



**County of Albemarle
Department of Community Development**

Memorandum

To: Members of the Albemarle County Board of Supervisors
From: Bart Svoboda, Zoning Administrator
Date: August 7, 2019
Subject: **ZTA 2017-01 Homestay (Transient Lodging)
Existing Compliance Gap and Long-Term Enforcement Update**

Compliance - Mitigation Tools

The Homestay (Transient Lodging) zoning text amendment will help manage the potential impacts homestays have on their neighboring parcels. The text amendment adds several provisions to the zoning ordinance that include requiring neighbor notice with emergency contact/responsible agent contact information. The responsible agent is required to attempt to resolve any complaints regarding a homestay within an hour. In addition, adoption of the Short-Term Rental registry provisions will add enforcement tools, including fines. The ordinance also provides that an operator will be prohibited from offering a specific property for short-term rental upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental. In addition, the ordinance will also help mitigate potential impacts to neighboring properties by increasing setbacks for homestay uses in the Rural Areas (RA) and decreasing the number of guest rooms for rent in residential and small-lot RA properties.

Compliance Gap – Existing Unapproved Homestays

As identified in the Comprehensive Plan and in various meetings on this topic, there are currently a number of homestays operating without the required zoning clearance ("unapproved homestays"). A certain percentage of those do not comply with the current provisions and some will not be able to comply with the proposed provisions. However, others are able to comply with existing or proposed provisions. Staff recommends an interim proactive enforcement approach to close this compliance gap. The goal of this effort would be to bring existing homestays into compliance with the proposed zoning regulations.

Proactive compliance efforts will include an informational outreach program to those who are operating unapproved homestays. If the necessary approvals are not sought and obtained within the specified period of time, this would lead to enforcement action. Many localities have adopted this approach, as it increases compliance and enables staff to manage workloads effectively and efficiently. This process would involve interdepartmental coordination with CDD and Finance, as Finance is reaching out to operators to require they remit prior and current taxes for their homestay use.

Identification of existing, unapproved homestay operators would be done with specialized software and temporary staff already approved for FY2020. The software is an investigation tool to identify the addresses of homestays, because the various homestay rental platforms generally do not provide property addresses in their rental listings. Once the property is

identified, we can determine if the necessary approvals have been obtained. If they have not, we will contact the property owner to inform them and assist them with the approval process.

The public outreach phase will begin with a workshop geared towards homestay operators and those interested in homestays. The workshop will explain all applicable regulations (Zoning, Building Code, ACFR, Finance, VDH, etc.) and the filing/processing of applications. Following the initial workshop, staff will reach out to individual operators of unapproved homestays to inform them of the new regulations and the process for coming into compliance.

Following the initial educational and contact phases, staff will determine which unapproved homestays are still in operation without coming into compliance with County regulations and will then begin the enforcement process. However, please keep in mind that even with the software to locate the properties, we need to be conscious of existing staff resources and the ability to meet mandates such as providing inspections for building permit applications and responding to citizen complaints on other alleged zoning violations. With that in mind, this proactive enforcement cannot be prolonged over an extended time period. We expect to report to the Board of Supervisors in approximately 6 months with a progress update, including data on compliance and tax collection.

Homestays Unable to be Approved

Staff has identified many unapproved homestays. This includes listings that may conduct homestays intermittently as well as duplicate listings. We estimate that 2/3 of those can potentially comply with the proposed ordinance, leaving 1/3 of homestays that would need to either change their operation to comply or cease operation. When staff identifies homestays unable to comply with the proposed ordinance, enforcement action will begin.

