

HOMESTAY COMPLIANCE PROGRAM UPDATES

There are a number of homestays operating in Albemarle County without obtaining applicable zoning clearances or remitting taxes. This is referred to as the “compliance gap.” Following adoption of all text amendments needed for Homestays on August 7, 2019, Community Development (CDD) and Finance staff developed a plan to utilize a third-party service to aid in identifying addresses within the County offering Homestay listings. That service was used to generate a mailing list and continues to be used as a tool for Homestay compliance verification and monitoring. A Homestay compliance packet was developed by staff to give Homestay operators a step-by-step guide to achieve compliance. The County website was also updated to assist Homestay operators. Milestones and data on compliance, enforcement, and Homestay applications are summarized below.

Mailings

In order to manage the mailings and responses given staff resources, the mailing list was split into four mailings. This list included only operators whose names and addresses were verified by the third-party software. Additional operators’ contact information was identified but not yet verified to sufficient standards to receive a mailing. The Finance Department took the lead on sending the homestay inquiry letters.

September 3, 2019 – The first mailing (25 operators) was sent to those believed to be operating homestays in townhouses or apartments, which is not permitted by the Zoning Ordinance. This mailing informed the operators of the ordinance prohibiting homestays in townhouses or apartments, and that they needed to cease operating homestays.

October 22, 2019 – The second mailing (105 operators) was sent to those believed to be operating homestays without permits, or operating whole house homestays without the appropriate permits. This and all subsequent mailings included a Homestays Packet that outlined the application process and provided operators with the permit applications necessary to apply for a permit and remit the accrued taxes for their unpermitted homestays.

December 18, 2019 – The third mailing (101 operators) was sent to those believed to be operating homestays without permits, or operating whole house homestays without the appropriate permits.

March 13, 2020 – The fourth mailing (66 operators) was sent to those believed to be operating homestays without permits, or operating whole house homestays without the appropriate permits. This mailing requested a response date by April 15, 2020.

Workshops

Staff offered three community workshops as one-stop-shops for information on new Homestay regulations and compliance with Finance, Zoning, Health Department, Building Code, and Fire Code requirements. Representatives from each department and agency involved with Homestay Compliance were present to answer attendees’ questions. Two workshops were held in November 2019 at the County Office Building McIntire and Northside Library. An additional workshop was held in the Crozet community at the Field School.

Finance Compliance

Albemarle County Code §8-100 requires all persons engaging in a business in the County to obtain a license. A homestay is a business based on the definition of “Business” under Virginia Code §58.1-3700.1. A Homestay business is subject to business license, business tangible personal property tax and transient occupancy tax required by State and County codes.

In collaboration with the Department of Community Development, the Finance Department started to send homestay inquiry letters on September 3, 2019. A total of 295 inquiry letters seeking voluntary tax compliance have been sent out to homestay operators identified by utilizing a third-party helper software. As of 5/12/2020, 61.36% responded, with approximately captured revenue of \$96,997 from business license, business tangible personal property and transient occupancy tax from homestay businesses. Finance Department will statutorily assess non-responders with best available information. The amount of staff hours spent on implementing and administering the project has not been taken into consideration in this revenue number because staff does not have a confident estimate of hours spent specifically on this project.

Most of this project would not be possible without a third-party software that generates a report to identify the homestay owners through the various online platforms such as Airbnb and VRBO. The cost of the one-year software was \$9,465 and was paid with the County’s innovation fund. The access to the software expired on 4/1/2020. The cost to renew the access rights would be approximately \$7,572 from the last quote received. The County has about \$2,535 left from the innovation fund for this and will supplement from other funding. Staff intends to continue to utilize this report for equity and compliance so as not to inequitably burden those who have already complied and are now subject to the registry. The pandemic has substantially impacted the hospitality industry including homestay businesses. It is likely that homestays will be decreased for the foreseeable future. We are communicating with the third-party helper software vendor about an updated pricing quote to determine our next step.

Zoning Compliance

As of May 12, 2020, the Zoning division of CDD has tracked compliance for the properties who received inquiry letters based on the third-party helper software. Of the homestays listings that have received a mailed notice so far, 56% are now in compliance or no zoning violation was found. The average time to abate homestay violations has been approximately 60 days. Homestay operators were not always responsive to the first mailed notice and as a result, notices of violation were mailed. The number of complaints received prior to using the helper software was 9 since August 7, 2019.

