


DEPARTMENT OF SAFETY AND PERMITS
CITY OF NEW ORLEANS

LATOYA CANTRELL
MAYOR

TAMMIE JACKSON
DIRECTOR

ZONING INTERPRETATION MEMORANDUM
Memorandum Z-24-01

DATE: **June 7, 2024**

FROM: **Tammie Jackson, Director** 

BY: Ashley Becnel, Chief Zoning Official

RE: Bed and Breakfasts and Non-Commercial Short-Term Rentals

The Department of Safety and Permits (DSP) has been asked by the City Planning Commission (CPC) to provide an interpretation of the City Code (CCNO) and Comprehensive Zoning Ordinance (CZO) related to the interplay between non-commercial short term rentals (NSTRs), both through the lottery and special exception process, and bed and breakfasts (B&Bs), since both are subject to density restrictions. We hope that this memorandum provides the needed guidance, both to the CPC and to the public.

Overview of the uses involved:

Non-commercial short-term rentals (NSTRs) are a temporary use under [CZO 21.8.C.18](#). NSTR applications may *only* be made during the [four application periods](#) which each last one week per year. NSTRs may be renewed annually, and the application to renew must be made to the STR Division of DSP during the [once-yearly renewal application period](#). NSTRs may only be renewed if they are in good standing—meaning that they have not been revoked by a hearing officer or that the property has not been blocked from conducting any STR uses under [CCNO 26-628\(f\)](#). NSTRs may not be transferred, so if a NSTR licenseholder sells their property, the transferee may not assume the license.

Bed and Breakfasts (B&Bs) are a principal use under the CZO, and are a conditional use in all districts. B&Bs must be located in a *single-family* home by definition and the operator must reside on-site per [CZO 26.6](#). They fall into two types—accessory and principal—and are subject to use standards that regulate the number of rooms that may be rented, signage, and use of common areas for social events, among other things. Because they must be in a single-family home, [there may only be one kitchen in the B&B](#). Initial application for a new B&B should be made with CPC since they are a conditional use. Once the conditional use is approved, including recordation of approved plans, application for a B&B mayoralty permit may be made through the Zoning Division of DSP. Renewal of B&B mayoralty permits is handled by the Bureau of Revenue.

	NSTRs	B&Bs
Temporary or permanent use?	Temporary	Permanent
Subject to limits on number per block?	Yes	Yes

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When can I apply?	During 4 yearly application periods	Anytime
Who do I apply with?	STRA	CPC
Who do I renew with?	STRA	Revenue
How many of these can there be in any block?	Up to 3*	1**
Are these subject to the lottery?	Yes	No
Can I get this license through the special exception process?	Yes	No
Can I get this through a conditional use?	No	Yes
Can I do this in a double or another dwelling on my lot?	Yes	No
Do I have to renew my license every year?	Yes	No
Do I need an operator license?	Yes	No
Do I need to register with the STRA to advertise on platforms?	Yes	Yes
Can I transfer this license to someone else who is acquiring the property?	No	Yes

* Each square may generally have 1 NSTR from the lottery process and up to 2 more through the special exception process. In certain other limited cases, such as a non-conforming commercial STR after a zoning change or a NSTR associated with a Small Affordable Multi-Family Development, there may be additional NSTRs on a square.

**There are certain cases, such as legal non-conformities, where there may be more than one B&B per block. No new B&Bs may be added to blocks that already house B&Bs or NSTRs under the current laws.

What is the Special Exception Process?

Although the short-term rental regulations generally allow only one NSTR per square, up to two additional NSTRs may be allowed by the City Council through the “Special Exception” process. The Special Exception process requires an applicant to submit an application to the City Planning Commission, hold a meeting called a “Neighborhood Participation Program” (NPP) to inform interested neighbors of the application, and pay an application fee.

Eligible applicants for the process will receive an “Affirmative Request” form, generated by the Department of Safety and Permits, and auto-populated with information provided by the applicant from their initial NSTR license application. Applicants will need to have both the owner and operator sign the form and submit it to the appropriate email address to formally initiate the special exception request.

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Once the affirmative request is received, the City Planning Commission staff will send the materials for conducting an NPP meeting (including an address list of surrounding properties and owners within a 100-foot buffer), as well as information for completing their application. A completed application will contain the NPP meeting summary report and a response letter addressing the six (6) criteria approval standards, individually. The applicant will receive an invoice for a non-refundable fee payment of \$500.

Once a complete application is submitted to the City Planning Commission, the Commission's staff will issue a report recommending that the Council approve or deny the application. The City Planning Commission will issue this report within 60 days of receiving a complete application. The report will be sent to the City Council. The City Council will have 60 days from receiving the report to approve or deny the application.

