

ORDINANCE NO. 22-18(2)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, AND ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, and Article III, District Regulations, are hereby amended and reordained as follows:

By Amending:

Sec. 3.1 Definitions.
Sec 5.1.48 Homestays.

Chapter 18. Zoning

Article I. General Provisions

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Sec 3.1 Definitions.

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Hosted stay. "Hosted stay" means a homestay use in which at least one individual owner of the subject parcel or an approved resident manager is present overnight at the subject parcel during the entirety of a homestay rental period.

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Responsible agent. "Responsible agent" means for a homestay use, an owner, manager, management company, rental agent, or individual identified in the zoning clearance, whose role is to promptly address complaints regarding the homestay use.

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Unhosted stay. "Unhosted stay" means a homestay use in which at least one individual owner of the subject parcel or an approved resident manager is not present overnight at the subject parcel during part or all of a homestay rental period.

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[(§ 3.1: 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 01-18(9), 10-17-01; Ord. 02-18(2), 2-6-02; Ord. 02-18(5), 7-3-02; Ord. 02-18(7), 10-9-02; Ord. 03-18(1), 2-5-03; Ord. 03-18(2), 3-19-03; Ord. 04-18(2), 10-13-04; 05-18(2), 2-2-05; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 07-18(1), 7-11-07; Ord. 07-18(2), 10-3-07; Ord. 08-18(3), 6-11-08; Ord. 08-18(4), 6-11-08; Ord. 08-18(6), 11-12-08; Ord. 08-18(7), 11-12-08; Ord. 09-18(3), 7-1-09; Ord. 09-18(5), 7-1-09; 09-18(8), 8-5-09; Ord. 09-18(9), 10-14-09; Ord. 09-18(10), 12-2-09; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 11-18(5), 6-1-11; Ord. 11-18(6), 6-1-11; Ord. 12-18(3), 6-6-12; Ord. 12-18(4), 7-11-12; Ord. 12-10-3-12, effective 1-1-13; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 13-18(1), 4-3-13; Ord. 13-18(2), 4-3-13; Ord. 13-18(3), 5-8-13; Ord. 13-18(5), 9-11-13; Ord. 13-18(6), 11-13-13, effective 1-1-14; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 14-18(2), 3-5-14; Ord. 14-18(4), 11-12-14; Ord. 15-18(1), 2-11-15;

Ord. 15-18(2), 4-8-15; Ord. 15-18(4), 6-3-15; Ord. 15-18(5), 7-8-15; Ord. 15-18(10), 12-9-15; Ord. 16-18(1), 3-2-16; Ord. 16-18(7), 12-14-16; Ord. 17-18(1), 1-18-17; Ord. 17-18(2), 6-14-17; Ord. 17-18(4), 8-9-17; Ord. 17-18(5), 10-11-17; Ord. 18-18(1), 1-10-18; Ord. 18-18(4), 10-3-18; Ord. 19-18(3), 6-5-19) (§ 4.15.03: 12-10-80; 7-8-92, § 4.15.03, Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(1), 1-13-10; Ord. 10-18(3), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(2), 3-14-12; Ord. 14-18(3), 6-4-14; Ord. 15-18(3), 5-6-15; § 4.15.3; Ord. 15-18(11), 12-9-15; Ord. 17-18(4), 8-9-17) (§ 4.17.3: Ord. 98-18(1), 8-12-98; Ord. 01-18(8), 10-17-01; Ord. 17-18(5), 10-11-17) (§ 4.18.2: Ord. 00-18(3), 6-14-00; Ord. 13-18(4), 9-4-13) (§ 10.3.3.1: § 20-10.3.3.1, 11-8-89; § 18-10.3.3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01) (§ 30.2.4: § 30.2.4, 12-10-80) (§ 30.3.5: § 30.3.02.1 (part), 12-10-80; 6-10-87; Ord. 05-18(1), 1-5-05, effective 2-5-05; § 30.3.5; Ord. 14-18(1), 3-5-14; Ord. 17-18(4), 8-9-17); § 3.1, Ord. 19-18(3), 6-5-19; Ord. 19-18(6), 8-7-19; Ord. 20-18(2), 9-2-20; Ord. 20-18(3), 9-16-20; Ord. 21-18(3), 6-2-21; Ord. 22-18(2), 4-6-22]

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Article II. Basic Regulations

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Section 5 – Supplementary Regulations

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Sec. 5.1.48 Homestays.

