



# Albemarle County

## Legislation Text

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**File #:** 17-316, **Version:** 1

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**AGENDA DATE:** 5/3/2017

**TITLE:** Residential Transient Lodging Work Session and Resolution of Intent

**SUBJECT/PROPOSAL/REQUEST:** Work session to discuss Resolution of Intent to amend the Zoning Ordinance regulations pertaining to Residential Transient Lodging and consider issues related to the County Code regarding transient occupancy taxation.

**ITEM TYPE:** Regular Action Item

**STAFF CONTACT(S):** Walker, Kamptner, Blair, Herrick, Burrell, Graham, McCulley, Echols, Higgins, Ragsdale

**PRESENTER (S):** Rebecca Ragsdale, Bill Letteri

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Douglas C. Walker

**BACKGROUND:** At its March 8, 2017 discussion of the Community Development Work Program, the Board expressed its desire to render all residential transient lodging a taxable activity in Albemarle County. With this objective in mind, the Board directed staff to accelerate the process of identifying and implementing any necessary changes to the County's Zoning Ordinance or tax code. While the tax component of this process is relatively straightforward, modification of the Zoning Ordinance would require additional steps outlined in Attachment C.

### **STRATEGIC PLAN:**

Thriving Development Areas: Attract quality employment, commercial, and high density residential uses into development areas by providing services and infrastructure that encourage redevelopment and private investment while protecting the quality of neighborhoods

Rural Area Character: Preserve the character of rural life with thriving farms and forests, traditional crossroad communities, and protected scenic areas, historic sites, and biodiversity

Economic Prosperity: Foster an environment that stimulates diversified job creation, capital investments, and tax revenues that support community goals.

### **DISCUSSION:**

In order for all providers to be subject to transient occupancy taxes, an amendment to the County's tax code will be required. This Executive Summary and actions required by the Board on May 3<sup>rd</sup> will involve initiation of the process to amend our Zoning Ordinance. Subsequent action of the Board will address changes to our tax code.

### **Tax Code Amendment:**

County Code § 8-616 subjects a number repair, personal, business and amusement services to the business, professions, and occupations licensing and tax ("BPOL") requirements. County Code § 8-619 subjects the

renting of houses and other buildings and properties to the same requirements. In order to subject short-term rentals to BPOL, staff recommends that the Board consider amending County Code § 8-616(C) to add short-term rentals to the class of businesses that include hotels and other similar transient lodging, and to amend County Code § 8-619 to clarify that that section does not apply to short-term rentals.

County Code §15-900 et seq. provides regulations related to transient occupancy taxation. These regulations provide that the County can only require that a lodging provider collect transient occupancy tax on rental of rooms in a **hotel, motel, boarding house, or travel campground** for fewer than thirty(30) consecutive days of continuous occupancy. These regulations do not include other types of lodging such as BnBs or guestrooms. Amending County Code §15-900 et seq. to include all applicable types of lodging would enable the County to impose taxes on residential transient lodging.

If the Board decides to amend County Code §15-900 et seq., the Finance Department will proactively work to bring all purveyors of residential transient lodging into compliance with the amended tax requirements. In order to facilitate the County's collection of these taxes, staff suggests the development of a registry, enabled by the new senate bill [SB1578 <http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+SB1578ER+hil>](http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+SB1578ER+hil) (Attachment A - the "Airbnb" bill). Staff further recommends that any County Code amendment should include other provisions enabled by SB1578, such as prohibiting an operator who has been found guilty of three or more violations of state and local short-term rental regulations from offering their property for rent. A zoning text amendment is not required to adopt amendments to the County's Tax Code or to require a registry of operators.

### **Zoning Text Amendment:**

The Zoning Ordinance does currently provide for accessory tourist lodging (ATL) in the Development Areas and bed and breakfast (BnB) lodging in the Rural Area. (Attachment B provides more information on current regulations.) Assuming the Board desires to amend the County's BPOL and transient occupancy tax regulations to include short-term rentals, those current operators who are not now in compliance will have to come into compliance with applicable zoning regulations and secure the required permits. The exact number of transient lodging operators who potentially affected by these changes is unknown.

A review of 120 listings found during an online search of residential transient lodging facilities in the County revealed 33 ATLs in the Development Areas and 87 BnBs in the Rural Area. Two-thirds of the facilities listed appear to be able to meet County zoning requirements for the number of bedrooms and the location of those bedrooms, of the remaining one third of facilities, most would not be in compliance with the County's zoning regulations due to periodically renting the entire house or apartment for transient lodging.

Other identified issues of noncompliance:

- renting accessory units (in the Development Areas);
- lack of a resident manager (in both the Development Areas and Rural Area);
- regular hosting of special events; or exceeding the number of guest rooms allowed.

For ATLs and BnBs without a zoning permit, it is unknown how many meet fire safety and parking requirements.

While staff is not recommending wholesale changes to the ATL and BnB zoning regulations, potential changes to two areas may be advantageous to bring operators into conformity with relative ease. Staff proposes consideration of:

- Expanding zoning regulations to include allowance of transient lodging in attached dwellings such as townhomes and condominiums.
- Amendments to deal with periodic whole house/apartment rentals

Staff notes that amendments to County Code regulations regarding transient occupancy tax and the proposed registration requirement would require, at a minimum, a public hearing prior to adoption. Changes to the Zoning Ordinance would likely require more extensive public participation. Public engagement can take place at a Planning Commission work session, CAC meetings, or other venues prior to a Board public hearing on the ZTA. Attachment C contains a potential timeline for public input on both the tax regulations and the ZTA. For the ZTA, the schedule may be ambitious if proposed changes are contentious or if complex issues arise that staff has not anticipated

**BUDGET IMPACTS:** Amending the County Code to capture transient occupancy tax and to more broadly allow transient lodging use would result in increased revenue. Staff is unable to project at this time the amount of increased revenue and what resources would be required to collect the additional revenue and bring operators into conformity.

**RECOMMENDATION:**

If the Board wishes to pursue a Zoning Text Amendment to amend the County's Residential Transient Lodging regulations at this time, staff recommends that the Board adopt the attached Resolution of Intent (Attachment D) and endorse the public process provided as Attachment C.

If the Board wishes to pursue changes to County Code §§ 8-616(C), 8-619, and 15-900 et seq. to impose short-term rental license and taxation requirements, staff will schedule for further consideration at a meeting in June with possible action at that time to schedule a Public Hearing for July or other subsequent regular meeting.

**ATTACHMENTS:**

- A. SB 1578
- B. Existing Zoning Ordinance Provisions for Transient Lodging
- C. Tentative Public Process to Consider Amending Zoning Ordinance Provisions for Residential Transient Lodging
- D. Resolution of Intent for ZTA to amend Residential Transient Lodging Regulations