

COUNTY OF ALBEMARLE PLANNING COMMISSION

EXECUTIVE SUMMARY

<p>AGENDA TITLE: ZTA 2017-01 Homestay Zoning Ordinance Amendments</p> <p>PURPOSE OF WORK SESSION: Review potential changes, public input, and provide input on several discussion items.</p> <p>STAFF CONTACT(S): Bart Svoboda, Rebecca Ragsdale, Amelia McCulley</p>	<p>AGENDA DATE: February 12, 2019</p> <p>ACTION: X INFORMATION:</p> <p>CONSENT AGENDA: ACTION: INFORMATION:</p> <p>ATTACHMENTS: Yes</p>
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BACKGROUND: This zoning text amendment (ZTA) was initiated by the Board of Supervisors on May 3, 2017 to consider expanding opportunities for transient lodging, including whole house rental when the owner/manager is not present and rental in attached or multifamily dwelling units. Transient lodging is lodging for less than 30 consecutive days. This amendment does not impact lodging for 30 or more consecutive days; this is considered residential use and not transient lodging. Since it was initiated, work sessions have been held by the Board and Planning Commission (PC) regarding the scope and process for the ZTA. Additionally, a series of public input meetings have been held since September 2017 with both the PC and the Board. On April 24, 2018, the PC held a public hearing and recommended ordinance language to the Board. The Board then held a series of work sessions that resulted in additional changes to the proposed regulations which are summarized in Attachment A.

PUBLIC INPUT: Several Board members suggested staff host a roundtable discussion to receive public feedback prior to the Planning Commission work session. Attachment B includes a summary of the feedback received a) at the roundtable held January 8, 2019, b) from survey comments and c) from the website. This feedback will also be presented to the Board.

PUBLIC PURPOSE TO BE SERVED: The Comprehensive Plan adopted in 2015 acknowledged the existence of a number of homestays that are not in compliance and suggested that we examine this issue (Attachment C). On [May 3, 2017](#), the Board prioritized this study by adoption of a Resolution of Intent along with updates to the tax code. Many of these unlicensed homestays are not permitted under the current zoning ordinance regulations because they involve whole house rental (rental when the owner/manager is not present). The purpose of this amendment is to revise the regulations for the County in a way that fits our community and strikes a balance between preserving residential character and allowing reasonable accessory use of residences. This also is a consideration of appropriate requirements and allowances to ensure public (and guest) safety, Rural Area protections and minimal neighborhood impacts.

SUMMARY OF ORDINANCE CHANGES: The Board has expressed concern regarding the potential for nuisance (noise, parking) impacts from homestays and the potential of the use encouraging new development in the Rural Area or affecting affordable housing stock. For these reasons, the following regulations were developed:

- Two different regulatory schemes for a) Residential zoned parcels and RA zoned parcels less than 5 acres and b) RA zoned parcels greater than 5 acres

- The number of guest rooms allowed on Rural Area zoned parcels less than 5 acres and in Residential zoning districts reduced from 5 to 2
- Parking for homestays must be off-street / onsite
- 125-foot setback for Rural Area homestay uses
- Allow “whole house rental” (rental when owner or manager is not present on the property) for up to 45 days per year, no more than 7 days per month, on Rural Area zoned parcels greater than 5 acres in size
- Annual safety inspections of all homestays and annual registry on the Short-term rental registry
- Require a responsible agent to be available during homestay rental
- Allow opportunities for Special Exceptions to waive or modify certain regulations under certain circumstances

DISCUSSION: While the Board held several work sessions that resulted in the potential ordinance changes, there were several aspects of the regulations that need Commission input:

- 1) Special exceptions
- 2) Emergency Contact/Responsible Agent
- 3) Grandfathering

1) Special Exceptions: A special exception process is recommended to waive or modify certain homestay regulations in circumstances where there are no detrimental impacts to adjoining properties, or adjoining properties that are under the same ownership. This would be similar to the provision that already exists in the ordinance for setbacks and is a common provision for supplemental regulations in the ordinance that is subject to approval by the Board. The following items should be considered eligible for a special exception:

- a) Allow more than 2 guest rooms in residential and smaller RA lots (maximum of 5 guest rooms permitted)
- b) Allow reduction to 125-foot setback from any abutting lot not under the same ownership as the homestay for parking and primary or accessory uses and structures used in whole or in part to serve a homestay in the Rural Areas
- c) Use of an accessory structure in the Rural Areas

Staff recommends consistency with similar special exception provisions of the ordinance, including existing language for special exceptions for bed and breakfast setbacks and language used in the farm winery, brewery, distillery regulations and family day homes. Staff recommends that a special exception to modify the regulations listed above (a-c) only be granted upon a consideration of the following:

- i. No substantial detriment
- ii. No harm to public, health, safety, or welfare
- iii. Notice to abutting property owners shall be provided and any objections from abutting owners considered when acting on a special exception

2) Emergency Contact/Responsible Agent: The current draft of the homestay ordinance includes a provision that homestay operators provide notice to abutting property owners (below).

Notice: The owner of a parcel conducting a homestay use shall provide the owner or manager’s name, telephone number, and emergency contact information to abutting property owners on an annual basis. The owner shall retain a copy of such notice and provide a copy to the Zoning Administrator on an annual basis.

Based on Board direction and review of similar provisions in other localities, staff recommends this provision be expanded to clarify responsibilities of an emergency contact to include:

- Available 24 hours per day, seven days per week to respond to complaints

- Emergency contact shall respond to a complaint within 60 minutes of receiving notice of such complaint

A responsive responsible party can more directly address issues as they arise, often without involving County intervention. This is especially important since home stays include night and weekend activity.

3) Grandfathering At the roundtable and in comments received, stakeholders have emphasized the importance of grandfathering existing establishments from the change in regulation. This is consistent with the County's practice in prior zoning text amendments affecting farm wineries, breweries, and distilleries. While most of these establishments would be legally nonconforming and could continue their operations as they were prior to adoption of new regulations, grandfathering more explicitly allows them to continue the use. It also avoids the restrictions and difficult interpretations that arise when a nonconforming use seeks to obtain a building permit.

Based on the stakeholder feedback, staff recommends the following grandfathering provision for homestays:

- Any homestay use established and properly licensed (legally in existence) before the adoption of the ordinance would be subject to its existing approval.

However, even grandfathered homestay establishments may be subject to the annual registry if it is a Finance code requirement.

RECOMMENDATION: Staff recommends that the Commission confirm the proposed requirements regarding special exceptions, responsible agent, and grandfathering. Following this work session, the draft ordinance will be updated with the Board and Commission's recommendations and a public hearing scheduled for the Commission.

ATTACHMENTS:

- Attachment A: [Summary of Changes to Homestay Regulations](#)
- Attachment B: [Summary of Feedback](#)
- Attachment C: [Comprehensive Plan reference to Strategy 4c and 5e](#)
- Attachment D: [Homestay Feedback Form Responses](#)
- Attachment E: [Homestay Feedback Email Responses](#)
- Attachment F: [Homestay Feedback Online Form Responses](#)
- Attachment G: [Homestay Roundtable Notes](#)