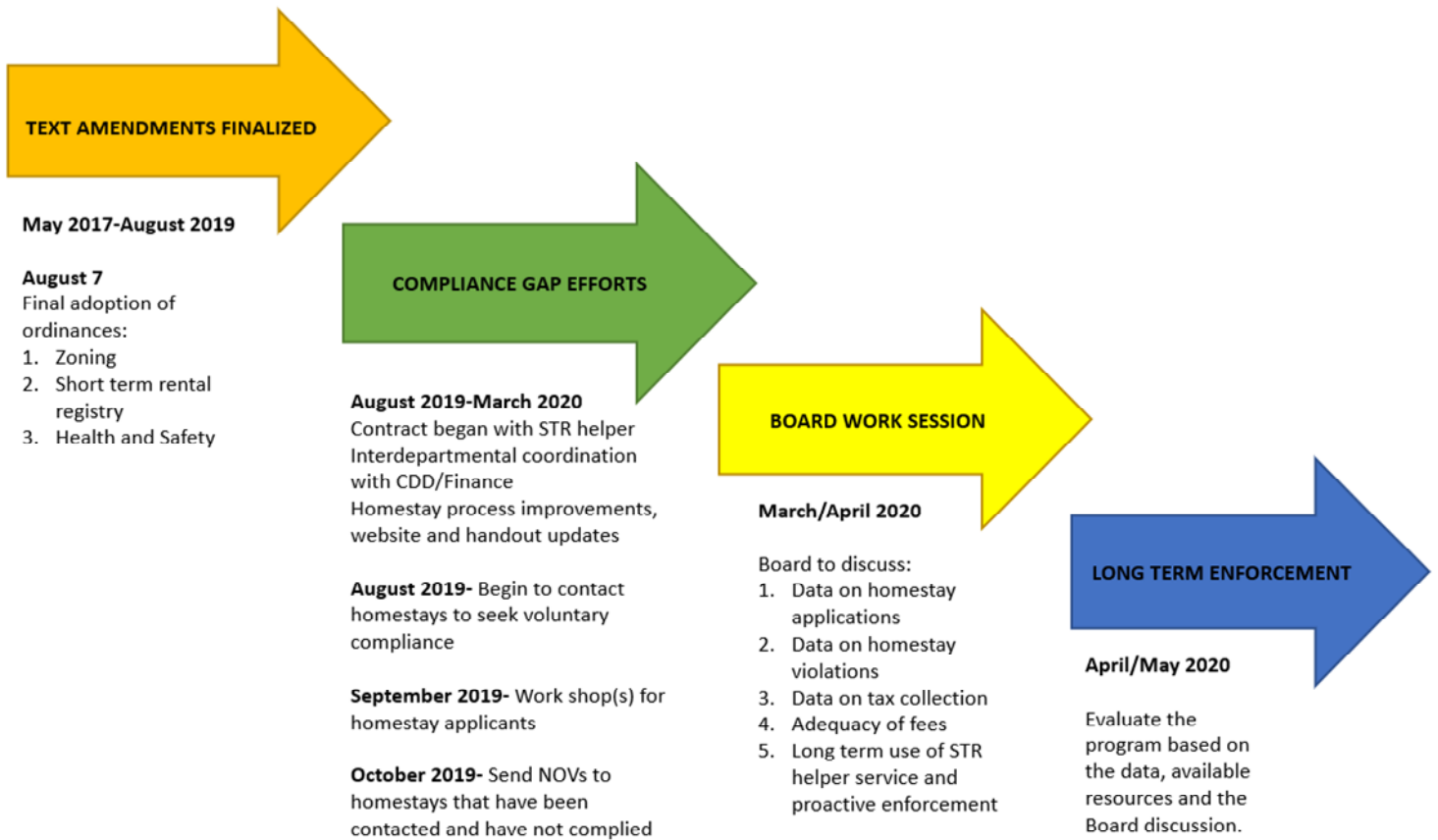
Long term enforcement

Staff recommends that long term enforcement remains a process driven by citizen complaints as they often become aware of potential issues and have the most relevant information allowing staff to initiate an investigation. The long-term process for homestays becomes effective after the compliance gap is closed or when the temporary resources are exhausted. Staff has not been able to identify reasons for treating this type of potential zoning violation differently than others for long term compliance.

Summary

Staff recommends an initial public outreach to inform those existing unapproved homestay owners of the regulations and to assist them in the approval process. We recommend closing the current compliance gap with specific measures. These include the funded rental tracking software and temporary position to assist with outreach and compliance for those homestays in the compliance gap. We also recommend that ongoing compliance be based on a responsive approach as with current zoning enforcement that does not fall within the prioritization of public health or safety. The Board may wish to revisit this after reviewing compliance and tax collection data in the work session tentatively scheduled for March/April 2020.

Basic Homestay Enforcement Timeline



Outline of Basic Homestay Enforcement Guidelines

May be subject to change based on data collected and response of property owners.

1. Ordinance is adopted - begin to close compliance gap.
2. Start with properties that will not be able to come into compliance with the new regulations - townhouses, apartments, etc.
3. Use database to identify those properties (with help from part time person).
4. Break down county into manageable areas.
5. Log those properties as a complaint in county view and assign a violation number (with help from part time person).
6. Send initial letter explaining property is in violation and remedy asking for voluntary compliance (with help from part time person):
 - a. If property comes into compliance – ABATE
 - b. If contact is made, work with property owner to achieve compliance - This can be done with negotiation of 30 - 90 days.
 - i. If after 90 days violation is still in violation send NOV - to be followed by NOV process.
 - ii. If in compliance after negotiated time - ABATE.
 - c. If no contact is made send NOV. Follow NOV process except CPP will be forwarded to County Attorney immediately upon expiration of NOV - this to be followed by new CPP every 10 days property is in violation

Follow this process until the entire county has been addressed.

7. The next part of the process will then be to address the homes in the county that can be approved but have not responded to previous communication from administration. These properties will be entered as complaints and assigned a violation number and will be processed as noted above in item 6 (with continued help from the part time person).