



**CITY OF COLONIAL HEIGHTS, VIRGINIA  
MEETING OF THE PLANNING COMMISSION  
City Hall, Council Chambers, 201 James Avenue  
Wednesday, December 6, 2023  
6:00 p.m.  
AGENDA**

- I. Call to Order**
- II. Roll Call**
- III. Approval of Agenda**
- IV. Approval of Minutes for the October 3, 2023 meeting**
- V. Manner of Addressing the Commission**

Each speaker at Commission meetings shall, in an audible voice for the record, give his name and address and who he is representing if other than himself; and unless the Commission grants further time, shall limit his remarks to 5 minutes per issue. Provided, however, that the main proponent of any application, petition, or plan that is the subject of a Public Hearing shall be allowed to address the Commission for a maximum of 10 minutes, and later in rebuttal for a maximum of 3 minutes. All remarks shall be addressed to the Chairman and the Commission as a body and not to any member or staff person.
- VI. Hearing of Citizens Generally**
- VII. Recommended PC Rules Changes**
- VIII. Demonstration of Colonial Heights Economic Development website**
- IX. Old Business**
- X. Reports**
  - 1. Chairman – Mr. Hartson**
  - 2. Director of Planning and Community Development – Mr. Carter**
  - 3. City Engineer or his designee – Asst. Director of Public Works – Mr. Ryan**
  - 4. Others, as necessary or appropriate**
    - a. City Manager – Mr. Smith**

**b. City Attorney – Mr. Fisher**

**XI. Adjournment**



**MINUTES**  
**CITY OF COLONIAL HEIGHTS**  
**Regular Meeting of the Planning Commission**  
**Tuesday, October 3, 2023**

**I. Call to Order**

The meeting was called to order at 6:00 p.m.

**II. Roll Call**

Present:

Mr. Hartson

Mrs. Schiff

Mr. Wade

Mr. Kohan

Mr. Kwiek

Mrs. Levenson-Melvin

Mrs. Hamilton

Absent:

None

**III. Determination of Quorum**

A quorum was determined.

**IV. Approval of Minutes for the September 6, 2023 meeting**

Mrs. Hamilton pointed out that the names of two members of the public who spoke at the public hearing were misspelled which needs to be corrected as Ms. Lynne Ivey and Mr. Borwick. Mr. Kwiek pointed out his question to the staff about what would happen to the house at 105 Norfolk should it be burnt down and the staff's response to his question was missing in the minutes. He also pointed out that in two places on pages 5 and 6, his last name was misspelled.

Mrs. Schiff made a motion to approve the minutes as amended, Mr. Hartson seconded the motion, and all Commissioners voted to approve the minutes as written.

**Approved 7-0**

**V. Approval of Agenda**

Mr. Wade made a motion to approve the agenda, Mr. Kwiek seconded the motion, and all Commissioners voted to approve the motion.

## **Approved 7-0**

### **VI. Community Planning Month Declaration**

Mr. Carter shared that the City Council will make a proclamation during the Council meeting on October 10, 2023, recognizing the month of October as the National Community Planning Month and also recognizing the Planning Commission and staff. He added that community planning is important as it helps shape the future of communities. He introduced the concept of community planning, the various efforts that go into community planning, and the comprehensive impact planning has on the community.

Mr. Carter shared that the Planning Department will use this opportunity to kickstart engaging with the community in different ways. In October there will be announcements made on the City's social media platforms and the City's website about the proclamation itself and about a self-guided activity that residents can participate in as an interesting and fun way to learn about some of the highlights and landmarks of the City.

Mr. Hartson asked Mr. Carter what social media platforms will be used, to which Mr. Carter responded, saying the City's Facebook page, Twitter account, and the City's website will be used to make announcements.

### **VII. Reading of Manner for Addressing Planning Commission.**

Any member of the public addressing the Planning Commission shall approach the lectern, give his name and address in an audible tone of voice for the record, AND ADDRESS THE COMMISSION AS A BODY RATHER THAN SPEAK TO ANY MEMBER. Unless further time is granted by the Commission, ANY MEMBER OF THE PUBLIC shall address the Commission one time for a maximum of five (5) minutes, regardless of the number of issues he desires to discuss. PROVIDED however, that the main proponent of any application, petition, or plan that is the subject of a public hearing shall be allowed to address the Commission initially for a maximum of ten (10) minutes and later in rebuttal for a maximum of three (3) minutes.