What Can Be on a Square?

There can be one bed and breakfast per square, with certain limited exceptions. If a bed and breakfast is on the square, all NSTR applications must go through the special exception process.

If there is no bed and breakfast on the square and only one NSTR application, that NSTR applicant can receive their license without the lottery occurring.

If there is no bed and breakfast on the square and there are more than one NSTR applications, there will be a lottery for the square. The applicant drawn first in the lottery will receive their license as long as it is complete and paid within 5 days of notice from the Department. If the applicant doesn't pay timely, this opportunity passes to the applicant drawn second in the lottery. If the applicant drawn first pays timely and receives their license, the remaining applicants may apply for a special exception permit.

These graphics may help to visualize this.

Here is a square with no bed and breakfasts and no NSTRs:

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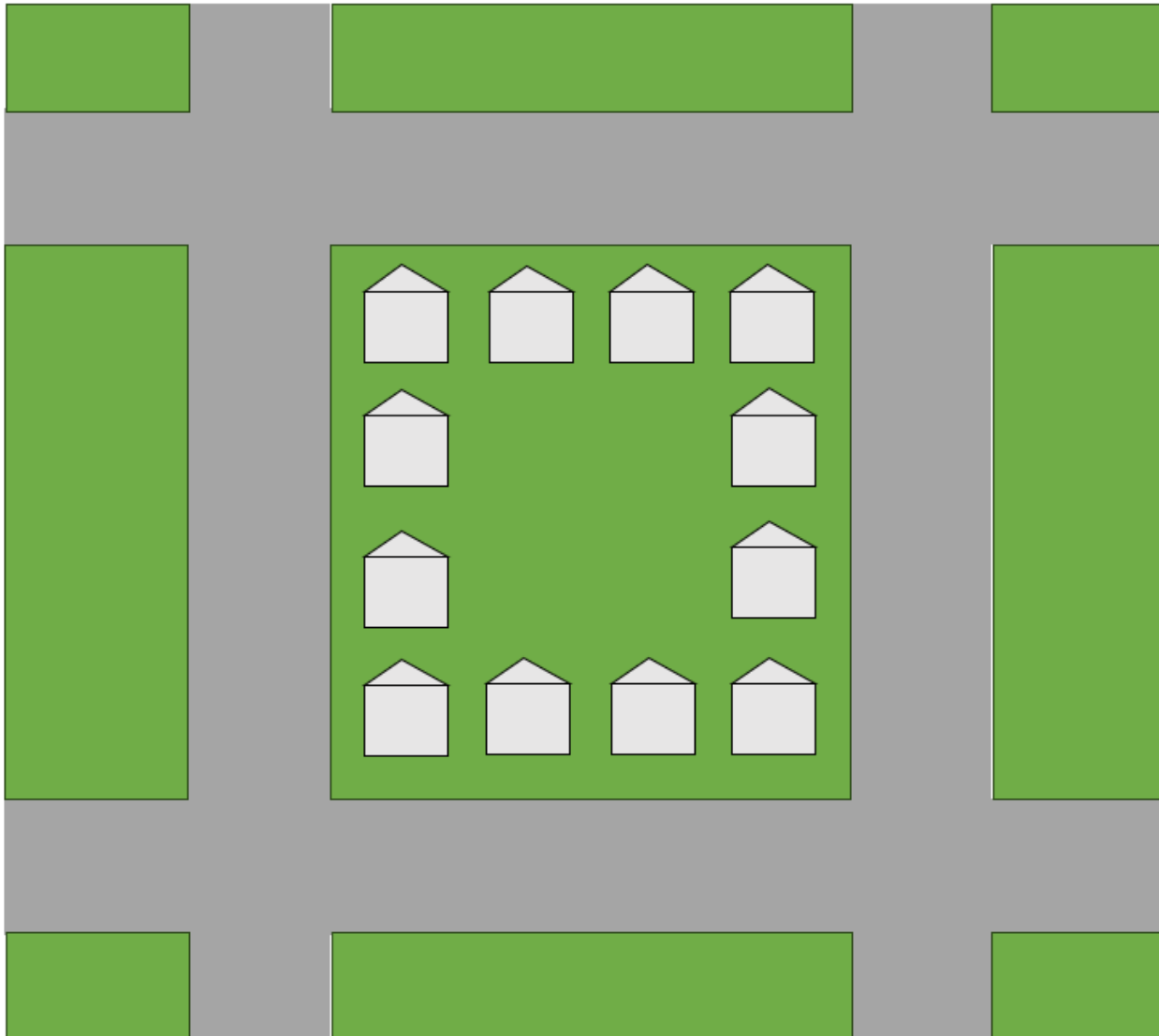


Figure 1: Square with no bed and breakfasts or non-commercial short-term rentals

In the STRA, we refer to these as “open squares.”

