



THE COMMON COUNCIL

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I, Kerri A. Mellott, Deputy Clerk of the Common Council, hereby certify on this 29 day of November 2021 that the following Ordinance is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in regular session on the 23 day of November 2021.

TA-21-361 AN ORDINANCE AMENDING ARTICLES 1, 3, 4, 5, 5.1, 6, 7, 8, 13, AND 18 OF THE ZONING ORDINANCE OF CITY OF WINCHESTER, VIRGINIA, PERTAINING TO HOMESHARES AND SHORT TERM RENTALS

WHEREAS, as provided in §15.2-2283 of the Code of Virginia, it is in the interest to the City to promote health, safety and welfare and furthermore protect and promote a convenient, attractive and harmonious community; and,

WHEREAS, the City's Zoning Ordinance has provisions that regulate allowed uses in residential zoning districts; and,

WHEREAS, the Planning Commission and the Common Council have identified a need to update the regulations governing homeshares and short term rentals to ensure that the Zoning Ordinance is serving the goals of the Comprehensive Plan; and,

WHEREAS, pursuant to Section 22-1-1 of the Zoning Ordinance, the Planning Commission has initiated this Ordinance amendment.

NOW, THEREFORE BE IT ORDAINED, by the Common Council of the City of Winchester, Virginia that the Winchester Zoning Ordinance is hereby amended as follows: (i) Sections 1-2-48.2, 1-2-86.1, 3-2-8, 4-2-12, 5-2-20, 5.1-2-13, 6-2-11, 7-1-27, 8-2-28, 13-1-3.18, 18-29, 18-29-1, 18-29-2, and 18-28-3 are amended and reenacted, and (ii) a new Section 1-2-75.2 is enacted, as follows:

ARTICLE 1 - DEFINITIONS

1-2-48.2 Homeshare: A **home occupation dwelling unit** in which a room or rooms are offered for rent for compensation for a period of 30 consecutive days or less by an owner **of a single family home or townhouse** who utilizes the dwelling as his/her **principal primary** residence and occupies the dwelling unit during any such rental. **Homeshares are subject to regulations provided in Sections 18-18 and 18-29 of this Ordinance. No food shall be prepared for guests.**

1-2-75.2 Primary Residence: A primary residence is the main location that a person inhabits, also referred to as principle residence, main residence, or permanent residence. The resident utilizes their primary residence as the place in which they sleep and reside for a minimum of 183 days per

calendar year. The resident also has the address of their primary residence on an official government document such as a state issued license or passport.

1-2-86.1 Short Term Rental: ~~A dwelling unit that does not meet the definition of homeshare in which a room or rooms, or the entire dwelling are rented for 30 consecutive days or less for compensation. Unlike bed and breakfast homestays and bed and breakfast inns, no food shall be prepared for guests.~~ The provision of one or more rooms of a dwelling unit or a space that is otherwise permitted for occupancy for the purpose of dwelling, sleeping, or lodging, for a period of 30 or fewer consecutive days, in exchange for compensation. Short term rentals are subject to regulations provided in Section 18-29 of this Ordinance.

ARTICLE 3 - LOW DENSITY RESIDENTIAL DISTRICT—LR

3-2-8 ~~Reserved Short term rentals, subject to the use standards of Section 18-29 of this Ordinance.~~
~~(6/12/18, Case TA-18-151, Ord. No. 2018-16)~~

ARTICLE 4 - MEDIUM DENSITY RESIDENTIAL DISTRICT—MR

4-2-12 ~~Reserved Short term rentals, subject to the use standards of Section 18-29 of this Ordinance.~~
~~(6/12/18, Case TA-18-151, Ord. No. 2018-16)~~

ARTICLE 5 - HIGH DENSITY RESIDENTIAL DISTRICT—HR

5-2-20 ~~Reserved Short term rentals, subject to the use standards of Section 18-29 of this Ordinance.~~
~~(6/12/18, Case TA-18-151, Ord. No. 2018-16)~~

ARTICLE 5.1 – LIMITED HIGH DENSITY RESIDENTIAL DISTRICT—HR-1

5.1-2-13 ~~Reserved Short term rentals, subject to the use standards of Section 18-29 of this Ordinance.~~

ARTICLE 6 - RESIDENTIAL OFFICE DISTRICT—RO-1

6-2-11 ~~Reserved Short term rentals, subject to the use standards of Section 18-29 of this Ordinance.~~

ARTICLE 7 - RESIDENTIAL BUSINESS DISTRICT—RB-1

7-1-27 Short term rentals, subject to the use standards of Section 18-29 of this Ordinance. The short term rental must be the primary residence of the operator, as defined in Section 1-2-75.2.

