

Homestay means a private, resident occupied dwelling, with up to two guest rooms where overnight lodging accommodations are provided to transients for compensation and where the use is subordinate and incidental to the main residential use of the building. A homestay is considered a “Lodging” use under this UDO.

Additionally, one of the special standards, UDO Sec. 7-16-1(c)(9)(c), specifically addresses residency of the unit and reads as follows:

- c. The homestay operation shall be managed and carried on by a full-time resident of the property who shall be present and residing in the home when lodgers are present. Present and residing in the home means the full-time resident shall not be staying overnight outside of the home for reasons such as vacation, visiting with friends or family, or travelling out of town for business or personal reasons. Temporary absences related to normal residential activity such as shopping, working, attending class, etc. are permitted. A minimum of two documents establishing proof of residency shall be supplied from an approved list of documents.

This updated Homestay definition and special standard clarified that the renting of a residential dwelling unit to transients can be classified as a Homestay only if it is a resident occupied, and resident run operation. If it is not resident occupied and run, then it is classified as a *Lodging Facility*, which is not a use allowed in the City’s residential districts. The resident-manager need not be the property owner. In instances where the manager is not the property owner, the application requires an Owner’s Affidavit affirming that the property owner is aware of the request for a homestay application and supports the tenant in applying for the homestay permit.

Zoning Actions:

On June 17, 2014, the City issued a Notice of Violation (NOV) to the property owner of 16 Cherokee Rd., for the operation of an illegal short-term rental. A copy of the NOV is attached hereto as Exhibit C. On November 24, 2014, the property owner appealed the issuance of the NOV to the Asheville Board of Adjustment. After several continuances, the appeal was withdrawn by the property owner in January 2015 and the matter was never heard by the Board. Although the property owner withdrew the appeal, the zoning violation remaining unresolved and enforcement staff issued the property owner a Citation on February 10, 2015 for failure to remedy the NOV. A copy of the February 10 Citation is attached hereto in Exhibit C. The property owner responded quickly and provided evidence that the property would be returned to a residential use and rented for a minimum of one month. The Property Owner also executed an Affidavit, stating that the property would be rented for a minimum of 30 days at a time and, as a result, no fines were assessed.

Several months later, a new complaint was received and new evidence that the home at 16 Cherokee Rd. was again being rented and occupied on a short-term basis was discovered. Subsequently, a new Citation dated June 2, 2015 was issued. A copy of the June 2 Citation is also attached hereto in Exhibit C. Once again, the property owner responded quickly and on June 4, 2015 Mr. Francis and Mr. Boustead applied for a homestay permit. At the time of this application, however, the homestay standards included a 500-foot separation requirement from all other homestays and a previously issued homestay permit (#15-03996PZ) approved for 18 Cherokee Rd. prevented the issuance of a Homestay permit for 16 Cherokee Rd. , Mr. Francis and Mr. Boustead again returned the home to a residential use and paid a \$300 fine for the days the home had been rented on a short-term basis. The enforcement case was closed on July 23, 2015.

On November 17, 2015 the Asheville City Council amended the definition and standards that regulate Homestays and included the removal of the 500-foot separation requirement and updated the requirement for a full-time resident manager. (Exhibit A, Ord. No. 4470). On December 10, 2015, Michael Boustead submitted an amended application for a Homestay permit at 16 Cherokee Rd. along with supporting documentation, including: 1) an Owner’s Affidavit signed by David Troy Francis; and 2) copies of Mr. Boustead’s NC driver’s license and voter registration card, as proof of the full-time resident-manager requirement for the issuance of a Homestay permit. A copy of Mr. Boustead’s Homestay Application and supporting documents are attached hereto as Exhibit D. The permit application and two proofs of residency all listed 16 Cherokee Rd. as Mr. Boustead’s permanent address. With all application requirements satisfied, Development Services staff approved the Homestay operation on December 16, 2015 (Exhibit D).

Chronological Timeline of Zoning Actions:

Date	Action	Notes
June 17, 2014	Notice of Zoning Violation Issued to 16 Cherokee Rd.	
November 24, 2014	Appeal of NOV for 16 Cherokee Rd. received	
January 2015	Appeal withdrawn	Enforcement action resumes
February 10, 2015	Citation#1 issued for 16 Cherokee	No fines assessed
February 12, 2015	Letter from Zoning Administrator	Clarifying compliance req’ts.
February 20, 2015	Compliance letter#1 for 16 Cherokee issued	
April 21, 2015	Homestay permit issued to 18 Cherokee Rd.	#15-03996PZ
June 2, 2015	Citation #2 for 16 Cherokee issued	
June 4, 2016	Homestay permit applied for 16 Cherokee Rd.	#15-07381PZ Application placed on hold
July 23, 2015	Compliance letter #2 for 16 Cherokee issued	\$300 fine assessed & paid
November 17, 2015	Ord. No. 4470 adopted by the Asheville City Council	Removes separation req’t. and updated full-time resident-manager req’t.
December 10, 2015	Amendment to homestay permit for 16 Cherokee rec’d.	
December 10, 2015	Homestay permit issued to 16 Cherokee Rd.	#15-07381PZ
December 16, 2015	Homestay for 16 Cherokee Rd. approved	Approved after inspection

Other items to note:

- Current appeal was submitted on January 7, 2016 by Stuart & Amy Alford, residents of 18 Cherokee Rd.

Attachments:

- Exhibit A – Ord. No. 4470 (Homestay amendment)
- Exhibit B – Aerial Map
- Exhibit C – Notice of Violation & Citations
- Exhibit D – Boustead homestay Application & supporting documents