



Date of Council Meeting: September 26, 2016

**TOWN OF LEESBURG
TOWN COUNCIL WORK SESSION
Information Memo**

Subject: Short-term Residential Rentals and the 2016 Limited Residential Lodging Act

Staff Contact: Barbara Notar, Town Attorney
Susan Berry Hill, Director of Planning and Zoning
Marantha Edwards, Economic Development Director

Council Action Requested: None. Informational only.

Staff Recommendation: None. Informational only.

Commission Recommendation: None at this time.

Fiscal Impact: None at this time.

Work Plan Impact: In the event regulations are initiated by the Council in the future, the Zoning Ordinance must be amended which will involve Department of Planning and Zoning staff time as well as Office of the Town Attorney staff time.

Executive Summary: At the conclusion of the 2016 Virginia General Assembly, the Governor signed into law the Limited Residential Lodging Act, Code of Virginia §§ 55-248.53 through 55-248.56. The Act allowed limited local regulation to include:

- Regulations for short-term rentals generally applicable to residential use and zoning so long as those restrictions are not placed on other authorized uses of residential property;
- Any limited residential lodging operator must maintain a minimum of \$500,000 of liability insurance;
- Regulations that prohibit or restrict a residence from being used as a limited residential lodging if the applicable taxes are not paid or if the operator has not registered with the locality.

The General Assembly also ordered the Housing Commission to convene a work group with representation from the hotel industry, hosting platform providers, local government, state and local tax officials, property owners and other interested parties to explore issues related to expansion of the framework set forth in this act related to the registration, land use, tax, and other issues of public interest associated with short-term rental of dwelling and other units. The work group was ordered to complete its work by December 1, 2016, with a goal of developing recommendations and draft legislation for consideration by the

2017 General Assembly.

Beth Erikson, Executive Director of Visit Loudoun is a member of this work group and has been meeting with town staff to provide updates. She is scheduled to make presentations to the Loudoun County Board of Supervisors, The Middleburg Town Council and VACO beginning September 27th at the Loudoun County Economic Development Advisory Council (EDAC).

Background: Council has received complaints regarding the short-term rental use of a neighboring property and has requested information regarding the regulation of short term rentals such as those provided by AirBnb, HomeAway, VRBO, etc. At the conclusion of the 2016 Virginia General Assembly, the Governor signed into law the Limited Residential Lodging Act, Code of Virginia §§ 55-248.53 through 55-248.56. The Act allowed limited local regulation to include:

- Adopting and enforcing ordinances and regulations generally applicable to residential use and zoning so long as those restrictions are not placed on other authorized uses of residential property;
- Adopting and enforcing an ordinance requiring that any limited residential lodging operator maintain a minimum of \$500,000 of liability insurance;
- Adopting and enforcing an ordinance that prohibits or restricts a residence from being used as a limited residential lodging if the applicable taxes are not paid or if the operator has not registered with the locality.

The Act also contained language which would prohibit localities from prohibiting or restricting homes being used for limited residential lodging purposes, but this provision would not take effect unless reenacted by the 2017 General Assembly.

The General Assembly also ordered the Housing Commission to convene a work group with representation from the hotel industry, hosting platform providers, local government, state and local tax officials, property owners and other interested parties to explore issues related to expansion of the framework set forth in this act related to the registration, land use, tax, and other issues of public interest associated with short-term rental of dwelling and other units. The work group was ordered to complete its work by December 1, 2016, with a goal of developing recommendations and draft legislation for consideration by the 2017 General Assembly. Beth Erikson, Executive Director of Visit Loudoun is a member of this work group and has been meeting with town staff to provide updates.

The short-term rental work group of the state Housing Commission met August 25, 2016, to hear presentations on insurance issues, regulations on bed and breakfasts and tourism in Loudoun County. While there was a lot of technical discussion regarding the insurance needs of someone operating a short-term rental, it ultimately seems that the definition of "occasional sale" controls what types of policies are needed. There is no official definition for insurance purposes, according to the industry representatives who spoke.

A representative of bed and breakfast operations focused on the regulations that her industry has to abide by, such as ABC regulations and those of the health department. During the public comment period, several additional bed and breakfast operators asked for a level playing field because they do abide by these regulations.

The work group also heard a discussion of some facts and figures gathered by Loudoun County. In comparing the inventory of sleeping rooms, there are 5,700 hotel/resort sleeping rooms, 127 bed and breakfast sleeping rooms and 919 Airbnb sleeping rooms in Loudoun County. Additional research is necessary to confirm the number specific to the Leesburg Town limits. The Airbnb rooms account for 16% of the total hotel inventory. They estimate they are missing over \$1.2 million dollars in revenue from these rooms. The Loudoun representatives said their priorities in the on-going discussion of short-term rental are: registration as businesses, taxation like hotels and local transparency regarding the identity of providers. The working group was asked to consider public safety issues at its next meeting, but no date was set.

The cities of Roanoke and Charlottesville have enacted ordinances to regulate “homestay establishments. **Roanoke** amended its zoning ordinance to include "homestay establishments" in the same section as the bed and breakfast establishments:

- No changes are to be made to the exterior of the building occupied by the homestay;
- No more than 2 BRs for guests & no more than 4 total guests;
- Rooms to be rented on a daily or weekly basis, not to exceed 14 days;
- Owner/leaseholder shall occupy dwelling during guest stays

The use table categorizes homestays as “S” in all residential districts and “S” in their MX district and “P” in their CN, CG, CLS, D & UF districts.

Roanoke defines “homestay” as “[a]n establishment that offers for compensation a portion of any dwelling unit for overnight stays to guests, and not meeting the definition of a bed and breakfast.” Roanoke levies a transient tax of 8%.

Charlottesville amended its City Code and zoning ordinance to allow for homestays and places the following restrictions on homestays:

- No more than 6 adult overnight guests per tax map parcel, per day;
- No exterior signage;
- Application for a provisional use permit must include proof of applicant’s ownership and permanent place of residence at the property, along with contact information for a responsible party;
- No food shall be prepared for or served to guests
- Working smoke detectors, CO2 detectors & fire extinguishers accessible to overnight guests

- Compliance with USBC
- Application for provision permit authorizes city inspectors to enter property upon reasonable advance notice at least once per year
- Permits are valid for one calendar year and the owner must occupy the dwelling as his residence for more than 180 days
- Permit may be revoked by ZA if:
 - There are 3+ substantiated complaints within a calendar year or
 - Failure to maintain compliance with any of the regulations
 - Property owner whose permit is revoked isn't eligible for a new permit for the remaining portion of the calendar year and the entire next calendar year

The use table categorizes homestay use as by-right use in all residential districts & mixed use districts.

Charlottesville defines “homestay” as “a home occupation in which an individual who owns a dwelling and uses it as his or her permanent residence within a dwelling hires out, as lodging: (i) such dwelling, or any portion thereof, or (ii) a lawful accessory dwelling.” Charlottesville levies a transient tax of 7%.

Finally, the new law appears to allow property owners associations from prohibiting limited residential lodging among their membership.