



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Ande Banks, City Manager
From: Adam Fletcher, Director - Department of Community Development and Harrisonburg Planning Commission
Date: June 13, 2023 (Regular Meeting)
Re: Zoning Ordinance Amendments – To Amend the Homestay and Short-term Rental Definitions and Modify Regulations Associated with Each Use

Summary:

The proposed amendments were tabled by City Council on September 13, 2022. The amendments are being presented again for final action.

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 states “Homestays and Short-Term Rentals”; to replace the requirement of allowing an operator to reside on the same “property” of any space being used for transient occupancy with the rule of requiring the operator to reside in the same “dwelling” being used for transient occupancy; and to expand upon the acceptable documents that confirms the location of the operator’s primary residence.

Staff and Planning Commission (7-0) recommended approval of the Zoning Ordinance amendment as originally proposed.

Background:

At the September 13, 2022, City Council (CC) meeting, a public hearing was held for a proposal to amend the Zoning Ordinance in the following ways:

1. To remove the definition of “bed and breakfast facilities,”
2. To amend the definitions of “homestay” and “short-term rentals,”
3. To modify Section 10-3-25.1 (3) to remove reference to “bed and breakfast facilities,”
4. To clarify that “short-term rentals and homestays” have no minimum off-street bicycle parking requirements,
5. To amend the title of Article DD to add the term “homestays” so that the title states “Homestays and Short-Term Rentals,”
6. To amend Section 10-3-205 to require the operator to maintain the *dwelling* (rather than the property) in which homestays and short-term rentals occur is the operator’s primary residence, and

7. To expand upon the acceptable documents that prove the dwelling is the operator's primary residence.

CC tabled the request and directed staff to further evaluate item number 6.

Please refer to the agenda packet, staff memorandum, and CC meeting minutes from September 13, 2022, for more details.

Key Issues:

Last summer, staff recommended modifying the Zoning Ordinance by making the modifications as described in all seven items listed in the Background section above, which are provided in the attachment titled "Option 1." Staff continues to believe all of those amendments are needed to clarify and better implement how homestays and short-term rentals should be regulated.

In brief, it appears the main point of contention with the proposed amendments revolves around the question of whether Section 10-3-205 should maintain the ability of allowing operators to reside on the same "property" of any allowed homestay or short-term rental OR whether to replace the term "property" (as it appears in Section 10-3-205) with the term "dwelling," which would prevent situations where, for example, one unit within a duplex structure positioned on one parcel could be used as a homestay or short-term rental, where the operator maintains the other duplex unit as their primary residence.

Since the September 13, 2022, meeting when the amendments were first discussed but then tabled, CC has reviewed three special use permit (SUP) requests, where in each application the request was to allow for a STR within one unit of a duplex structure that was located on one parcel. In all three cases, the operator was to reside in one dwelling and then rent the other unit as a short-term rental. One of the three applications was denied, while the other two were approved. The three locations and outcomes were as follows:

- 375 Broad Street, denied on November 8, 2022.
- 524 Long Avenue, approved on January 10, 2023.
- 71 Broad Street, approved on February 14, 2023.

There are two options for CC's consideration. The difference between the two options is simply whether CC wants to replace the word "property" with "dwelling" within Section 10-3-205(2). All other modifications that are proposed are the same within both options. The two options for Section 10-3-205(2) are shown below.

Option 1.

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.

Option 2.

Sec. 10-3-205. General Regulations

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

Staff continues to recommend Option 1. Choosing Option 1 would prevent applications like the three examples noted above that have already been reviewed by CC. Option 1 would also prevent by right-homestay operations, where an operator could live within one unit of a duplex or within one or more detached single-family homes on the same property from operating a homestay. If Option 2 is chosen, CC would continue to allow the application of SUP requests for STRs on a case-by-case basis (and allow by right homestay uses) for operators who live within one unit of a duplex or within one of two or more detached single-family homes on the same property. (Note: Buildings with three or more units cannot operate as a short-term rental unless physical improvements per the Building Code are made.)

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the Zoning Ordinance amendments as presented in Option 1;
- (b) Approve the Zoning Ordinance amendments as presented in Option 2;
- (c) Approve the Zoning Ordinance amendments with modifications; or
- (d) Deny 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 and twice advertising for City Council's public hearing. The advertisement was published as shown below:

Zoning Ordinance Amendment – To Amend Regulations Pertaining to Homestays and Short-Term Rentals

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 in Option 1.

Attachments:

1. Option 1 - Proposed Zoning Ordinance Amendments
2. Option 2 – Proposed Zoning Ordinance Amendments

Review:

Planning Commission (7-0) recommended approval of the Zoning Ordinance Amendments as presented in Option 1.