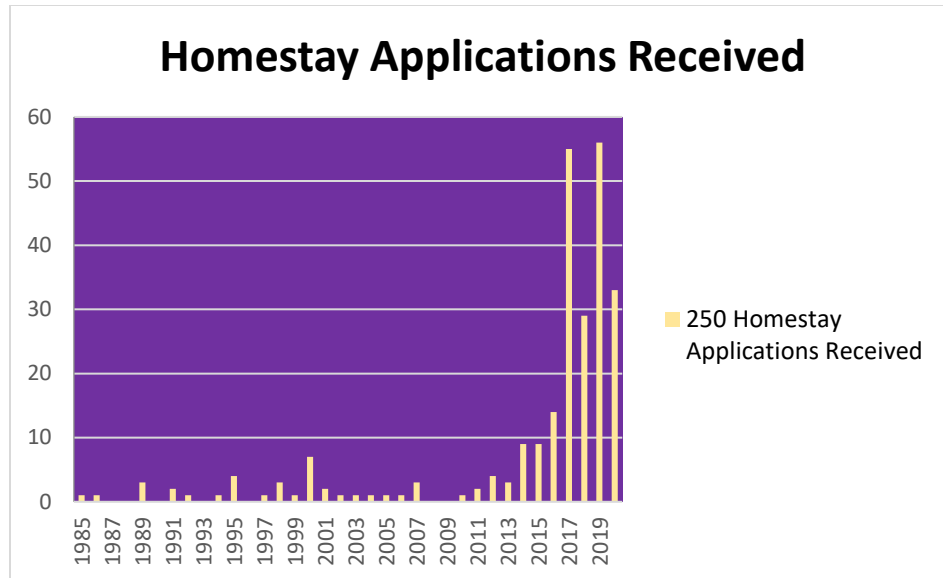
Abated and Open Homestay Zoning Violations



■ ABATED 55% ■ OPEN VIOS 45%

Homestay Zoning Clearance Applications

CDD continues to see an increase in the number of Homestay applications submitted. Up until 2016, staff received an average of two applications a year. Beginning in 2017 when the Homestay study process began, applications began increasing to an average of 46 per year. During the years 2017-2019, a total of 184 applications were received prior to the beginning of the proactive compliance program.



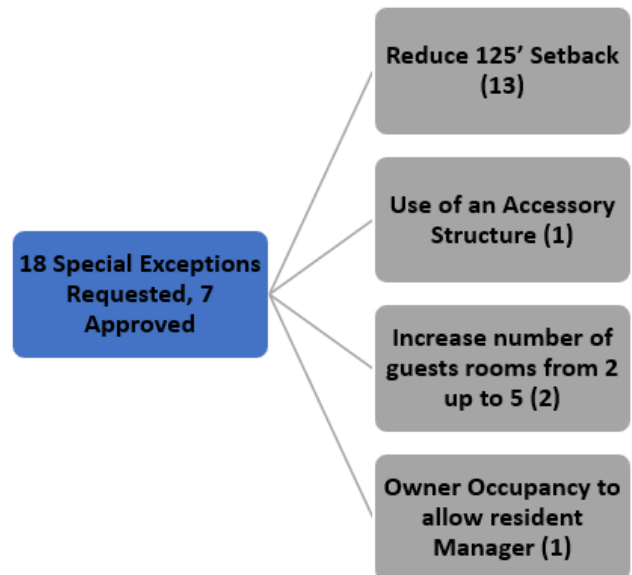
Since August of 2019, 66 applications have been submitted as indicated below. The compliance letter mailings to operators have led to peak application levels over the past several months (December-March). Staff believes applications have tapered off in April and May due to COVID-19. Of the 66 applications received since August 7, 2019, 42 applications were a result of the compliance mailing or notice of violation. The remaining 21 applications were not associated with the proactive compliance mailing. More than 83% of the Homestay applications received are in the Rural Areas zoning district with 17% located in Residential zoning districts. Approximately 60% of Homestay listings in the County offer two or fewer bedrooms.

Year	Month	Homestay Applications
2019	August	1
	September	3
	October	3
	November	6
2020	December	15
	January	14
	February	13
	March	9
	April	1
	May	1
	May (as of 5/12/2020)	1

Special Exceptions

The County has received a total of 15 special exception applications with a total of 18 requests to waive or modify Homestay ordinance requirements. Applicants may request multiple special exceptions with one application. The Board has approved seven (7) of those special exception requests, four (4) of which have been to reduce the 125' setback required for Homestay for parking and structures with guest rooms located on Rural Area (RA) zoned parcels. All but one of those setback reductions was for two or fewer guest rooms. The Zoning regulations allow for up to two guest rooms to be rented in the Residential zoning districts with no increased setback. Staff recommends the Board consider amending the ordinance requirements for the 125' setback subject to certain requirements. This would save considerable staff time and treat similar properties consistently.

There have been recent questions regarding how Homestay special exception information is available to the public and a suggestion that it be included in the Real Estate Assessment information available through the County's GIS system. Applications and approvals are tracked through the County View software used by Community Development and available to the public. CDD is working on incorporating special exceptions into the GIS system and zoning records.



Short Term Rental Registry

The Short-Term Rental Registry will not only apply to new homestay operators approved after August 7, 2020 but will also apply to any accessory tourist lodging or bed and breakfast operators approved prior to that date. Staff has focused efforts and resources on closing the homestay compliance gap. Following the completion of the proactive compliance gap program, staff will begin contacting Homestay operators to begin the annual registration. The enforcement tools (such as "three strikes") are applicable to homestay operators on the registry. Staff has been in the process of contacting those prior approved operators to begin their registration process. Staff is of the opinion that it is critical to use the third-party report in order to accurately and equitably administer and enforce homestay permitting and taxation. Otherwise, staff will not have the resources to find new listings and confirm registration for operators. This would then result in those who are already registered (and have the associated zoning and Finance approvals) being subject to more enforcement consequences than those who have not complied.