

## ORDINANCE NO. 22-18( )

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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~~Whole house rental. "Whole house rental" means a homestay use during which the owner is not required to be present. (See section 5.1.48).~~

[(§ 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( ), 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).
- a. ~~Residency.~~ The owner of the parcel on which a homestay is located, must reside on the subject parcel for a minimum of 180 days in a calendar year.
- b. ~~Notice.~~ The owner of a parcel conducting a homestay use must provide the name, telephone number, and emergency contact information of the owner and other designated responsible agent to abutting parcel owners on an annual basis. The owner must retain and provide a copy of the notice to the Zoning Administrator within five business days upon request.
- c. ~~Parking.~~ In addition to the parking required for a single family dwelling, the number of off-street parking spaces required by County Code § 18-4.12.6 must be provided on-site and no alternatives to parking in § 18-4.12.8 may be authorized.
- d. ~~Information and sketch plan to be submitted with request for zoning clearance.~~ The following documents must be submitted to the zoning administrator with each request for a zoning clearance under County Code § 18-31.5:
  - 1. ~~Information.~~ Information pertaining to the following: (i) the proposed use; (ii) the maximum number of guest rooms; (iii) the provision of authorized on-site parking; (iv) the location, height and lumens of outdoor lighting; and (v) two forms of verification of the permanent residency of an owner. Acceptable proof of permanent residence includes: driver's license, voter registration card, U.S. passport, or other document(s) that the zoning administrator determines provide equivalent proof of permanent residence at the subject parcel.
  - 2. ~~Sketch plan.~~ A schematic drawing of the premises with notes in a form and of a scale approved by the zoning administrator depicting: (i) all structures that would be used for the homestay; (ii) the locations of all guest rooms; and (iii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this chapter.
  - 3. ~~Signatures.~~ The responsible agent and the owner of the parcel must sign the application.
- e. ~~Building code, fire and health approvals.~~ Before the zoning administrator approves a zoning clearance under County Code § 18-31.5, the owner of the parcel must obtain approval of the use from the building official, the fire official, and the Virginia Department of Health.
- f. ~~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.
- g. ~~Responsible agent.~~ Each applicant for a homestay 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 the complaint.
- h. ~~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).
- i. ~~Special exception.~~

- ~~(1) Waiver or modification of this section is prohibited except to permit:~~
  - ~~(i) More than two guest rooms and/or the use of an accessory structure in association with a homestay on parcels in the Residential or Planned Development districts, or Rural Areas district parcels of less than five acres;~~
  - ~~(ii) Reduction in minimum applicable yards for a structure or parking used in whole or in part for a homestay.~~
  - ~~(iii) The use of an accessory structure built after August 7, 2019.~~
  - ~~(iv) Resident Manager occupancy instead of owner occupancy as required by 5.1.48(j)(1)(iv).~~
- ~~(2) Special exceptions may be granted after notice to abutting property owners upon consideration of the following:~~
  - ~~(i) There is no detriment to any abutting lot; and~~
  - ~~(ii) There is no harm to the public health, safety, or welfare.~~

~~j. 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. An accessory apartment may not qualify as a dwelling unit for a homestay use.~~
  - ~~(ii) Dwelling types. Homestay uses may only be conducted in a detached single family dwelling.~~
  - ~~(iii) Number of guest rooms. A maximum of two guest rooms may be permitted with each homestay use.~~
  - ~~(iv) Owner occupancy. The owner of a parcel with a homestay use must reside on and be present at the subject parcel during the homestay use.~~
  - ~~(v) Minimum yards. 1) In the Residential or Planned Development districts, the minimum applicable front, side, and rear yard requirements for primary structures apply to all structures used for homestays; 2) In the Rural Areas district, the minimum front, side, and rear yard shall be 125 feet from any abutting lot not under the same ownership as the homestay, for parking and for structures used in whole or in part to serve a homestay.~~
- ~~(2) Each homestay located on a parcel of five acres or more in the Rural Areas district is subject to the following regulations:~~
  - ~~(i) Number of homestay uses. Any parcel may have up to two homestay uses, provided all other applicable requirements are met.~~
  - ~~(ii) Accessory structures. Homestay uses may be conducted in accessory structures built on or before August 7, 2019.~~
  - ~~(iii) Number of guest rooms. A maximum of five guest rooms 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:~~
    - ~~(a) on any parcel less than 21 acres in size, the single family dwelling shall be authorized by a development right as provided in County Code § 18-10.3;~~
    - ~~(b) on any parcel, regardless of size, the single family dwelling shall comply with the permitted density; and~~

- ~~(c) no single family dwelling may have more than one accessory homestay use.~~
- ~~(v) *Minimum yards.* The minimum front, side, and rear yard for parking and for structures used in whole or in part to serve a homestay shall be 125 feet from any abutting lot not under the same ownership as the homestay use.~~
- ~~(vi) *Owner occupancy.* The owner of a parcel conducting a homestay use must reside on and be present at the subject property during the homestay use except during approved whole house rentals.~~
- ~~(vii) *Owner occupancy during whole house rental.* The owner of a parcel conducting a homestay use that is approved for whole house rental may be absent during the rental period for up to seven days in any calendar month and up to 45 days in any calendar year. The owner shall maintain a log of all homestay uses including the date of each rental for which the owner is absent. This log shall be provided within five business days to the Zoning Administrator upon request.~~

(Ord. 12-18(3), 6-6-12; Ord. 19-18(6), 8-7-19; Ord. 22-18( ), 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 \_\_\_\_\_ to \_\_\_\_\_, as recorded below, at a regular meeting held on \_\_\_\_\_.

\_\_\_\_\_  
Clerk, Board of County Supervisors

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