



# Albemarle County

## Legislation Details (With Text)

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**Type:** Work Session - Information      **Status:** Work Session  
**File created:** 8/27/2018      **In control:** Board of Supervisors  
**On agenda:** 9/12/2018      **Final action:**  
**Title:** ZTA 2017-01 Transient Lodging (aka Homestays).

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Att. A - ZTA 2017-01 PC Recommended Ordinance Changes, 2. Att. B - Summary of Current Regulations and Recommendations, 3. Att. C - BOS 7-9-18 Work Session

| Date      | Ver. | Action By            | Action | Result |
|-----------|------|----------------------|--------|--------|
| 9/12/2018 | 1    | Board of Supervisors | held   |        |

**AGENDA DATE:** 9/12/2018

**TITLE:** ZTA 2017-01 Transient Lodging (aka Homestays)

**SUBJECT/PROPOSAL/REQUEST:** Work session to discuss potential ordinance amendments for transient lodging

**ITEM TYPE:** Regular Action Item

**STAFF CONTACT(S):** Richardson, Walker, Graham, McCulley, Svoboda, Ragsdale

**PRESENTER (S):** Rebecca Ragsdale

**LEGAL REVIEW:** Not Required

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** This zoning text amendment (ZTA) was initiated by the Board of Supervisors on May 3, 2017 to consider expanding opportunities for transient lodging, including whole house rental when the owner/manager is not present and rental in attached or multifamily dwelling units. Since it was initiated, a work session was held with the Board to determine the scope and process for the ZTA, a series of public input meetings was held in September 2017, followed by a series of works sessions with the Planning Commission. The Commission voted at an April 24, 2018 public hearing to recommended approval of the attached ordinance amendment to the Board. (Attachment A) The Board began a series of work sessions on the recommended ordinance on June 13 and last discussed the topic in a work session on July 9, 2018. Attachment B provides a summary of current zoning regulations, proposed changes recommended by the Planning Commission in the attached ordinance, and Board recommendations and discussions to-date.

**STRATEGIC PLAN:** Quality Government Operations: Ensure County government's capacity to provide high quality service that achieves community priorities

**DISCUSSION:** The purpose of this work session is to finalize what regulations the Board would like to

advertise for public hearing and next steps in the public process for this zoning text amendment:

1. Discuss potential regulations for smaller Rural Area lots (neighborhoods)
2. Discuss whether to also regulate based on the number of guests as well as the number of guest rooms
3. Discuss next steps in public process prior to public hearing for ZTA

## 1. Potential Regulations for smaller Rural Area lots (neighborhoods)

The Board has expressed concern that Rural Area neighborhoods may need to be treated similarly as Residential zoned parcels in terms of transient lodging regulations because of the potential for nuisance impacts (such as noise). The zoning ordinance does not distinguish Rural Areas zoned properties based on residential development patterns. However, transient lodging regulations in the zoning ordinance are distinct between Rural and Residentially zoned properties. In the Rural Areas, there are three areas of flexibility that a Residentially zoned parcel does not have:

- Location of Guest Rooms-Guest rooms may be located in accessory structures. If accessory structures are used, they must meet primary structure setbacks (75' from a public road or 25' private road, 25' side setbacks, 35' rear setbacks). There is an administrative process to reduce setback requirements should abutting property owner(s) not object.
- Owner or Manager requirements-Owner or manager may reside anywhere on the parcel, not in the single family dwelling, as required on residentially zoned parcels. Typically, only larger Rural Area parcels that contain a second dwelling have an owner/manager that does not reside in the dwelling where guest rooms are located.
- Allowance for a Second BNB use-Properties that have a second single family dwelling, are more than 4 acres in size and, have development rights, may have a second bed and breakfast use, which may allow up to 10 guest rooms on a parcel.