Because there are no NSTRs on this square, an applicant could apply for a conditional use for a new bed and breakfast on this square.

Once the next application period starts for NSTRs, CPC will not accept B&B conditional use applications for this square until it is clear that the square will remain an *open square*.

Let’s imagine now that a B&B has joined this square. The B&B is represented as a blue triangle in the graphic below:

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Figure 2: Square with one bed and breakfast and no non-residential short-term rentals

A complete conditional use application for a B&B will “hold” the square in the same way an operating, licensed B&B would. If a square is *held*, it means that no NSTR permit can be distributed through lottery and that no more B&B conditional use applications can be accepted.

Because there is a B&B on this square, anyone seeking a NSTR for this square would have to go through the special exception process. There can be up to two special exception NSTRs on a block with a B&B. These special exception NSTRs are represented as yellow circles in the below graphic:

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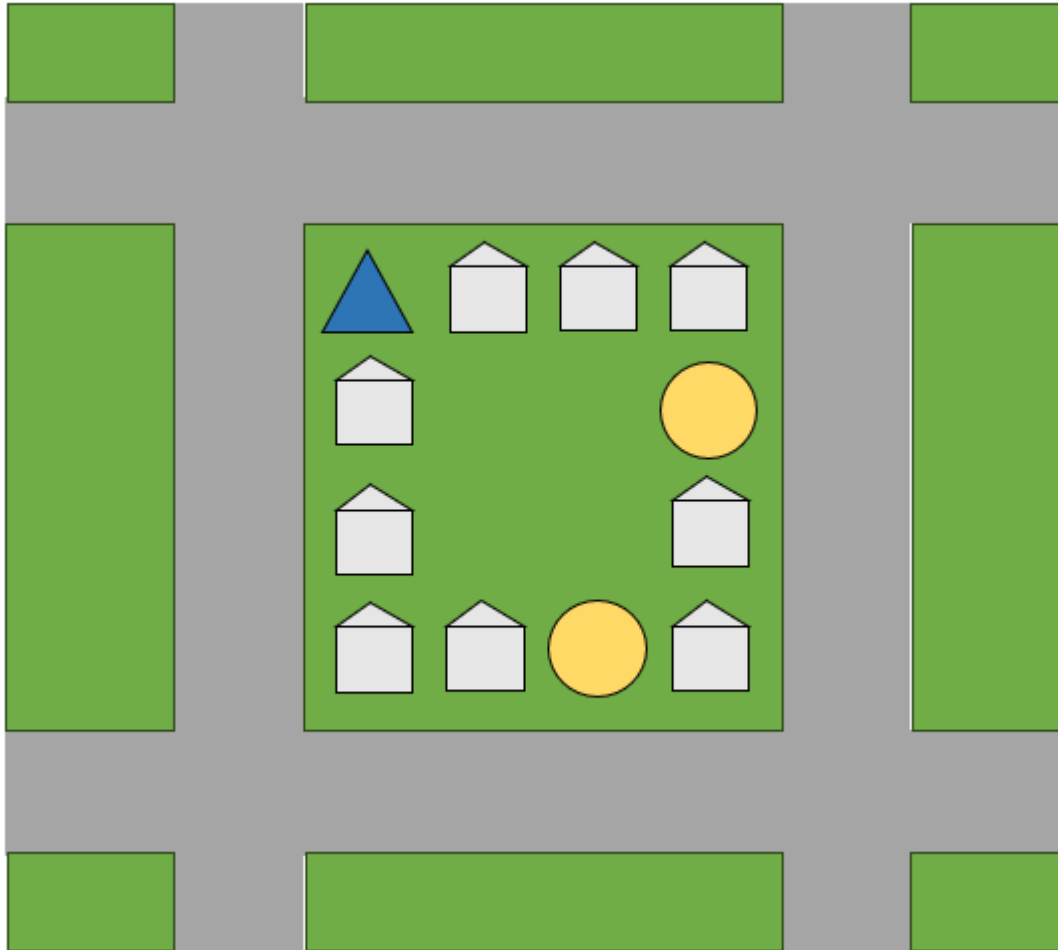


Figure 3: Square with one bed and breakfast and two non-commercial short-term rentals obtained through the special exception process

No additional B&Bs or NSTRs would be able to be granted to this square through lottery, special exception, or conditional use, since it's at capacity. We call this a "full square."

A similar process is at play even when there is no B&B. Let's go back to our *open square*.