Mr. Wade addressed the Commission and thanked them on behalf of the City Council for their service on the Planning Commission.

Mr. Carter read out the manner for addressing the Planning Commission for the benefit of all participants and mentioned that these rules apply to members of the public addressing the Commission during "Hearing of Citizens Generally" and members of the public choosing to speak during public hearings.

Mr. Hartson asked for clarification on whether the applicant speaks first before other members of the public address the Commission. Mr. Fisher confirmed that the applicant should present first.

Mr. Fisher addressed the Chair and shared that the contents and the design of the agenda of the Planning Commission meetings need revisions. He said that these suggested revisions to the rules of procedure will be brought before the Commission in January for consideration. Mr. Hartson agreed that it was a good idea.

**VIII. Hearing of Citizens Generally**

No citizens spoke.

**IX. Public Hearings**

**A. PC RESOLUTION NO. 23-05 and Ordinance Number 23-20**

Concerning amendments to §§ 286-320.08, 286-320.10, 286-320.14, and 286-320.16 of Chapter 286, Zoning, of the Colonial Heights City Code, to comply with regulations issued by the Federal Emergency Management Agency’s National Flood Insurance Program.

Mr. Carter shared the Federal Emergency Management Agency (FEMA) finalized the flood hazard determination for the City of Colonial Heights in July 2023. As a condition of continued eligibility in the National Flood Insurance Program (NFIP), the City is required to adopt the floodplain management regulations that meet the standards of 44 CFR Part 60.3(d) of the NFIP regulations before the effective date of January 11, 2024, by amending the existing regulation to incorporate the additional requirements.

The FIS and FIRM effective date were changed from August 2, 2012, to January 11, 2024. Definitions added for “Appurtenant or Accessory Structure”, “New Construction”, and “Severe Repetitive Loss Structure” in § 286-320.16. Elevation and construction standards for accessory structures were added in §286-320.10 (D).

The Virginia Department of Conservation and Recreation (DCR) has reviewed the revisions to the ordinance and has determined that they met the requirements of the NFIP regulations.

Mr. Carter added that the amendments are not discretionary; the City is required to make the changes to the existing ordinance. He also shared that the staff has not received any comments from the public on the amendments to the ordinance.

Mr. Hartson opened the floor for a public hearing.

No citizens spoke.

Mr. Hartson shared his compliments for the detailed work by the staff.

Mr. Carter reiterated that a consequence of updating the ordinance is lower insurance rates for residents who live within the floodplain.

Mr. Hartson asked how the residents get notified that they are in flood zones. Mr. Carter responded that if the property owners have a mortgage, then the lien holder will notify the property owner and usually also require the property owner to attain flood insurance. Those property owners without a mortgage may learn they are located in a flood zone from FEMA’s advertisement of the revised maps. Residents can contact staff and the staff can help determine if the property is in a floodplain. The property owner can also find out from the FEMA website using FEMA’s online tool.

Mr. Carter stated that Ms. Rao was the project manager leading the revision of the City’s floodplain ordinance, but was unfortunately unable to attend the meeting to present.

Mr. Hartson expressed appreciation of the efforts of Ms. Rao in coordinating with the state

and with the City Attorney's office to ensure that all the required changes to the ordinance were incorporated and that the FEMA requirements were met satisfactorily.

Mr. Wade asked if the updates were based on 100-year flood data. Mr. Carter concurred, but stated there was a change in the preferred language which reads as one percent annual chance opposed to 100-year floodplain. Updates are based on data received from flood insurance companies.

Mrs. Schiff made a motion to approve Resolution 23-05 and Ordinance Number 23-20. Ms. Levenson-Melvin seconded the motion, and all Commissioners voted to approve the motion.

