

DRAFT STRAWMAN – Development Process Committee, December 12, 2017
ZONING ORDINANCE AMENDMENT FOR SHORT-TERM LODGING

PROPOSED SHORT-TERM LODGING PROVISIONS

(All proposed provisions under this section are new, but are not underlined for ease of reading.)

Short-term lodging is permitted as an accessory use in any dwelling or mobile home subject to approval by the Zoning Administrator in accordance with the following:

Definitions

For purposes of this section, the following definitions apply:

AUTHORIZED AGENT: A person at least 18 years of age available to address any issues that may arise related to the SHORT-TERM LODGING use.¹

OPERATOR: The proprietor and permanent resident, at least 18 years of age, of any DWELLING or MOBILE HOME offered for short-term lodging, whether as owner, lessee, sub-lessee, mortgagee in possession, licensee, or any other possessory capacity.

PERMANENT RESIDENT: A person who occupies the DWELLING or MOBILE HOME for a minimum of one hundred eighty-five (185) days out of the calendar year with the intent to establish the DWELLING or MOBILE HOME as that person’s primary residence.

SHORT-TERM LODGING: The provision of a room or space that is suitable or intended for occupancy for sleeping or lodging purposes, for a period less than thirty (30) consecutive days, in exchange for a charge for the occupancy. Such use does not include ACCESSORY DWELLING UNIT, BED AND BREAKFAST, or HOTEL/MOTEL.

TRANSIENT OCCUPANCY: Use of a DWELLING or part of a DWELLING for occupancy for less than thirty (30) consecutive days.

Short-Term Lodging Use Requirements

Upon issuance of a Short-Term Lodging Permit, short-term lodging is permitted as an accessory use in any zoning district that permits residential uses and may be provided in any type of dwelling or mobile home provided the following requirements are met.

- A. All advertisements for short-term lodging must state whether a designated off-street parking space is available to the lodger during the term of the short-term lodging contract. If no off-street parking is provided, all advertisements must specify where lodgers are authorized to park.

¹ Additions and/or revisions to the draft strawman presented to the Planning Commission (PC) on November 1, 2017, based on feedback provided by the PC and comments received from the public, are shown with yellow highlight.

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- 1 B. The following life safety measures must be provided in any building where short-term
2 lodging is offered:
3
4 i. **Interconnected** smoke detectors and carbon monoxide detectors, where applicable,
5 must be installed in the units **where short-term lodging is provided**,
6
7 ii. **A multi-purpose** fire extinguisher must be installed in each unit used for short-
8 term lodging, and
9
10 iii. An emergency exit plan showing the path to the nearest exit from the area of the
11 dwelling or mobile home used for short-term lodging must be posted within the
12 area used for short-term lodging.
13
14 C. The Operator must maintain a log identifying all overnight lodgers, and the log must be
15 available upon request to any County official, employee or agent.
16
17 D. The Operator must comply with all applicable federal, state, and local laws, ordinances
18 and regulations. Operators must remit a Transient Occupancy Tax (TOT), and must
19 obtain a Business, Professional and Occupational License (BPOL), if applicable, under
20 the provisions of Chapter 4 of the Code of Fairfax County.
21
22 E. **A copy of the permit shall be posted prominently at the entrance to the dwelling and must**
23 **include the contact information of the Authorized Agent.**
24
25 F. The Operator must include the Short-Term Lodging Permit Number, as issued by the
26 Zoning Administrator in any and all advertisements including, but not limited to, any
27 online platforms or printed materials.
28

29 **Short-Term Lodging Use Limitations and Prohibitions**

- 30
31 A. **A short-term lodging operation is not permitted in an accessory dwelling unit, a detached**
32 **accessory structure, affordable dwelling unit, workforce dwelling unit or a temporary**
33 **family health care structure, as such uses are defined in Article 10 or 20, as applicable.**
34
35 B. Short-term lodging is limited to overnight rentals of not more than **ninety (90)** calendar
36 days per year with the Operator present. *[Note: To be advertised with flexibility to*
37 *allow the Board to consider a range of rental nights of up to 180 days. In the event that*
38 *the Board prefers an unlimited number of nights, this paragraph will be deleted and the*
39 *subsequent paragraphs renumbered accordingly.]*
40
41 C. Short-term lodging is limited to overnight rentals of not more than **thirty (30) to ninety**
42 **(90)** calendar days per year without the Operator present. *[Note: To be advertised with*
43 *flexibility to allow up to 180 days where the Operator is not present during a short-term*
44 *lodging.*