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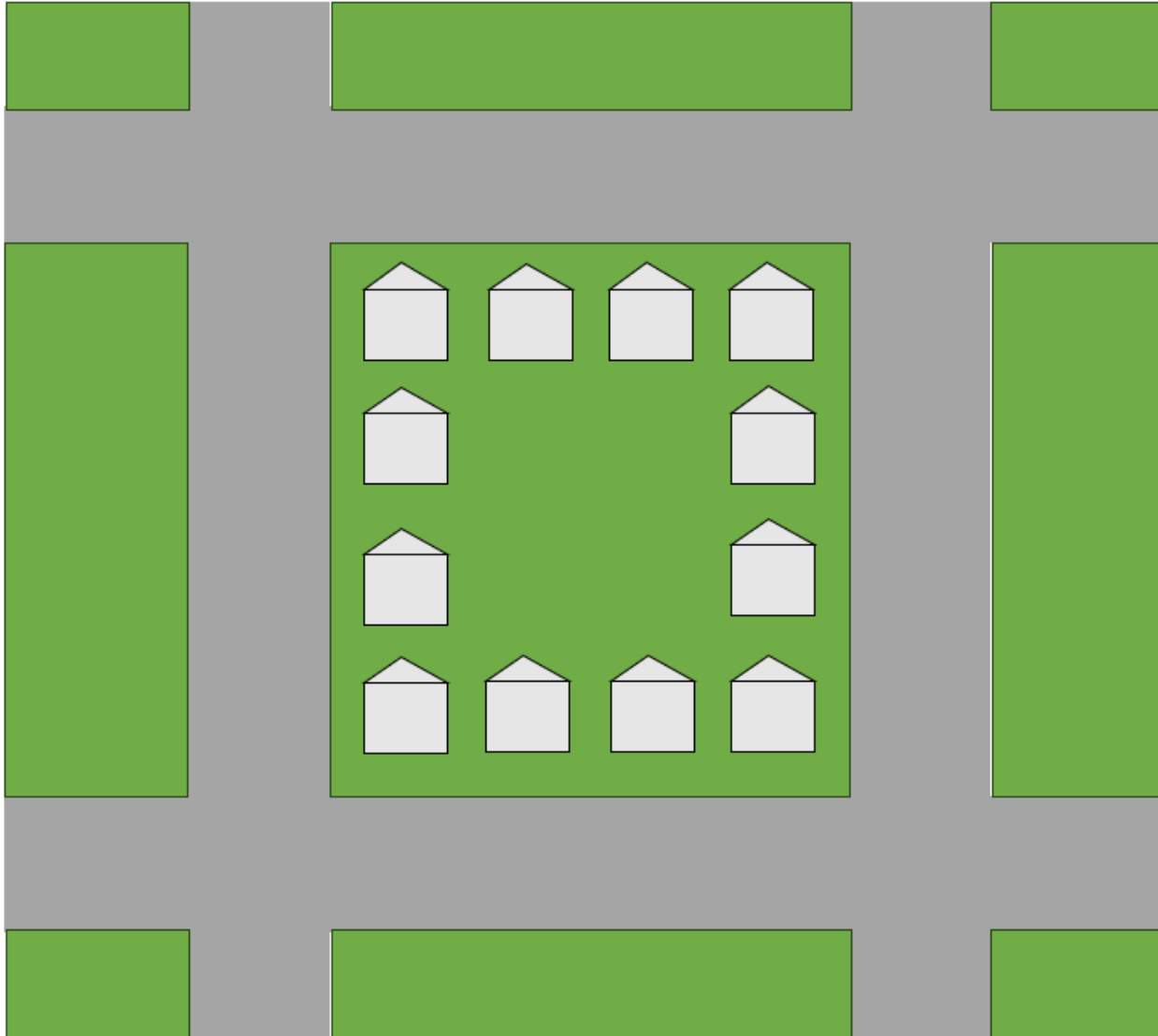


Figure 4: Square with no bed and breakfasts or non-commercial short-term rentals
Now, rather than a B&B, let's assume that there are three applicants for NSTRs for this square. The City would hold a lottery for this square. The applicant that comes in first in the lottery pays for and receives their permit. They're depicted in the graphic below with a diamond:

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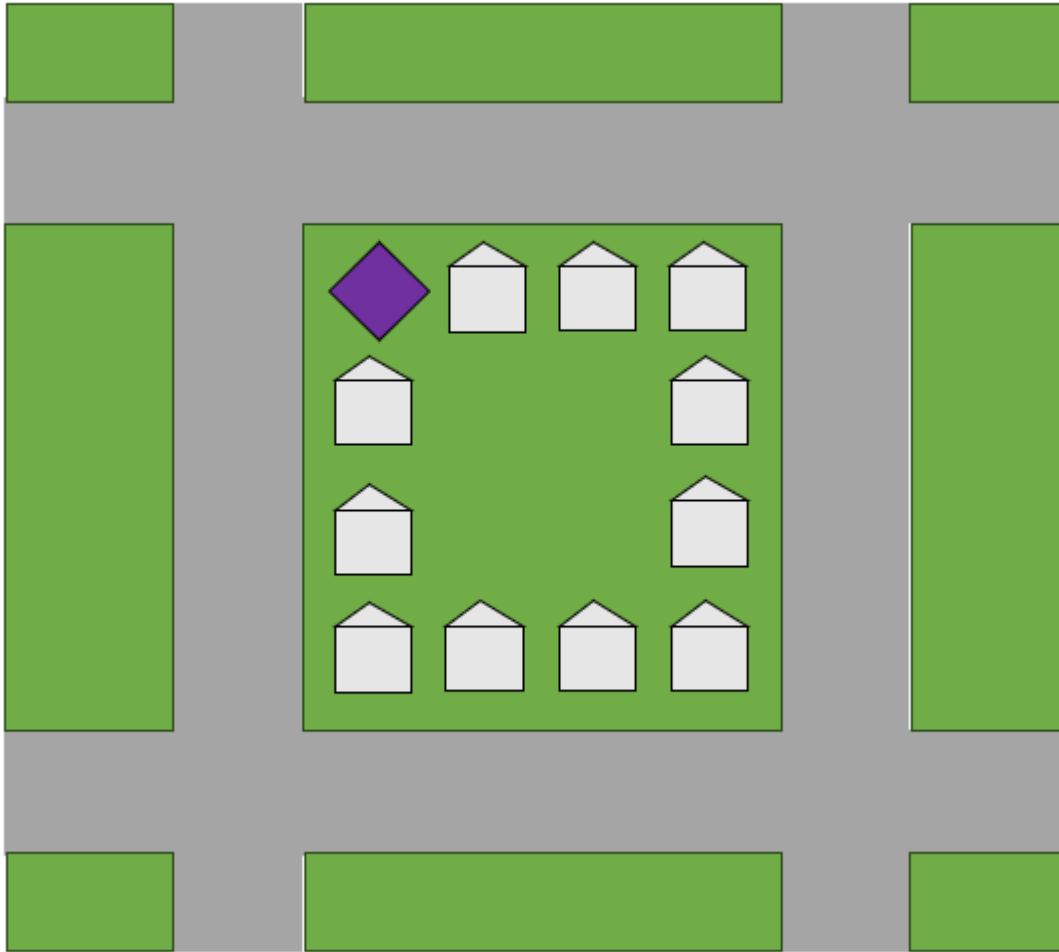


Figure 5: Square with no bed and breakfasts and one non-residential short-term rental permit obtained through the lottery process

This square is now a *held square*. The remaining two applicants may apply for NSTR permits through the special exception process. Assuming those are granted, the square would again be *full*:

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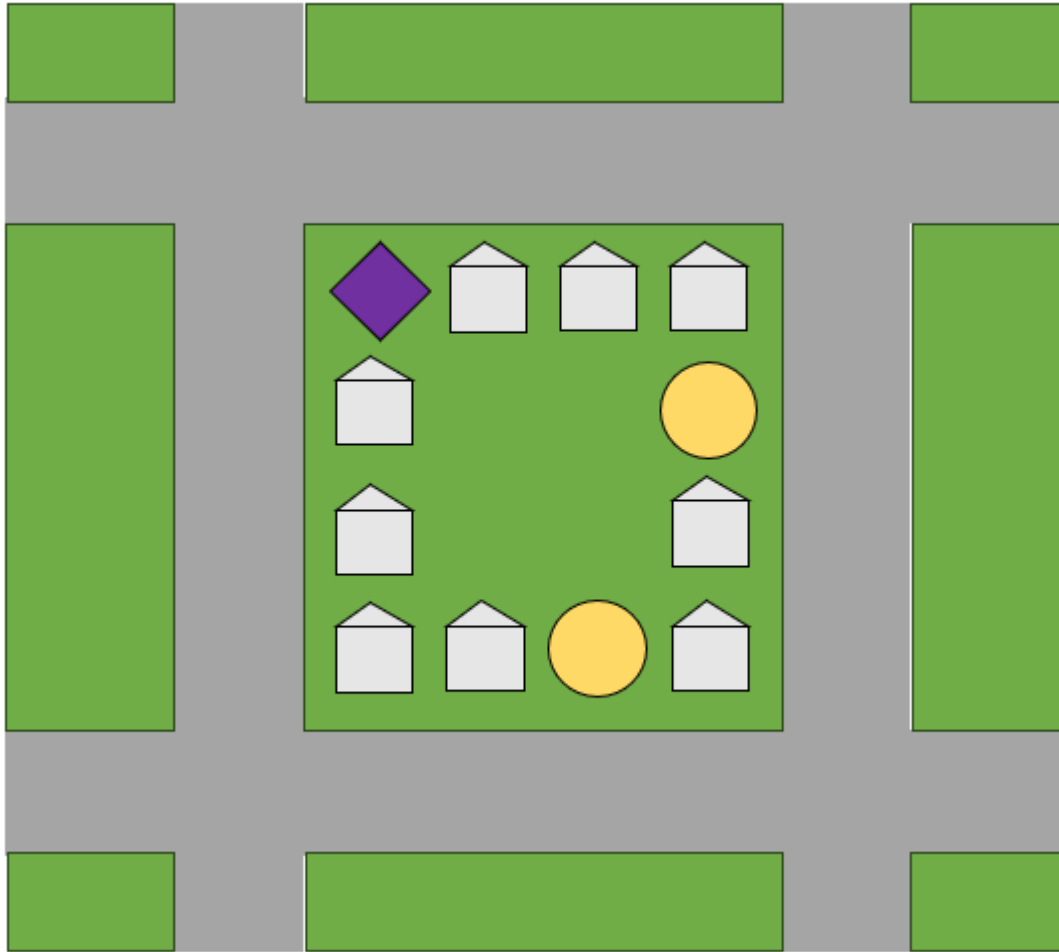


Figure 6: Square with no bed and breakfasts and three non-residential short-term rentals, one obtained through the lottery process and two obtained through the special exception process
Now, let's imagine that one of the special exception NSTR permittees sells their property and forfeits their license, decides not to renew their license, or has their license revoked by a hearing officer in a compliance case.

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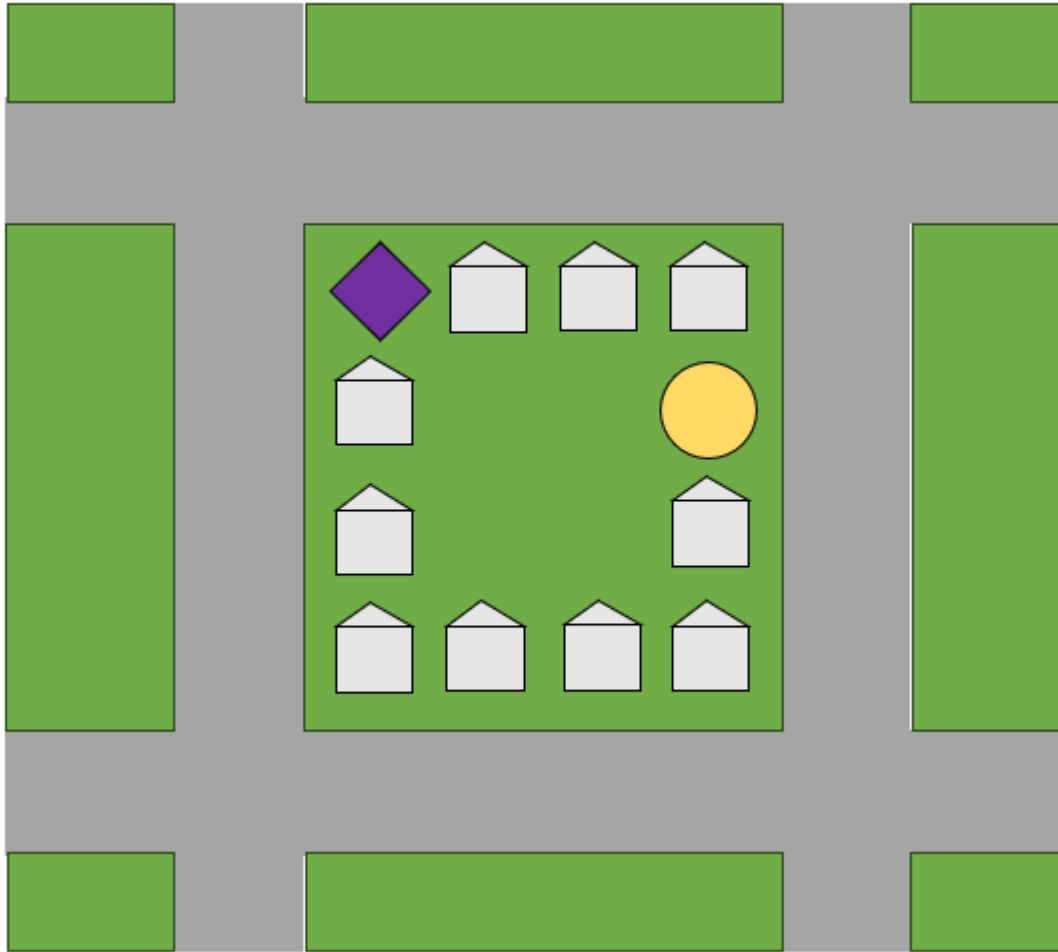