ARTICLE 8 - HIGHWAY COMMERCIAL DISTRICT—B-2

8-2-28 ~~Reserved Short term rentals, subject to the use standards of Section 18-29 of this Ordinance.~~
~~(6/12/18, Case TA-18-151, Ord. No. 2018-16)~~

ARTICLE 13 - PLANNED DEVELOPMENT

13-1-3.18 Uses permitted with a conditional use permit.

a. Home occupations in accordance with Section 18-9-2.6.

~~b. Short term rentals, subject to the use standards of Section 18-29 of this Ordinance.~~

be. Wireless facilities and wireless support structures not eligible for administrative review.

ARTICLE 18 - GENERAL PROVISIONS

Sec. 18-29. – Homeshares and Short Term Rentals.

18-29-1 A zoning use permit pursuant to Section 18-1 of this article shall be required prior to the commencement of a homeshare or short term rental use. Any permit issued to a homeshare or short term rental operator is non-transferrable.

18-29-2 Homeshare use requirements:

- A. Shall only be operated as a home occupation pursuant to Section 18-19 of this Ordinance.
- B. The operator shall only be an owner who utilizes and resides at the dwelling as his/her primary residence. An owner must reside at the dwelling when being rented to guests.
- C. No more than two rooms shall be rented to guests at one time.
- D. Shall not be rented to more than four guests at one time.
- E. Shall comply with provisions A through O of Section 18-29-2 of this Ordinance.

18-29-3 Short term rental use requirements:

- A. A fire extinguisher shall be provided and visible in all kitchen and cooking areas; smoke detectors shall be installed in all locations as identified in the Uniform Statewide Building Code; and a carbon monoxide detector must be installed on each floor in every dwelling.
- B. No exterior signage for the use may be utilized.
- C. The short term rental operator shall comply with all registration, filing and taxation requirements with the Commissioner of Revenue's and Treasurer's offices.
- D. Off-street parking must be available at the dwelling unit in accordance with Section 18-6, subject to special exemptions or reductions for properties located within Parking Districts A and B as provided in Section 18-6-6.
- E. The use at all times must comply with applicable noise and maximum sound level regulations per Chapter 17 of Winchester City Code, as amended.
- F. By submitting an application for a short term rental, an applicant authorizes the Administrator or designee to enter the subject property, upon reasonable advance written notice to the applicant, at least one time during the calendar year to verify that the short term rental is being operated in accordance with the regulations set forth within this section.
- G. A property management plan must be submitted to the Administrator, illustrating how the operator will handle neighborhood complaints, trash collection/removal, noise, and other neighborhood concerns.
- H. The short term rental shall not be marketed or used for weddings, receptions, or other events.
- I. No food shall be prepared for or served to guests by the owner or operator of the short term rental. Utilization of kitchen facilities within the short term rental by guests shall not be restricted.

- J. The owner of any property applying for a short term rental, or the owner of the controlling entity that owns a property applying for a short term rental, must sign the application for a short term rental.
- K. Sub leasing, defined as a lease of a property by a tenant to a subtenant, of short term rentals is strictly prohibited.
- L. The operator must identify a responsible party who will be immediately available to respond to and resolve issues and complaints that arise during use of the property as a short term rental.
- M. Emergency information must be conspicuously posted inside the property, including contact information for the party responsible for management of the facility.
- N. Multifamily and mixed-use structures are excluded from the ability to utilize the short term rental use whether owner occupied or not. Single family homes and townhouses are the only eligible structures types.
- O. All short term rental operators are responsible for keeping a ledger containing the dates and amount charged for any stay that occurs. That information will be provided to the Commissioner of the Revenue and the Zoning Administrator on an annual basis.
- P. The total number of sleeping rooms available for rental is limited to a maximum of 5 sleeping rooms. Structures that exceed 5 bedrooms are prohibited from operating a short term rental.
- Q. Short term rentals may exceed the occupancy regulations found under 1-2-36. The total number of adult renters allowed in a short-term rental shall be limited to two adults per available sleeping room, with a total maximum of ten total occupants including children. Double booking which consists of more than one booking transaction occurring at the same time is not allowed. Occupancy may be further limited under the Building Code.