Each homestay is subject to the following regulations:

- a. *Zoning clearance.* A parcel owner must obtain a zoning clearance under section 31.5 prior to conducting a homestay.
 1. *Information and sketch plan to be submitted with request for zoning clearance.* The following items must be submitted with each application for a homestay zoning clearance under section 31.5:
 - i. *Information.* The following information:
 1. the proposed use;
 2. the maximum number of guest rooms;
 3. the provision of authorized on-site parking; and
 4. the location, height, and lumens of outdoor lighting.
 - ii. *Schematic plan.* A schematic drawing of the premises with notes in a form and of a scale approved by the Zoning Administrator, depicting:
 1. all structures to be used for the homestay;
 2. the locations of all guest rooms; and
 3. how access, on-site parking, outdoor lighting, signage and minimum yards would comply with this chapter.
 2. *Signatures.* An application must be signed by the responsible agent and an owner of the subject parcel(s).
 3. *Residency verification.* The owner must provide two forms of verification of permanent residency, such as a driver's license, voter registration card, or other document(s) that the Zoning Administrator determines provide equivalent proof of permanent residence at the subject parcel(s). These documents must be provided in person for review during the review process.

4. *Building code, fire and health approvals.* Before the Zoning Administrator approves a zoning clearance under section 31.5, the owner of the parcel must obtain approval of the use from the building official, the fire official, and the Virginia Department of Health.
 5. *Annual notice.* The owner(s) of a homestay parcel must provide notice to the owner(s) of all abutting parcels, containing the name and contact information, including a working telephone number, of the homestay parcel's owner(s) and any other designated responsible agent. The homestay parcel's owner(s) must provide both a copy of the notice to the Zoning Administrator prior to approval of a zoning clearance and updated contact information annually thereafter.
- b. *Use provisions.* Each homestay use is subject to the following regulations:
1. *Accessory use.* Each homestay use must be accessory to a primary residential use. A homestay use may not be accessory to an accessory apartment.
 2. *Residency.* At least one individual owner of the homestay parcel must reside on the subject parcel for a minimum of 180 days in a calendar year of the homestay use, provided that by special exception, the Board of Supervisors may authorize the residency of a property-managing agent to meet this requirement.
 3. *Minimum yards.* The minimum applicable front, side, and rear yard requirements for primary structures apply to all structures used for homestays, provided that by special exception, the Board of Supervisors may authorize the reduction or modification of the minimum yards.
 4. *Parking.* In addition to the parking required for a single-family dwelling, the number of off-street parking spaces required by section 4.12.6 must be provided on-site. No alternative parking under section 4.12.8 is permitted.
 5. *Responsible agent.* The homestay parcel owner(s) must designate a responsible agent to promptly address complaints regarding the homestay use. The responsible agent must be available within 30 miles of the homestay at all times during a homestay use. The responsible agent must respond and attempt in good faith to resolve any complaint(s) within 60 minutes of being contacted. The responsible agent may initially respond to a complaint by requesting homestay guest(s) to take such action as is required to resolve the complaint. The responsible agent also may be required to visit the homestay if necessary to resolve any complaints.
- c. *Parcel-based regulations.*
1. Each homestay located on (a) a parcel of less than five acres in the Rural Areas zoning district or (b) a parcel of any size that allows residential use in the Residential zoning districts or Planned Development zoning districts is subject to the following regulations:
 - i. *Number of homestay uses.* Any parcel may have only one homestay use.
 - ii. *Structure types.* Homestay uses may be conducted only in a detached single-family dwelling or within its accessory apartment, provided that by special exception, the Board of Supervisors may authorize the homestay use of accessory structure(s).
 - iii. *Number of guest rooms.* A maximum of two guest rooms used for sleeping may be permitted with each homestay use, provided that by special exception, the Board of Supervisors may authorize the homestay use of up to five guest rooms.
 - iv. *Hosted stays.* At least one individual owner of the homestay parcel or an approved resident manager must reside on and be present overnight on the subject parcel during the homestay use.

