requirements of section 209.6</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
....				
<u>Short term rental</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Short term rental within the Sandbridge Special Service District*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Short term rental within a STR Overlay District</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

\*Sandbridge Special Service District is defined in City Code Section 35.1-3.

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318 (b) *Accessory uses and structures.* Uses and structures which are customarily  
 319 accessory and clearly incidental and subordinate to principal uses and structures,  
 320 including but not limited to:

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324 (3) Rental of rooms in a dwelling or the entire dwelling thirty (30) consecutive  
 325 days or more is an accessory use to the dwelling.  
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**ARTICLE 9. - BUSINESS DISTRICTS**

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**Sec. 901. - Use regulations.**

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 335 (a) *Principal and conditional uses.* The following chart lists those uses permitted  
 336 within the B-1 through B-4K Business Districts. Those uses and structures in the  
 337 respective business districts shall be permitted as either principal uses indicated by a  
 338 "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X"  
 339 shall be prohibited in the respective districts. No uses or structures other than as  
 340 specified shall be permitted.  
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Use	B-1	B-1A	B-2	B-3	B-4	B-4C	B-4K
....							

<u>Home sharing meeting the requirements of section 209.6</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>
....							
<u>Short term rental</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Short term rental within the Sandbridge Service District*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Short term rental within a STR Overlay District</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

\*Sandbridge Special Service District is defined in City Code Section 35.1-3.

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(b) *Accessory uses and structures.* Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures, including, but not limited to:

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(2) Rental of rooms in a dwelling or the entire dwelling thirty (30) consecutive days or more is an accessory use to the dwelling.

**ARTICLE 11. - PLANNED DEVELOPMENT DISTRICTS**

**Sec. 1110. - Land use regulation.**

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(c) Within a PD-H1 District, all of the principal uses and structures permitted within an A-12 Apartment District other than hospitals and sanitariums, together with the following enumerated uses and structures, shall be permitted:

- (1) Fraternity and sorority houses, student dormitories and student centers;
- (2) Housing for seniors and disabled persons, with a conditional use permit;
- (3) Marinas;
- (4) Private clubs or social centers provided that clubs where conduct of commercial affairs is a principal activity shall not be permitted; and
- (5) Residential care for seniors, provided that no more than two (2) employees including a bona fide resident of the dwelling shall be permitted;
- (6) Home sharing meeting the requirements of section 209.6;

377 (7) Short term rentals within the Sandbridge Special Service District; and

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379 (8) Short term rentals within a STR Overlay District.

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381 (d) Within a PD-H1 District, the following uses shall be allowed as conditional uses:

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383 (1) Communication towers;

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385 (2) Family day-care homes;

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387 (3) Group homes;

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389 (4) Kennels, residential;

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391 (5) Religious uses;

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393 (6) Wind energy conversion systems, free standing and roof-mounted; ~~and~~

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395 (7) Home-based wildlife rehabilitation facilities, provided that the principal  
396 structure is a single-family dwelling and the lot is greater than two thousand  
397 five hundred (2,500) square feet.; and

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399 (8) Short term rentals.

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401 **B. - PD-H2 PLANNED UNIT DEVELOPMENT DISTRICT**

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405 **Sec. 1125. - Allowed uses.**

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407 Within the PD-H2 District, only the following uses and structures shall be permitted:

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409 (a) *Principal uses and structures.*

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411 (1) Dwelling units of the types specified in the land use plan;

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413 (2) Public buildings, structures, and other public uses;

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415 (3) Recreational facilities of the type described in the plan;

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417 (4) Child care education centers, in connection with public or private  
418 elementary schools or churches, provided that such uses shall not be  
419 eligible for residential density credit;

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421 (5) Day-care centers, provided that such uses shall not be eligible for  
422 residential density credit;

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(6) Public utilities installations and substations; provided offices or storage or maintenance facilities shall not be permitted; and provided, further, that utilities substations, other than individual transformers, shall be surrounded by a wall, solid except for entrances and exits, or by a fence with a screening hedge five (5) to six (6) feet in height; and provided also, transformer vaults for underground utilities and like uses shall require only a landscaped screening hedge, solid except for access opening;

(7) Home sharing meeting the requirements of section 209.6; and

(8) Short term rentals within the Sandbridge Special Service District; and

(9) Short term rentals within a STR Overlay District.

(b) *Accessory uses.* Uses which are customarily accessory and clearly incidental and subordinate to the principal uses shall be allowed as accessory uses. Rental of rooms in a dwelling or the entire dwelling thirty (30) consecutive days or more is an accessory use to the dwelling.

(c) *Conditional uses.*

(1) Religious uses, provided that such use shall not be eligible for residential density credit;

(2) Family day-care homes; foster homes and group homes, provided that such uses shall not be eligible for residential density credit;

(3) Home occupations;

(4) Housing for seniors and disabled persons; and

(5) Short term rental.

