

Zoning Text Amendment 16-03



May 11, 2017
Agenda Item # 8

Background: Current Zoning

- **Currently, the County allows any resident to rent out a home or part of a home for 30 days or longer:**
 - Occupancy is limited to a “household” (as defined in the Z.O.)
 - Landlord must register with the County
- Bed and Breakfasts are also allowed as a “limited” use in certain zones. As a limited use, they must satisfy a number of requirements including:
 - A Bed and Breakfast must be in a detached house, and the owner must live there.
 - Parking cannot be located in front of the house.
 - A guest may only stay at the Bed and Breakfast for up to 14 days in any one visit.
- In the R-60 and R-90 zones, Bed and Breakfasts are allowed as a “conditional” use, which must be approved by the Hearing Examiner following a public hearing.

Background: Legislative History

- May 2015: Council enacted a bill (14-15) requiring short-term renters to pay a hotel tax (7%).
- Feb 2016: Council introduced a zoning text amendment (ZTA 16-03) to modify **the standards for Bed and Breakfasts** to accommodate short-term residential rentals.
- Also Feb 2016: Bill (2-16) was introduced to update **licensing requirements for all rental housing less than 6 months** in duration.
- March 2016: Planning Board provided recommendations to Council regarding ZTA 16-03

Background: Planning Board Recommendation on ZTA 16-03

(March 3, 2016)

- The Planning Board recommended the creation of a new use in the "**Accessory Residential Use**" category called *Short-Term Tenancy* defined as “*the residential occupancy of a dwelling unit by a household for less than a month.*” It would be allowed as a "limited" use in all but the Industrial zones with applicable use standards.
- Planning Boards comments were transmitted the County Council followed by a public hearing. In response to public testimony, the Council directed Planning Staff to undertake additional public outreach, make any proposed changes the to ZTA and resubmit to the Planning Board for review.

Outreach

- Three community meetings were held in 2016:
July 18th, September 19th, and December 5th
 - Representatives from AirBNB and The Travel Technology Association presented at July 18th meeting
 - Videos of community meetings available on website for community members not able to make it meeting



- Website was developed early in the process:
<http://www.montgomeryplanning.org/functional/short-term-rentals/>
- Email listserv created and contacted regarding public meetings, press releases were also issued for each meeting

Concerns heard about STRRs

- Create nuisances (noise, traffic, underage drinking, litter, public urination, drugs, and other illegal activities),
- Bring an influx of strangers to the neighborhood on a regular basis,
- Diminish property values (loss of tax revenue),
- Be unsafe because they do not meet fire and safety standards, and hosts are not equipped to respond to emergencies,
- Destabilize and disrupt community by driving out long-term residents,
- Compete with accessory apartments and reduce the availability of affordable housing, especially if hosts are allowed to have multiple listings,
- Be an enforcement problem,
- Turn into party houses,
- Create parking problems,
- Be overconcentrated in unincorporated areas of the County because municipalities can regulate STRRs more stringently than the County, and
- Have a competitive advantage over hotels because STRRs do not currently have to comply with regulations.

Benefits of STRRs heard at community meetings

- Allow residents to earn extra income and increase housing affordability as part of the sharing economy,
- Benefit small businesses,
- Generate business for areas not usually visited by tourists,
- Provide affordable, comfortable places to stay,
- Allow visitors to get local knowledge from area residents,
- Provide enriching experience for hosts and guests, and
- Make it more affordable to age in place.

Summary of regulations adopted by other jurisdictions

	Ocean Isle Beach, NC	Telluride, CO	Charleston, SC	Savannah, GA (proposed)	Portland, OR	Austin, TX	Blowing Rock, NC	Cornelius, NC
Bans								
Complete ban								
Ban/allow in certain areas			✓	✓		✓	✓	
“Free pass” for popular event weeks								
STRs must be owner-occupied					✓	**		
Caps								
Cap on number of STRs			✓					
Cap on percentage of homes used as STRs						✓		
Cap on number of nights rented in a time period		✓						✓
Registration/Permitting								
Registration Required		✓	✓	✓	✓	✓	✓	✓
Fee required				✓	✓	✓	✓	
Inspection required					✓	✓		✓
Occupancy and/or other taxes required	✓	✓	✓	✓	✓	✓		
Consequences for complaints filed?				✓	✓	✓	✓	
Additional Requirements								
Parking requirements			✓	✓	✓	✓	✓	
Trash/recycling requirements		✓				✓		
Emergency access requirements								
Mandatory Designated Representative		✓		✓		✓		
Postings inside units				✓	✓	✓		
Minimum stay								
Maximum occupancy			✓	✓				
Notification of neighbors					✓	✓		

**Austin does not ban non-owner-occupied rentals, but it does enforce more stringent regulations on these.

Short-Term Residential Rentals

During the outreach process, it was decided that the proposed use should be called a *Short-Term Residential Rental (STRR)* which allows for home rentals under 30 consecutive days in length.

Summary of proposed use standards:

- Prohibit STRRs on properties that include an accessory apartment.
- Require that the home be the primary residence of the host.
- Require that the STRR comply with any HOA or condo association document, or a rental lease.
- Require that an applicant notify all abutting and confronting neighbors about the application for an STRR license.
- Limit the use of a property as an STRR to 90 days per calendar year.
- Limit the total number of overnight guests per STRR (over 18 years old) to six and the total number of overnight guests per bedroom to two.

Short-Term Residential Rentals

Summary of proposed use standards continued:

- Require the host to maintain a list of all overnight visitors.
- Require one off-street parking space per rental contract unless the online listing indicates that vehicle parking is prohibited.
- Allow only registered guests on the property to prevent parties, events, etc. that would be disruptive to residential neighborhoods.
- Require the host to provide contact information for a designated representative that resides within 15 miles of the property and that is available to deal with emergencies if the host is not present.
- Require the home to have working, accessible fire extinguishers, smoke detectors, and where appropriate, carbon monoxide detector.

Short-Term Residential Rentals

Licensing/ Enforcement Requirements under Chapter 54

- Some of the ZTA standards may be moved to Chapter 54, the chapter of the County code that deals with transient lodging establishments such as hotels and Bed & Breakfasts.
- In Chapter 54, staff suggests that there should be clear rules for complaints and enforcement (e.g. Arlington's process to revoke a license after 3 violations or substantiated complaints). Licensing and enforcement is under Chapter 54 and outside the purview of zoning.
- Consideration should also be given to contracting with one of the businesses that assists local governments with monitoring and enforcement of STRRs.

Zoning Text Amendment 16-03