Figure 7: Square with no bed and breakfasts and two non-commercial short-term rentals, one obtained through the lottery process and one obtained through the special exception process
The square is no longer *full* (but it is still *held*), and another applicant may apply during the next application period for consideration as a special exception (but there will be no NSTR lottery and CPC will not accept B&B conditional use applications).

If the permit that is forfeited or revoked is that of the person who received the permit through the lottery process, a new lottery is not necessary. The special exception NSTR that was granted a permit first “moves” into the lottery position, opening up another special exception opportunity.

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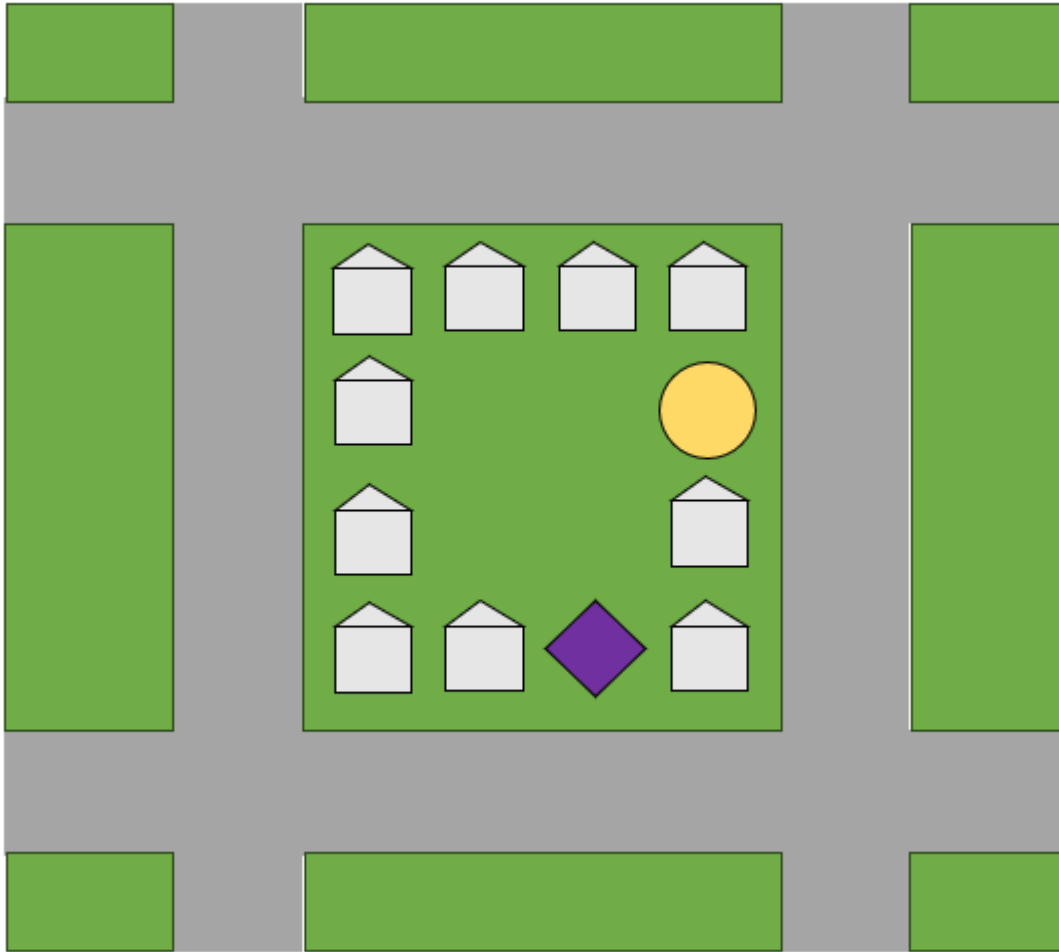


Figure 8: Square with no bed and breakfasts and two non-commercial short-term rentals, one obtained through the special exception process that has “moved” into the lottery slot and one obtained through the special exception process

Lotteries **only** take place on *open* squares. Similarly, B&B conditional use applications will only be accepted for open squares. Special exceptions may be applied for on *held* squares. If a square is *full*, there will be no permits issued either by lottery or by special exception and no B&B conditional use applications will be accepted. If there is only one applicant on an open square, they will be granted the permit once they qualify and pay their fee without need for a lottery process.