~~Sec. 18-29. -- Homeshares and short term rentals.~~

~~18-29-1A zoning use permit pursuant to Section 18-1 of this article shall be required prior to the commencement of a homeshare or short term rental use. This requirement does not supersede the requirement for a conditional use permit in districts for which such permit is required. Any permit issued to a homeshare or short term rental operator is non-transferrable.~~

~~18-29-2 Homeshare use requirements:~~

- ~~A. The operator shall only be an owner who utilizes and resides at the dwelling as his or her primary residence. The operator must submit acceptable proof to the Administrator that the dwelling is the operator's primary residence. Acceptable proof of permanent residence may include: applicant's driver's license, voter registration card, or United States passport showing the address of the property, or other document(s) which the Administrator determines provides proof of permanent residence by the operator.~~
- ~~B. No food shall be prepared for or served to guests.~~
- ~~C. A fire extinguisher shall be provided and visible in all kitchen and cooking areas; smoke detectors shall be installed in all locations as identified in the Uniform Statewide Building Code; and a carbon monoxide detector must be installed on each floor in every dwelling.~~
- ~~D. No exterior signage for the use may be utilized.~~
- ~~E. The operator shall comply with all registration, filing and taxation requirements with the Commissioner of Revenue's and Treasurer's offices.~~
- ~~F. Off-street parking must be available at the dwelling unit unless the property benefits from an exemption or reduction in parking requirements per Section 18-6-6.~~
- ~~G. The use at all times must comply with applicable noise and maximum sound level regulations per Chapter 17 of Winchester City Code, as amended.~~
- ~~H. By submitting an application for a homeshare, an applicant authorizes the Administrator or designee to enter the subject property, upon reasonable advance written notice to the~~

~~applicant, at least one time during the calendar year to verify that the homestay is being operated in accordance with the regulations set forth within this section.~~

~~I. A property management plan must be submitted to the Administrator, illustrating how the operator will handle neighborhood complaints, trash collection/removal, noise, and other neighborhood concerns.~~

~~J. A permit for a homeshare may be revoked by the Administrator:~~

~~(i) In the event that three or more substantiated complaints are received by the City within a calendar year; or~~

~~(ii) For failure to maintain compliance with any of the regulations set forth within this section.~~
~~18-29-3 Short-term rental use requirements.~~

~~A. No food shall be prepared for or served to guests.~~

~~B. A fire extinguisher shall be provided and visible in all kitchen and cooking areas; smoke detectors shall be installed in all locations as identified in the Uniform Statewide Building Code; and a carbon monoxide detector must be installed on each floor in every dwelling.~~

~~C. The operator shall comply with all registration, filing and taxation requirements with the Commissioner of Revenue's and Treasurer's offices.~~

~~D. Off-street parking must be available at the dwelling unit at the ratio provided in Section 18-6-5. This requirement applies unless the property benefits from an exemption or reduction in parking requirements per Section 18-6-6.~~

~~E. The operator must identify a responsible party who will be immediately available to respond to and resolve issues and complaints that arise during use of the property as a short term rental.~~

~~F. Emergency information must be conspicuously posted inside the property, including contact information for the party responsible for management of the facility.~~

~~G. The use at all times must comply with applicable noise and maximum sound level regulations per Chapter 17 of Winchester City Code, as amended.~~

~~H. By submitting an application for a short term rental, an applicant authorizes the Administrator or designee to enter the subject property, upon reasonable advance written notice to the applicant, at least one time during the calendar year to verify that the homestay is being operated in accordance with the regulations set forth within this section.~~

~~I. A property management plan must be submitted to the Administrator, illustrating how the operator will handle neighborhood complaints, trash collection/removal, noise, and other neighborhood concerns.~~

~~J. A permit for a short term rental may be revoked by the Administrator:~~

~~(i) In the event that three or more substantiated complaints are received by the City within a calendar year; or~~

~~(ii) For failure to maintain compliance with any of the regulations set forth within this section.~~

Ordinance No. O-2021-33

ADOPTED by the Common Council of the City of Winchester on this 23 day of November 2021.

Witness my hand and the seal of the City of Winchester, Virginia.



A handwritten signature in black ink that reads "Kerri A. Mellott".

Kerri A. Mellott
Deputy Clerk of the Common Council