

STAFF REPORT

TO: Planning & Economic Development Committee **DATE:** 10/20/15

FROM: Todd Okolichany, Planning & Urban Design Director

PREPARED BY: Shannon Tuch, Principal Planner

SUBJECT: Wording Amendment - Homestays

Summary

On-going consideration of a proposed amendment to update standards regulating *Homestays* in the City of Asheville.

Background

The City of Asheville has been engaged in a long and public conversation over the proliferation of short term rentals in the city's jurisdiction over the last two years. Most recently, the Asheville City Council reviewed an ordinance amending standards for *Homestays* on August 25, 2015. Significant public comment, both for and against, homestay operations was received at the hearing and Council delayed the vote to allow for additional research and input before a final decision is made. Of specific concern to the Council were:

- 1) Ensuring that homestay operations preserve the health and safety of both residents and visitors;
- 2) Protecting the community's general welfare by preserving much needed housing and promoting housing security; and
- 3) Minimizing impacts on the residential neighborhoods by integrating these non-residential uses in a manner that would preserve the harmony and character of the neighborhoods within which the homestay operations were located.

In discussing these concerns, the following points were specifically identified by Council members:

- The need to define "full-time resident" as described in the updated standards (including the consideration to add back in language requiring the operator of the homestay to be "present during overnight accommodations")
- Further limiting the number of bedrooms to rent (currently proposed at three)
- Potentially capping the number of days a homestay is rented
- Potentially capping the number of guests at any given time
- Potentially limiting one homestay per operator or owner
- Off-street parking requirements
- The value of not allowing separate kitchens in a homestay
- The value of not allowing ADU's to be used as a homestay or the owner/operator's quarters
- Cost of permits
- Cost of enforcement

Review & Analysis

In order to comprehensively address these concerns, they are addressed individually as follows:

Definition of full-time resident, presence of owner/operator

Different drafts of the standards regulating homestays included various efforts to communicate the need to have the owner/operator of the homestay be a regular presence in the home through residency. It is intended that the owner/operator reside in the home and that the home be their primary residence. Also, it has been observed that nuisance complaints are extremely low when the owner/operator is present and can intervene when activity from the operation becomes a nuisance. Having the owner/operator present also helps to protect the health and safety of residents and guests by serving as the informed party who can help evacuate the home in the event of an emergency and/or inform emergency personnel of who exactly is in the home and in what rooms. In order to address these concerns, the applicable standard could be amended to read:

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

Samples of approved documents may include: a valid NC Driver's License, a valid US Passport, a utility bill in the individual's name with address, a recent tax form with name and address, etc.

Maximum number of bedrooms to rent

Currently the ordinance allows for up to three bedrooms to be rented as part of the homestay operation, and rooms may be rented to one or multiple parties. Of the 17 homestay permits issued since 2005, three have 3-bedrooms, eight have 2-bedrooms and four have 1-bedroom (two applications are too old to have the number of bedrooms on record). A homestay with three bedrooms is not as common (approximately 18%) and reducing the overall requirement to a maximum of 2-bedrooms would appear to have a modest impact on the homestay industry overall while helping to control potential impacts.

The maximum number of bedrooms is included in the definition of homestay. This definition could be amended to further limit the number of bedrooms:

Homestay means a private, resident occupied dwelling, with up to ~~three~~ **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.

Establishing maximums for number of nights and number of guests

While some cities do attempt to require and enforce a maximum number of guests at any one time, the enforcement experience in Asheville has revealed the challenges with obtaining proof regarding identity and how many guests there are, along with identifying the number of nights any one rental party stays. On-line calendars help with identifying the total number of nights but their ability to be manipulated prove their reliability to be limited and more and more operators are moving outside of the most common on-line rental platforms rendering on-line evidence harder to obtain. In addition to these

challenges, for those operators who fully comply being able to rent at any time provides more flexibility and predictable income. Maximum limits may reduce the benefits of operating a homestay.

Limiting one homestay per owner and/or operator

Controlling low impacts on Asheville's limited housing supply and on the quality of life in residential areas can be achieved, in part, by limiting the total number of homestays. There are a few strategies that could be considered that could limit the total number of homestays, including limiting one homestay per citizen. This would not include a limit on how many properties an individual or LLC could own, but would rather limit the number of permits any one citizen may obtain. Whether to include such a standard and how best to word it to achieve the desired result will require more consideration and legal research. More information may be available at the time of the meeting.

