



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Planning Commission
From: Department of Community Development
Date: August 10, 2022 (Regular Meeting)
Re: Zoning Ordinance Amendments – To Amend the Homestay and Short-term Rental Definitions and Modify Regulations Associated with Each Use

Summary:

Public hearing to consider a request to amend Section 10-3-24 to remove the definition of “bed and breakfast facilities” and to amend the definitions of “homestay” and “short-term rentals.” Additional amendments include modifying Section 10-3-25.1 (3) to remove reference to “bed and breakfast facilities” and to clarify that “short-term rentals and homestays” have no minimum off-street bicycle parking requirements; to amend the title of Article DD to add “homestays” so that the title reads “Homestays and Short-Term Rentals;” and to amend Section 10-3-205 to require operators to maintain the dwelling in which homestays and short-term rentals occur as their primary residence and to expand upon the acceptable documents that prove the dwelling is the operator’s primary residence.

Background:

In March 2019, the City adopted regulations associated with short-term transient lodging uses commonly referred to as short-term rentals (STRs) or “Airbnbs.” Prior to March 2019, these operations, unless previously approved by the City as a bed and breakfast, had been illegal in the City. A few months later in July 2019, the City made amendments to the regulations associated with STR registration requirements as well as to the penalties section associated with violations to the regulations.

After the City had approved many STR applications, in the fall of 2019 Planning Commission decided that the STR regulations should be reviewed and to consider making amendments. After two Planning Commission worksessions, the City, in September 2020, adopted amendments to the STR regulations, which, among other things, created the by right “homestay” use.

In total, there have been 30 approved STR SUP applications and 17 issued by right homestay permissions. (Note: Since September 2020, six STR SUP applications have been approved and are accounted for in the 30 total approvals.)

Since the 2020-amendments, staff has observed the need for additional modifications for updates to the code and to adjust details of the regulations so that the original intent for operators to maintain the dwelling in which a homestay or short-term rental occurs is the primary residence of the operator.

Key Issues:

Staff is proposing to modify the title of Article DD and to amend three sections of the Zoning Ordinance. All modifications are associated with regulations for homestays and short-term rentals.

First, staff would like to amend Article DD by adding “homestays” to the name of the title description. This amendment should have occurred when the homestay use was added to the Zoning Ordinance in September 2020. The amendment is shown as follows:

Article DD. HOMESTAYS AND SHORT-TERM RENTALS

Secondly, staff would like to modify Section 10-3-24 Definitions by deleting the reference to “Bed and breakfast facilities” from the Zoning Ordinance (as staff no longer believes this reference is necessary) and then by modifying the definitions of both “Homestay” and “Short-term rental” to clarify what is meant for each use. The modifications are shown below:

Bed and breakfast facilities: ~~See “short term rental.”~~

Homestay: In a single-family detached, duplex, or townhouse dwelling unit, the provision of ~~a the dwelling unit guest room~~ or an accommodation space within the ~~dwelling unit principle building~~ that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.

Short-term rental: The provision of a dwelling unit, an accessory building, or an accommodation space within either building ~~a guest room or accommodation space within the dwelling unit, or any accessory building~~ that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.

The next amendment is to Section 10-3-25.1, which is associated with off-street bicycle parking regulations. This modification would simply eliminate the reference to “bed and breakfast facilities” and to replace it with “homestays and short-term rentals.” (Homestays and STRs should have been added to this section during previous amendments.) The regulation remains the same, which is that off-street bicycle spaces are not required for either use. The amendment is shown below: (Note: For brevity, rather than displaying the entire table, only the part of the table associated with the amendment is shown.)

(3) Bicycle parking space requirements by use:

Use	Parking Requirement
Hotels, motels, and similar transient housing	4 spaces minimum (Bed and breakfast facilities <u>Homestays and short-term rentals</u> have no minimum requirement)

The last section to be modified includes amending Section 10-3-205 (2), which is part of the General Regulations section for both homestay and short-term rental uses. The amendment is shown below:

Sec. 10-3-205. General Regulations

(2) Operators shall maintain the ~~property~~ dwelling as their primary residence, as indicated on a state-issued license or identification card or other documentation deemed acceptable by the Zoning Administrator.