**Approved: 7-0**

**B. PC RESOLUTION NO. 23-06 and Ordinance Number 23-21**

Concerning amending Colonial Heights City Code in the following ways: 1) amending § 258-52 of Chapter 258, Taxation, by including a short-term rental dwelling as a hotel for purposes of the transient lodging tax and defining a "Transient" as a person who obtains lodging at a hotel for fewer than 30 consecutive days; (2) adding to § 286-202.10 of Chapter 286, Zoning, definitions for "Operator", "Short-Term Rental", and "Short-Term Rental Dwelling"; 3) adding "Short-term rentals, hosted and non-hosted" to § 286-300.04 of Chapter 286 as a permitted commercial use type in the RL Low Density Residential District; 4) adding to Chapter 286 a new § 286-410.70 regulating short term rentals, and 5) adding to §286-518.18 of Chapter 286 an off-street parking requirement for short term rental dwellings.

Mr. Carter recapped the background for the ordinance amendment, starting with a reminder that Planning staff performed research on the short-term rental use, and regulations adopted by Virginia localities for the use, and presented the findings to the Planning Commission in May 2023. Staff asked questions of the Planning Commission for feedback on developing an ordinance to regulate the use. This feedback was presented to City Council in June 2023, where City Council scheduled a work session for July 19, 2023, to consider staff's findings and recommendations. On July 19, 2023, the City Council, gave the direction for drafting the ordinance to regulate the short-term rental uses in the City. On September 12, 2023, the City Manager reported to the City Council that staff incorporated all of the requirements directed by the Council in the draft ordinance. The City Council found the ordinance acceptable to be forwarded to the Planning Commission for consideration.

No public comments were received at the time of this presentation except a letter from the Southside Virginia Association of Realtors which was received by the staff on October 2, 2023, and shared with the Commissioners.

Mr. Carter mentioned that the focus of the resolution is to have an ordinance that will not only regulate the use in the City but also meet the taxation requirements as stipulated in the State code.

Mr. Kohan asked Mr. Carter, what happens to a non-hosted short-term rental following the allowed 180 days of operation? Mr. Carter responded that the property owners will have to decide on what works for them. Mr. Kohan asked if the property owner will have to maintain

the property and cut grass. Mr. Fisher added that the property owner will have to comply with all the zoning ordinance requirements of the City.

Mrs. Schiff asked if it was more profitable to the property owner to use the property as a short-term rental as compared to year-round renting. Mr. Carter responded that it varies from property to property based on the upkeep of the property and many variables.

Mr. Fisher added that the decision is dependent on the property owner's comfort level as to whether the property owner wants a more secure long-term lease or a possibly more inconsistent week-to-week rental.

Mr. Kohan asked the staff if there would be an inspection every time a permit is reissued to which Mr. Carter responded saying, "Yes". Staff will inspect the unit every time a permit is submitted for application.

Mr. Kohan asked if a duplex is considered a hosted rental or a non-hosted rental if the owner is residing in one of the two houses. Mr. Carter responded that since both the houses are on the same piece of property it would be considered a hosted short-term rental. Mr. Fisher added that short-term rental is being allowed only in Residential Low Density District, where, a duplex is not an allowed use by right.

Mr. Kohan asked how many houses will the 5% limit translate into for each neighborhood. Mr. Carter responded that there are nine neighborhoods established under the CDBG program in the City. The same is being considered for the purposes of delineation of neighborhoods for the Short-Term Rental Ordinance as well. Each neighborhood comprises an estimated 200 units with some neighborhoods having more or less. Based on 200 units in a neighborhood, 5% will translate into around 10 houses in each neighborhood.

Mr. Kohan asked when would the ordinance be presented to the City Council for approval. Mr. Smith responded that it would be in November 2023.

Mr. Kohan asked the staff if the language in the 'Permit renewals and Prohibition of rental unit activity' in the ordinance states "multiple" violations, how is multiple defined? Mr. Fisher responded that multiple violations are more than three occasions which is stated in the ordinance language in the same section.

Mr. Kohan asked the staff if a permit is revoked when can they reapply? Mr. Carter responded that the applicant will have to wait a full calendar year to reapply.