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- 1 D. **OPTION** – allows short-term lodgings without the Operator present. Short-term lodging
2 is allowed with no limit on the number of days and the Operator is not required to be
3 present during the rental period, however, an Authorized Agent that will respond to any
4 issued that may arise will be required. *If the Board chooses not to impose a limit on the*
5 *number of nights a unit can be rented without the Operator present, the maximum*
6 *number of days the unit could be rented without an Operator present will still be 180.*
7 *This is because of the requirement that an Operator be a permanent resident of the*
8 *dwelling/mobile home, which requires that the Operator be present in the home 185 days*
9 *of the year.)*
- 10
- 11 E. The maximum number of overnight lodgers is **six (6)**. *[Note: To be advertised with*
12 *flexibility that will allow the Board to consider a maximum total number of occupants*
13 *from 4 to unlimited, but in no event to exceed the maximum allowable by the Virginia*
14 *Uniform Statewide Building Code.]*
- 15
- 16 F. Only **one (1)** rental contract is permitted per night, and all lodgers staying in the dwelling
17 or mobile home must be associated with the same short-term lodging rental contract.
18 *[Note: To be advertised with flexibility to permit up to three contracts on any given*
19 *night. This provision will be modified accordingly to address the plural if the Board*
20 *adopts a standard that allows more than one contract per night.]*
- 21
- 22 G. Only lodgers registered under a rental contract and identified in the Operator’s log, and
23 any minors associated with the registered lodgers, are permitted on-site during the short-
24 term lodging contract period.
- 25
- 26 H. Hosting of commercial or group activities, events, or other gatherings, in connection with
27 the short-term lodging is prohibited. Such activities, events or other gatherings include,
28 but are not limited to, luncheons, group meetings, educational events, recreational events,
29 tours, chef provided meals, reunions, banquets, house concerts, parties, weddings,
30 meetings, charitable fund raising, and commercial or advertising activities, regardless of
31 whether there is any form of compensation (direct or indirect) for the activity, event, or
32 gathering.
- 33
- 34 I. The provisions of this Ordinance do not abrogate, nullify, or replace any private
35 regulations applicable to the dwelling or mobile home. It is wholly the responsibility of
36 the Operator to determine whether the dwelling or mobile home is subject to any private
37 regulations outside this Ordinance, including but not limited to, regulations imposed by a
38 condominium, cooperative, common interest community, property owners’ association,
39 mortgage lender, or insurance provider. County staff will not review private regulations
40 or agreements to determine their applicability to a particular dwelling, mobile home,
41 community, or lot.
- 42 J. The offering of a dwelling or mobile home, in whole or in part, for Short-Term Lodging
43 without an approved Short-Term Lodging Permit is prohibited.
- 44

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1 **Short-Term Lodging Permit Requirements**

- 2
- 3 A. A completed Short-Term Lodging Permit Application Form
- 4
- 5 B. Written acknowledgement by the Authorized Agent(s) that the Authorized Agent(s)'
- 6 contact information is correct, and that the Authorized Agent will be available to respond
- 7 to any to complaints regarding the condition, operation, or conduct of occupants of the
- 8 Short-Term Lodging use and take remedial action to resolve any such complaints in the
- 9 absence of the Operator.
- 10
- 11 C. Written consent from the legal owner or legal representative of the owner of the dwelling
- 12 or mobile home if the Operator is not the owner of the dwelling or mobile home.
- 13
- 14 D. Proof of permanent residency established by providing copies of two (2) of the following
- 15 documents: motor vehicle registration; driver's license; voter registration or U.S. passport
- 16 showing the address of the subject property; most recent tax return; pay stub; utility bill;
- 17 or other document(s) deemed acceptable by the Zoning Administrator as proof of
- 18 permanent residency.
- 19
- 20 E. Short-Term Lodging Permit application fee, as set forth in Article 18.
- 21

22 **Short-Term Lodging Permit Validity**

- 23
- 24 A. A Short-Term Lodging Permit is valid for **two (2) years** from the date of issuance, unless
- 25 revoked or terminated earlier. A Short-Term Lodging Permit is valid for only the
- 26 original Operator and is not transferable to any other resident, Operator, or address. The
- 27 Operator is responsible for renewing the Short-Term Lodging Permit prior to its
- 28 expiration. *[Note: To be advertised with flexibility to allow the Board to consider a one*
- 29 *or two year permit validity.]*
- 30
- 31 B. A Short-Term Lodging Permit is revocable by the Zoning Administrator because of the
- 32 **failure of the Operator to comply with any provision of this ordinance, or any other local**
- 33 **ordinance, state or federal law or regulation** related to short-term rental use.
- 34

35 **PROPOSED FEES**

- 36
- 37 1. Establish a new Short-Term Lodging Permit fee of **\$200** for a two-year permit. *[Note: To be*
- 38 *advertised with flexibility, including whether permit is approved annually or every 2 years*
- 39 *and for a fee that is equivalent to \$60 to \$250/year.]*
- 40
- 41 2. Adjust existing Category 5 Special Exception fee for Bed and Breakfast from \$16,375 to
- 42 \$8,180 and keep other Category 5 use fees at the current rate of \$16,375. *[Note: To be*
- 43 *advertised with flexibility to allow the Board to consider any fee from \$4,090 to \$16,375.]*
- 44