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**C. RT-3 RESORT TOURIST DISTRICT**

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**Sec. 1521. Use regulations.**

(a) The following chart lists those uses permitted within the RT-3 Resort Tourist District as either principal uses, as indicated by a "P" or as conditional uses, as indicated by a

468 "C." Conditional uses shall be subject to the provisions of Part C of Article 2 (section  
 469 220 et seq.). Except for single-family, duplex, semidetached and attached dwellings,  
 470 buildings within the RT-3 District may include any principal or conditional uses in  
 471 combination with any other principal or conditional use. No uses or structures other than  
 472 those specified shall be permitted. All uses, whether principal or conditional, should to  
 473 the greatest extent possible adhere to the provisions of the Special Area Design  
 474 Guidelines (Urban Areas) set forth in the Reference Handbook of the Comprehensive  
 475 Plan.

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Use	RT-3
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<u>Home sharing meeting the requirements of section 209.6</u>	<u>P</u>
<u>Short term rental</u>	<u>C</u>
<u>Short term rental within a STR Overlay District</u>	<u>P</u>

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478 (b) *Accessory uses and structures* : Uses and structures which are customarily  
 479 accessory and clearly incidental and subordinate to the principal uses and structures;  
 480 provided, however, that drive-through facilities shall not be permitted as an accessory  
 481 use:

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485 (2) Rental of rooms in a dwelling or the entire dwelling thirty (30)  
 486 consecutive days or more is an accessory use to the dwelling.

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488 **ARTICLE 22. - CENTRAL BUSINESS CORE DISTRICT**

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492 **B. - DEVELOPMENT REGULATIONS**

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496 **Sec. 2203. - Use regulations.**

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498 (a) The following chart lists those uses permitted within the Central Business Core  
 499 District. Uses and structures shall be allowed either as principal uses, indicated by a  
 500 "P", or as conditional uses, indicated by a "C." Uses and structures indicated by an "X"  
 501 shall be prohibited, unless allowed by special exception for Alternative Compliance

502 pursuant to Section 2205. No uses or structures other than as specified herein or as  
 503 allowed pursuant to subsection (b) shall be permitted.  
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Use	District CBC
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<u>Home sharing meeting the requirements of section 209.6</u>	<u>P</u>
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<u>Short term rental</u>	<u>C</u>
<u>Short Term Rental within a STR Overlay District</u>	<u>P</u>

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 506 (b) If a proposed use is not expressly permitted pursuant to subsection (a), but is  
 507 similar to a listed use, the Zoning Administrator may categorize the proposed use as a  
 508 use permitted by this section, either as a principal or conditional use. In determining  
 509 whether a proposed use is similar to a listed use, the Zoning Administrator shall  
 510 consider (1) the actual or projected characteristics of the proposed use in comparison  
 511 to those of the most similar listed use; and (2) the categorization of the proposed use  
 512 in the Standard Land Use Coding Manual (First Edition January 1965). Rental of  
 513 rooms in a dwelling or the entire dwelling thirty (30) consecutive days or more is an  
 514 accessory use to the dwelling.  
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516 **APPENDIX 1. - OCEANFRONT RESORT DISTRICT FORM-BASED CODE**

517  
 518 .....

519  
 520 **Sec. 5.2. Permitted Use Table.**  
 521

USE	MIXED-USE BUILDING		COMMERCIAL BUILDING	APARTMENT BUILDING	ROW HOUSE		DETACHED HOUSE	CIVIC BUILDING	Use Standard /Notes
	Ground Floor	Upper Floors	Ground Floor	All Floors	Ground Floor	Upper Floors	All Floors	All Floors	
LODGING									
....									
<u>Home sharing meeting the requirements of section 209.6</u>	=	<u>L</u>	=	=	<u>L</u>	<u>L</u>	<u>L</u>	=	See Sec. 209.6
....									
<u>Short term rental meeting the requirements of section 241.2</u>	=	<u>C</u>	=	=	<u>C</u>	<u>C</u>	<u>C</u>	=	See Sec. 241.2
....									

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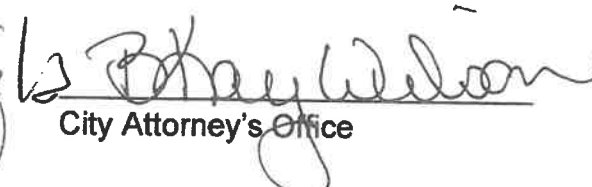
**THIS ORDINANCE SHALL BE EFFECTIVE NOVEMBER 19, 2019.**

Adopted by the Council of the City of Virginia Beach, Virginia, on the 15<sup>th</sup> day of January, 2019.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

  
Planning Department

  
City Attorney's Office

CA14500

R-23

January 16, 2019