What are the exceptions to this?

1. Non-Conforming Uses.

Because there are many B&Bs that predate the current limitation to one-per-square, there may be squares where there are two or more legally operating B&Bs. Those are referred to as “non-conforming uses,” and are governed by [Chapter 25 of the CZO](#). As long as the legally non-conforming B&B continues to operate without a gap in operations of longer than 180 days, they can continue to operate despite the new density requirements. These squares would be considered *held* squares, and any NSTR applications would have to go through the special exception process.

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Up to two NSTRs may be granted by the special exception process, but the non-conforming B&Bs could be considered by Council when determining whether a special exception should be granted.

2. Non-conforming CSTRs.

Occasionally, the City's zoning map changes, changing what was a residentially-zoned property to a commercially-zoned one, and vice versa. If a commercially-zoned property held a legally licensed CSTR, and that property had not experienced a lapse in use and licensing for more than 180 days, it could continue to operate as a legally non-conforming CSTR. The CZO is silent as to how these would affect the per-block restrictions, so DSP does not count any non-conforming CSTRs when determining whether a square is *held* or *full*.

3. Small Affordable Multi-Family Dwellings.

Small Affordable Multi-Family Dwellings (SAMFs) are defined as "An Affordable Housing Development is a structure with dwellings designed for occupancy by no more than four (4) families in accordance with Section 20.3.SSS and where one affordable housing unit is included." [CZO 26.6](#). More detail is provided by [CZO 20.3.SSS](#), which clarifies that one of the units in the SAMF must be rented to a household earning no more than 80% of the area median income (AMI) and that the rent will be priced at 70% AMI, and that the unit must be kept at these affordable rates for a minimum of 15 years. [CZO 21.8.C.18.n](#) **exempts** SAMFs from the one-per-block limitation. This means that even if a block is already *full*, a legally-compliant SAMF would still be allowed to seek a NSTR permit. DSP has interpreted this provision to mean that the SAMF would have to be operational and housing an eligible tenant at the specified rent in order to qualify for the NSTR license. In other words, DSP will not issue a NSTR permit to a SAMF in excess of the block limitations without proof that there is a qualifying tenant in the unit at a qualifying rent. It also means that if the SAMF fails to meet these requirements at some point after licensure, the NSTR permit will be revoked. [CZO 20.3.SSS.8](#) makes clear that there may only be one NSTR unit within a SAMF and that the affordable unit **may not** be used as a NSTR. Because the exemption from block limitations applies *only* to SAMFs, if a SAMF is one of the first three NSTRs on a square, the square will be considered full and no additional non-SAMF applications will be accepted for the square. Additional SAMF application may be considered as they are exempt from the block limitations.

Frequently Asked Questions

1. I already know my block is held and that I'd have to get a special exception to have a NSTR. Can I apply anytime?
No. NSTR permit applications are only accepted during the application periods set out in the rules. There are four application periods per year for new licensees, plus an annual renewal application period.
2. Do I have to have my B&B license to hold my square?
No. A completed B&B Conditional Use application is sufficient to hold the square. If the conditional use is denied, the square would become open again at the next lottery period, assuming there are no other NSTR applicants. If there are other NSTR applicants or licensees, the square would be held.
3. What permits do I need for a B&B?
To operate a B&B, you need a conditional use ordinance with approved plans and a mayoralty permit. You can apply for the conditional use with the City Planning

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Commission and once that process is complete you can apply for your mayoralty permit with Safety and Permits. If you intend to advertise your B&B on a STR platform (like Airbnb or VRBO), you'll also need to apply for an XSTR number. This free number is tied to your mayoralty permit number and needs to be posted in your listings. It allows the Department to verify that you're operating legally even though you're not a STR.

4. What happens if I don't pay within 5 days of notification?

If there are other NSTR applicants on the square, they would move into your "spot" and would be able to obtain the license by paying timely. You would then be able to reapply during the next application period for consideration as a special exception as long as the square isn't full.

5. Do STRs need to register for Healthy Homes Certificates of Compliance?

Yes. The deadline for application depends on the number of dwelling units on your lot. If there are more than 50 units, you should go ahead and apply now. If there are between 4 and 49 dwellings, you need to apply after July 1, 2024. If there are less than 4 dwelling units, you need to apply after January 1, 2025. This is a free application and you can reach out to healthyhomes@nola.gov with additional questions.