Off-street parking requirements

Single family homes are required to provide off-street parking at a rate based on the number of bedrooms in the home. A home with up to two bedrooms is required 1-2 off-street spaces while a home with more than two bedrooms is required 2-3 off-street spaces. These spaces may occur in a driveway, garage or small parking area. Both current and proposed standards do not require any more spaces than what is already required for the home itself. Additional parking, as needed, is expected to occur on-street.

Some denser, more urban neighborhoods have reported significant challenges associated with loss of available on-street parking. Many of these same areas are also covered under an exemption for off-street parking for all residential uses because of their proximity to the CBD where it is expected that the need for cars, and therefore off-street parking, is lower. Adding an off-street parking requirement for properties with a homestay is one option to be considered. Recent policy discussions over accessory dwelling units (ADU's) resulted in a requirement for one off-street parking space to be provided for an ADU in addition to those required for the principal dwelling. Similar to an ADU, a homestay is expected to have at least one adult driver adding to the need for parking spaces. Another option to consider is removing the exemption for off-street parking as it applies to homestays. Adopting this standard, however, may have the effect of limiting opportunity to homes in the denser, urban areas due to their inability to provide off-street parking for either the principal dwelling or the homestay. If deemed necessary, the alternative language could read:

- f. **No One additional off-street parking space is required for a homestay. This parking may not be located in any required setback other than what may normally occur on a driveway. Exemptions for off-street parking afforded through Sec. 7-11-2(c)(4) shall not apply to homestays.**

Kitchens & ADU's

The presence of a second full kitchen, when found in conjunction with a bedroom and bathroom, provides the opportunity for another party to live independently from the rest of the home and, by definition, becomes a separate dwelling unit. The current definition of *Dwelling unit* is as follows:

Dwelling unit means one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping. In no case shall a dwelling unit be rented or leased for intervals of less than one month.

Once the independent living area becomes a dwelling unit, it must be occupied on a long-term basis. Bathrooms and bedrooms can commonly occur on separate floors but don't constitute a dwelling unit by themselves in absence of a kitchen.

Similarly, an ADU is defined as a separate dwelling unit and must be occupied on a long-term basis and may not be used as accommodations for lodgers. Separating the owner/operator from the guests also impacts the operator's ability to keep track of the guests and help evacuate in the event of an emergency. The same would hold true if the sleeping arrangements were reversed where the owner/operator occupied the ADU and wanted to rent the principal dwelling on a short-term basis.

Cost of permits and enforcement

It is a common misunderstanding that permit fees help fund city activities. Permit fees are established to recover the direct and indirect costs associated with the review and administration of that permit, including enforcement, but may not be used to as a general revenue-raising mechanism. The proposed permit and initial inspection for a basic homestay is approximately \$200, same as other applications that are similar in complexity and scale. This fee is expected to come close to recovering costs associated with the review, issuance and inspection of a legal homestay once practices and application requirements are established and made routine. Plan review and inspections are the most common and effective forms of enforcement. After-the-fact enforcement for homestays is less common and may not be fully funded under the current permit fee structure, although to what degree it falls short is difficult to estimate. Enforcement of prohibited STR's are not considered part of the homestay regulatory process so are not included in the consideration for fees related to homestays. These and other Zoning enforcement costs are covered by the General Fund but are not identified or tracked separately and are simply part of the larger Development Services Department's budget. Also, any fines collected as a result of zoning enforcement by law must be turned over to the school board and do not contribute to the General Fund. Covering costs related to pro-active zoning enforcement of illegal STR's will require raising revenues to the General Fund or re-distributing those funds to cover these costs.

Financial Impact/Resources:

A new FTE has been added to the Development Services Department's budget to fund a new Development Review Specialist position – a type of code enforcement officer that also reviews applications and issues permits. This position will also require legal, building safety and planning support as well as a vehicle, possibly shared, for inspections and enforcement investigations.

Recommendation:

Not applicable. This report is informational and intended to elicit discussion and further refine direction before returning to the City Council for consideration.