2. Each homestay located on a parcel of five acres or more in the Rural Areas zoning district is subject to the following regulations:
 - i. *Number of homestay uses.* Any parcel may have up to two homestay uses, provided it has at least two single-family residences, and all other applicable requirements are met.
 - ii. *Structure types.* Homestay uses may be conducted in a detached single-family dwelling, within its accessory apartment, or within an accessory structure built on or before August 7, 2019, provided that by special exception, the Board of Supervisors may authorize the homestay use of accessory structures built after August 7, 2019.
 - iii. *Number of guest rooms.* A maximum of five guest rooms used for sleeping may be permitted with each homestay use.
 - iv. *Required development rights, density and limitation.* Each single-family dwelling to which a homestay use is accessory must comply with the following regulations:
 1. On any parcel less than 21 acres in size, the single-family dwelling must have and use a development right as provided in section 10.3;
 2. On any parcel, regardless of size, the single-family dwelling must comply with the permitted density; and
 3. No single-family dwelling may have more than one accessory homestay use.
 - v. *Screening.* Structures and parking used for homestays located less than 125 feet from any abutting lot not under the same ownership as the homestay must have screening that meets the minimum requirements of section 32.7.9.7(b)-(e).
 - vi. *Hosted stays.* At least one individual owner of the homestay parcel or an approved resident manager must reside on and be present overnight at the subject parcel during the homestay use except during approved unhosted stays.
 - vii. *Unhosted stays.* The owner(s) of a homestay parcel that is approved for unhosted stays may be absent during up to seven homestay rental days in any calendar month and up to 45 homestay rental days in any calendar year. The owner(s) must maintain a log of all homestay uses, including the date of each rental for which the owner(s) is/are absent. This log must be provided within five business days to the Zoning Administrator upon request.
- d. *Special exceptions.*
 1. Waiver(s) or modification(s) of this section may be authorized only by the special exception(s) specifically provided in this section.
 2. The Board of Supervisors may grant special exception(s) only after notice to abutting parcel owners.
 3. Among other relevant factors, in granting homestay special exception(s), the Board of Supervisors may consider whether:
 - i. There would be any adverse impact(s) to the surrounding neighborhood;
 - ii. There would be any adverse impact(s) to the public health, safety, or welfare;
 - iii. The proposed special exception would be consistent with the Comprehensive Plan and any applicable master or small-area plan(s); and

- iv. The proposed special exception would be consistent in size and scale with the surrounding neighborhood.
- e. *Uses prohibited.* The following uses are not permitted as uses accessory to a homestay use: (i) restaurants; and (ii) special events serving attendees other than homestay guests.
- f. *Lawfully pre-existing uses.* Any bed and breakfast or tourist lodging use approved prior to August 7, 2019 may continue, subject to conditions of the prior approval(s).

(Ord. 12-18(3), 6-6-12; Ord. 19-18(6), 8-7-19; Ord. 22-18(2), 4-6-22)

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of six to zero, as recorded below, at a regular meeting held on April 6, 2022.


 Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Andrews	<u>Y</u>	_____
Mr. Gallaway	<u>Y</u>	_____
Ms. LaPisto-Kirtley	<u>Y</u>	_____
Ms. Mallek	<u>Y</u>	_____
Ms. McKeel	<u>Y</u>	_____
Ms. Price	<u>Y</u>	_____