Ms. Schiff asked if the application was submitted during the middle of the year, would it last a year. Mr. Carter stated the language in the ordinance states that their permit would only be valid for the rest of the calendar year and the owner would have to reapply for the upcoming year.

Mr. Kohan asked if the inspection is the responsibility of current employees. Mr. Carter responded that it would be the responsibility of the current employees of the City. To this, Mr. Kohan commented that January will be very busy with short-term rental inspections.

Mrs. Schiff asked whether inspections would be in response to complaints except for the initial inspection at application. Mr. Carter responded that would be the norm. He added that public safety organizations will receive the information of each short-term rental to know which properties include the use.

Mr. Hartson asked when the rental was itself a commercial use of the property, how relevant is the language in the ordinance that says rentals shall not be used for commercial activities? Mr. Carter responded that this was a summary and the ordinance language specifies what the commercial uses are.

Ms. Hamilton asked if the staff had considered advertising the list of short-term rentals on the City's website so concerned citizens in the neighborhoods could be aware and vigilant.

Mr. Fisher responded that advertising will depend on how much the City wants to propagate the use. Mr. Hartson suggested that the City should allow the use, but not necessarily promote it.

Mr. Hartson added that the properties can be located using websites such as Airbnb and other competitor websites. Mr. Carter added that Vrbo and Homestay have similar listing of properties like Airbnb.

Mr. Kohan asked who is going to monitor the short-term rentals. Mr. Carter said the Commissioner of Revenue will monitor the taxation aspect as he already gets reports from a few located within the City. The Department of Planning will monitor the zoning aspect of the ordinance. Issues regarding violation of the ordinance will be reported by the residents of Colonial Heights.

Mr. Kwiek asked if the City needs to notify the homeowners' associations (HOA) as a gesture of good faith before approving the ordinance. Mr. Carter responded that it was not required as the City had already made a public advertisement.

Mr. Wade asked if the HOA regulations supersede the ordinance. Mr. Carter responded that it does not supersede but it also applies. Mr. Fisher explained that they will both apply; however, if the HOA regulations are stricter than the City regulations, the stricter standard will apply as long as it is legal.

Mr. Hartson commented that neighborhoods could organize HOAs to prohibit STRs.



Mr. Hartson asked if an existing homeowner is held to new HOA restrictions. Mr. Fisher responded that was possible only if they volunteered to the HOA restrictions.

Mr. Tyler Craddock from the Southside Virginia Association of Realtors spoke. He requested that Bullet Point #4 in their letter to the Planning Commission on the permit fee be disregarded.

He said the draft ordinance is structured in a way that sets very clear guidelines for a short-term rental operator. The clearer the guidelines, the easier it is for a homeowner to operate a short-term rental. It provides consistency and predictability.

Mr. Hartson asked Mr. Craddock to give the rationale behind the two requests made in their letter – remove the 180-day limit for tenancy and remove the maximum guest limit of six.

Mr. Craddock explained that the normal vacancy rates of a rental would make it so that a short-term rental would not be rented every day of the year. Hence, there is no logical need for the 180 days cap on rented days. If the property owner is complying with all the norms in the ordinance and all other zoning ordinances of the City, then there is no rationale for limiting the days of operation. The number seems arbitrary he said.

A regulation of two people per bedroom is driven based on the number of bedrooms, going by the definition of a bedroom per the code seems more rational for bigger houses that have 4-5 bedrooms by removing the maximum limit of six people.

Ms. Levinson-Melvin shared that she supports the recommendation that the guest limits should be limited to two people. She also shared that the City of Norfolk, Virginia, had an online registry of the short-term rental permits which specified the number of bedrooms and limited the occupancy to two people per bedroom.

She asked Mr. Craddock to address their recommendation on extending the short-term rental use to other residential zoning districts.

Mr. Craddock responded that in places where the zoning ordinance allows for more transient/commercial uses that do not allow for short-term rentals, opening up the ordinance will allow opportunity for more homeowners.