As shown, the amendments have two separate components. With regard to the second component, the modification provides additional flexibility to potential applicants by allowing other types of documentation other than a state-issued license or identification card be submitted to confirm the intended dwelling, for either a homestay or STR, is the applicant's primary residence.

Regarding the first component, by exchanging the word "property" for "dwelling" this eliminates the ability for an operator, who resides onsite and where there might be more than one dwelling in a structure or more than one dwelling in separate buildings on the property (i.e., a duplex or a triplex or two separate single family detached dwellings on one property) from renting dwelling units that are not their primary residence as a homestay or STR.

For reference, there have been seven STRs approved allowing a property owner to have one dwelling unit be the operator's primary residence and then to have a second dwelling unit on the same property be used for transient lodging. The seven examples include:

- 1451 Hillcrest Drive (Park View) (approved in June 2019), which is a duplex,
- 981 Summit Avenue (approved in June 2019), which is a duplex,
- 957 Summit Avenue (approved in July 2019), which is a duplex,
- 845 College Avenue (approved in July 2019), which has two dwellings in separate structures,
- 168 Pleasant Hill Road (approved in August 2019), which is a duplex,
- 111 Campbell Street (approved in August 2019), which has two dwellings in separate structures, and
- 217 Franklin Street (approved in February 2022), which has two dwellings in separate structures.

Internally, the STR review for 217 Franklin Street sparked debate among staff as to a potential problem with the existing use of the term "property" (rather than "dwelling") and we had considered proposing a version of the amendment discussed herein earlier this year in March. Ultimately, a homestay annual registration sparked further debate, forcing staff to decide about whether one unit of a duplex, where both duplex units are on the same parcel, could be used as a homestay transient lodging operation. (Note: It was determined that the application must be approved given the use of the term "property."). In researching information to help staff make a determination during the homestay scenario noted above, and in providing additional support for the amendments proposed herein, staff reviewed the PC worksession minutes from October 29, 2019, where on page 3 of the minutes, it is noted that "[t]he group agreed that for homestays the dwelling should be the operator's primary residence" (emphasis added). And then later that "[c]ommissioners agreed that both by right homestays and STR SUPs should require that the dwelling be the operator's primary residence and that if the operator is not the property owner, then the operator must be present during the lodging period" (emphasis added). Unfortunately, at this time, is unclear whether the term "property" was used as a universal term to include "dwelling" or whether "property" was erroneously used instead of "dwelling."

In all, staff believes the proposed amendments will provide further clarification and better implementation for the intent of the homestay and short-term rental regulations and supports approving all of the discussed modifications.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Recommend approval of the Zoning Ordinance amendments as presented;
- (b) Recommend approval of the Zoning Ordinance amendments with modifications; or
- (c) Recommend denial of the Zoning Ordinance amendments.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission's public hearing. The advertisement was published as shown below:

Public hearing to consider a request to amend Section 10-3-24 to remove the definition of "bed and breakfast facilities" and to amend the definitions of "homestay" and "short-term rentals." Additional amendments include modifying Section 10-3-25.1 (3) to remove reference to "bed and breakfast facilities" and to clarify that "short-term rentals and homestays" have no minimum off-street bicycle parking requirements; to amend the title of Article DD to add "homestays" so that the title reads "Homestays and Short-Term Rentals;" and to amend Section 10-3-205 to require operators to maintain the dwelling in which homestays and short-term rentals occur as their primary residence and to expand upon the acceptable documents that prove the dwelling is the operator's primary residence.

In addition, a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

Staff recommends alternative (a) approval of the Zoning Ordinance amendments as presented.

Attachments:

- 1. Proposed Amendments Zoning Ordinance Amendments
- 2. Planning Commission Worksession Minutes 10-29-19
- 3. Excel Spreadsheet of Master List of Short-term Rental SUP Applications
- 4. Map of Short-term Rentals and Homestays

Review:

N/A