Of the 91 BNB applications processed since 2012, 39 of those have been on parcels less than 5 acres in size and 11 of those have been on parcels less than 2 acres in size. Lot size varies across the Rural Area. Smaller lots are not just located in rural subdivisions but may include historic, family subdivision, or farm-owned parcels. Based on complaint data to-date, it appears that concerns with transient lodging rental in the Rural Area have not resulted from these areas of flexibility currently in the ordinance. The most commonly received complaints have been for properties doing whole house rental which is not currently permitted.

Should the Board wish to further restrict transient lodging in Rural neighborhoods, staff suggests a tiered approach using minimum lot size. Based on review of Rural Area properties that have developed in more of a residential pattern, staff recommends that a minimum lot size of 5 acres be required before properties are allowed the additional opportunities for tourist lodging as indicated in the table below. Staff believes that a special exception process should be available for circumstances where there are no impacts to adjoining properties, or adjoining properties are under the same ownership, similar to the provision that already exists in the ordinance for setbacks.

| Regulations              | Rural Area Parcels <5 acres                | Rural Area Parcels >5 acres                           |
|--------------------------|--------------------------------------------|-------------------------------------------------------|
| Number of Guest Rooms    | No more than 2 guest rooms                 | No more than 5 guest rooms                            |
| Location of Guest Rooms  | Within Single Family Dwelling uses as such | Within Single Family Dwelling or accessory structures |
| Second Bed and Breakfast | Not permitted                              | Permitted if development rights available             |
| Whole House Rental       | Not Permitted                              | Permitted                                             |

## 2. Discuss whether to also regulate based on the number of guests as well as the number of guest rooms

During discussions about potential impacts to neighbors, the issue of also regulating the number of guests has arisen. Currently, up to five guest rooms may be rented; but there is no limit to the number of guests per room.

The Board has recommended no more than two guest rooms be rented in Residentially zoned areas of small lot Rural zoned properties. Adequate parking must be available and is verified by staff before a zoning clearance can be approved for guest rooms. Historically, the County has only regulated the number of guest rooms because this provides continuity with how other codes regulate the use. For example, the Health Department regulates based on the number of rooms. Also, the Building Code limits the number of guest rooms to five for proprietor occupied structures. During the permit process, applicants provide a floor plan sketch showing where guest rooms are located and where owners/mangers reside and this is field verified by staff. Based on staff experience, this approach has worked well and is easier to enforce than a guest limit. Properties where there have been issues, include those that are non-compliant and engaging in whole house rental. With the reduction in guest rooms and limits on whole house rentals, staff believes that there is little benefit to also regulating the number of guests.

If the Board would like to add a limit to the number of guest rooms, then staff would suggest no more than two guests per room. This would place a limit of no more than four guests for Residentially zoned areas and up to no more than 10 guests for Rural Area properties. Based research of other localities, the maximum number of guests allowed ranges from 6-10 guests.

### **3. Discuss next steps in public process prior to public hearing for ZTA**

A work session will be scheduled in November to discuss the level of enforcement and compliance details desired by the Board.

Following the November work session, staff will determine how soon a public hearing can be scheduled. While the Board recommendations are more restrictive than the ordinance advertised for public hearing at the Planning Commission, an additional public hearing and action by the Commission is not legally required. However, because of the level of changes, staff believes the Board should consider offering another public input opportunity prior to ordinance public hearing.

**BUDGET IMPACT:** The ordinance changes will not result in budget impacts. The effort to bring operators into compliance may need additional staff resources, depending on the level of enforcement set by the Board. Enforcement will be discussed at a November work session, after the Board decides on whether to make changes to the existing ordinance.

**RECOMMENDATION:** Staff recommends that the Board provide direction on the proposed ordinance changes to be advertised for public hearing.

### **ATTACHMENTS:**

Attach A - Planning Commission recommended ordinance

Attach B - Summary of recommended Commission Ordinance along with Board recommendations and discussion to-date

Attach C - Summary of Board of Supervisors July 9, 2018 work session