Ms. Levinson-Melvin shared her opinion on the permit fee. She said the highest fee that she has seen in her research across localities is \$300. She said she believes the permit fee is high given that the owner is already paying property taxes and covering the costs of complying with the ordinance. She recommended that the Commissioners and the staff consider decreasing the permit fee. She also agreed that there should be more flexibility on the 180-day limit for rental in the ordinance.

Mr. Hartson asked if there was a way to include the recommendations of the Commission for the City Council to consider. Mr. Fisher responded that the draft ordinance presented before the Commission had everything that the Council wanted to go forward. If changes are made, the City Council may not approve in time for it to be adopted this year.

Mr. Hartson agreed with Mr. Fisher and suggested that all the different recommendations be taken and considered during the first year of operating the new Short-Term Rental Ordinance. Mr. Fisher added that there will likely be changes anyway.

Mr. Levinson-Melvin pointed out that the ordinance did not have a provision for requiring a certificate of insurance like many other City ordinances did. Mr. Fisher responded that this should be the onus of the lessee to check whether the property is insured and the City should not take responsibility for this.

Mr. Levinson-Melvin asked if the comprehensive plan needed any amendment based on the Short-Term Rental Ordinance. Mr. Hartson said there may not be a need to amend until the next revision of the Comprehensive Plan.

Mrs. Schiff shared that people wanting to buy homes in the City should be able to find out if there are short-term rentals in the neighborhood where they plan to buy homes for their families.

Mr. Wade asked Mr. Craddock what is the average stay for a short-term rental. Mr. Craddock said it varies from city to city. Mr. Wade said that without knowing the average stay, it would be difficult to decide if the limit of 180 days is unnecessary; hence, the 180 days limit seems realistic for now. He mentioned that there are a lot of hotels in the City that take the burden off of short-term rentals to house visitors. He agreed with the City Attorney that the City should not get involved by mandating insurance requirements for short-term rentals. The insurance risk is much higher for short-term rental than for long-term renters. Limits of liability could put the homeowner at risk of footing high bills.

Mr. Wade recommended the current permit fee and review by prospective services such as EMS, Fire, etc. Mr. Wade shared that the City has to be concerned with flash gatherings. Hotels are better equipped to control these situations than short-term rentals. Many localities are tightening down on short-term rental operations.

Mr. Wade appreciated inputs from Mr. Craddock and shared that the Commission needs more input from citizens and representative groups.

Mr. Craddock thanked the Commission for this opportunity and offered to work with the City and share information as the adoption of the Short-Term Rental Ordinance moves forward.

Mr. Ray Furguson, owner of 2200 Boulevard, a real estate investor and a retired army officer, shared that Colonial Heights is the second highest Airbnb operator in VA. He shared that all data related to short-term rentals in the City is available at [www.Airdna.co](http://www.Airdna.co). He added real estate investors maintain their properties better than more long-term rentals, military bases rely on Short-Term Rentals. The City needs to be investor-friendly. Restrictions such as 180 days are unnecessary. If an operator is keeping in compliance, then he/she should be allowed to operate all year. Enforcing a limit on Short-Term Rentals to 5 percent per neighborhood will be a challenge.

Mrs. Levenson-Melvin made a motion to approve Resolution 23-06 and Ordinance Number 23-21. Ms. Schiff seconded the motion and all Commissioners voted to approve the motion.

**Approved: 7-0**

**X. Old Business**

None

**XI. New Business/Reports**

**Reports**

**1. Chairman – Mr. Hartson**

Mr. Hartson shared that he noticed the Swim Club property at Sherwood Hills was being surveyed; and upon inquiry, he was told that the new owner is looking at developing the property with single family homes.

**2. Director of Planning and Community Development – Mr. Carter**

Mr. Carter shared details about an upcoming public hearing and public comment on the CAPER scheduled for October 16<sup>th</sup> at 3:00 PM in City Hall. This is an opportunity for people to review the City's performance of its Community Development Block Grant program funded by HUD for home repairs of low-moderate income group families for the program year 2022-23 and give their feedback and suggestions. The City received approximately \$106,000 for the program year 2022-23. With the rollover funds from the previous program year, the total expended amount during the program year 2022- 23 is approximately \$134,000. The money was used for home repair works which included roof repair, accessibility improvements, and HVAC replacement. With staff oversight, Project Homes, who is the subrecipient, undertakes the actual repair work. Project Homes has a list of contractors to utilize for projects.

Staff is also contacting the applicants who have benefitted from the program during the program year to get their feedback.

Mr. Carter shared that in earlier years, the annual target of 10 homes for the grant program was not always met; however, during the program year 2022-23 the City exceeded the target and was able to serve 11 eligible homeowners.

Mr. Carter shared that a few applications of plans for development and plats have been scheduled, and are tentatively scheduled to come before the Commission in November.

**3. City Engineer or Designee –Director of Public Works – Mr. Ryan**

Mr. Ryan updated the Commissioners on the status of the ongoing projects in the City. He shared that the Westover Avenue project is progressing with the relocation of the water meters left; the Boulevard improvement project- milling is completed, and filling is expected to be completed during the coming week; Birch Avenue to bridge approach at Swift Creek; Lakeview Avenue project- most of the roadwork is complete; and North Elementary School -the installation of the sidewalks is complete.

**4. Others, as necessary or appropriate**

**a. City Manager – Mr. Smith**

Mr. Smith thanked the Planning and Legal staff for all the work they put into the Short-Term Rental ordinance. Mr. Smith shared updates on some recent business in the City.

- Towne Place Suites will be open for business this month.
- The City Council and Economic Development Authority (EDA) have approved an economic development incentive that will help provide a rebate of some lodging taxes to the Home2 Suites project that came previously before the Planning Commission. Mr. Hartson asked Mr. Smith if there was a retail component plan to this. Mr. Smith replied that he was not aware of its status.

Mr. Kohan asked for an update on the status of the dam at Lakewood. Mr. Ryan responded that as per the directions of the Federal Energy Regulation Commission (FERC), the City is in the process of installing the buttress winged wall to mitigate any soil erosion that may occur. Mr. Kohan asked when this would be completed. Mr. Ryan responded that he was not sure as the team had met some unforeseen hurdles.

**b. City Attorney – Mr. Fisher**

Mr. Fisher shared that pickleball courts are being installed at Lakeview Park.

**XII. Adjournment**

Chairman Hartson asked the Planning Commission if there was any further questions or comments with the Planning Commission members shaking their head no, the meeting was adjourned at 8:00 p.m.

X

---

Mitchell Hartson  
Chairman

X

---

Joseph Carter Jr.  
Secretary

STAFF RECOMMENDED CHANGES TO SECTION 7.7 OF THE PLANNING COMMISSION  
RULES OF PROCEDURE

7.7 The agenda for regular meetings shall consist of the following components, except any such components shall be omitted from a meeting agenda if they are not relevant to the meeting:

(a) Call to Order

(b) Roll Call

(c) Approval of Agenda

(c) Approval of Minutes

(d) Manner of Addressing the Commission:

Each speaker at Commission meetings shall, in an audible voice for the record, give his name and address and who he is representing if other than himself; and unless the Commission grants further time, shall limit his remarks to 5 minutes per issue. Provided, however, that the main proponent of any application, petition, or plan that is the subject of a Public Hearing shall be allowed to address the Commission for a maximum of 10 minutes, and later in rebuttal for a maximum of 3 minutes. All remarks shall be addressed to the Chairman and the Commission as a body and not to any member or staff person.

(e) Hearing of Citizens Generally

(f) Public Hearings

(g) Preliminary Plans of Development and Subdivision Plans

(h) Old Business

(i) Reports

1. Chairman
2. Director of Planning and Community Development or his designee
3. Representative of the Public Works Department
4. City Manager
5. City Attorney

(j) Adjournment

Additional items may be added to a regular meeting agenda when appropriate.

[Note: The above-specified agenda completely replaces the current agenda specified in Section 7.7 of the Rules of Procedure. Also, given paragraph d above, current Section 7.10 is deleted; and the remaining Sections of the Rules of Procedure are renumbered.]