



LAND DEVELOPMENT CODE AMENDMENT

Planning Commission: December 6, 2017

Case: LDC-1-717

Staff Contact: Christine Hughes; christine.hughes@wilmingtonnc.gov; 910-341-5885

Staff Recommendation: Approval

Planning Commission Recommendation: Scheduled for public hearing December 6, 2017

City Council Action:

Request

<i>Code Section(s)</i>	Amend City Code Chapter 18 to add “whole-house lodging” and “homestay lodging” as uses permitted with prescribed conditions, delete “guest lodging” as a use, to add, revise, or delete several definitions, and to delete references to “guest lodging”	
<i>Request</i>	To create standards for homestay lodging and whole-house lodging	
<i>Applicant</i>	City of Wilmington	

BACKGROUND / ANALYSIS

In late 2015, the City Manager directed planning staff to review the existing code regulations related to short-term lodging, operating as peer-to-peer rentals via online platforms, and to review benchmark cities that have recently addressed or are addressing the issue of short-term lodging. Since that time, City Council has been presented with a detailed review of best practices from across the country, including an in-person presentation from planners from Asheville, Raleigh, and Cornelius, North Carolina.

What is included in this draft amendment reflects months of research, discussion among City Council members, three Planning Commission work sessions, public input, best practices, and the most recent assessment of legal issues. The amendment references several types of short-term lodging, including two types of “whole-house” lodging, whereby there is no host onsite during the time of the rental, and “homestay” lodging, or the rental of rooms (as a home occupation in the residential districts) while the principal resident is onsite during the rental period. The two types of whole-house lodging proposed are distinguished by the level of supervision. Type I whole-house lodging would include units rented while the person who lives there is away from home, for example, while traveling for business or away on vacation, as well as one unit within a duplex, triplex, quadraplex and accessory dwelling units where the operator lives in one of the units on the property. Type II whole-house lodging would include those units used exclusively for whole-house lodging where there is no principal resident (principal residence is currently defined in the code and must be a person’s voting address and where they live for at least 183 days per year). Homestay lodging and

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whole-house lodging are presented as uses permitted by prescribed conditions in several residential, commercial, and mixed-use districts.

The proposed amendment, in summary, would:

- Require registration for all types of short-term lodging.
- Restrict registration to a “natural person” and would not be issued to a corporation, LLC, or other entity.
- Restrict registration to one per person, regardless of use type, in residential districts.
- Restrict registration to a property owner; while a host or operator would be allowed, only a property owner could register a short-term lodging use.
- Allow homestay lodging in the R, H, MHP, and MF, some commercial, and mixed-use districts with a registration requirement.
- Define two types of whole-house lodging: type I uses would have a principal resident (rented while the resident is away) or onsite supervision and type II uses would not have a principal resident (used exclusively for lodging).
- Allow both type I and II whole-house lodging as uses permitted by prescribed conditions in single-family detached homes in the R, H, and MF districts with a registration requirement.
- Allow one whole-house lodging (type I) as use permitted by prescribed conditions in duplex, triplex, quadraplex, and accessory dwelling units with onsite supervision and a registration requirement.
- Require 400 feet (within 1945 Corporate Limits) or 650 feet (outside 1945 Corporate Limits) of separation between type II whole-house lodging uses.
- Delete guest lodging as a permitted use and remove all references to guest lodging

The following table is a very brief summary of the proposed code changes.

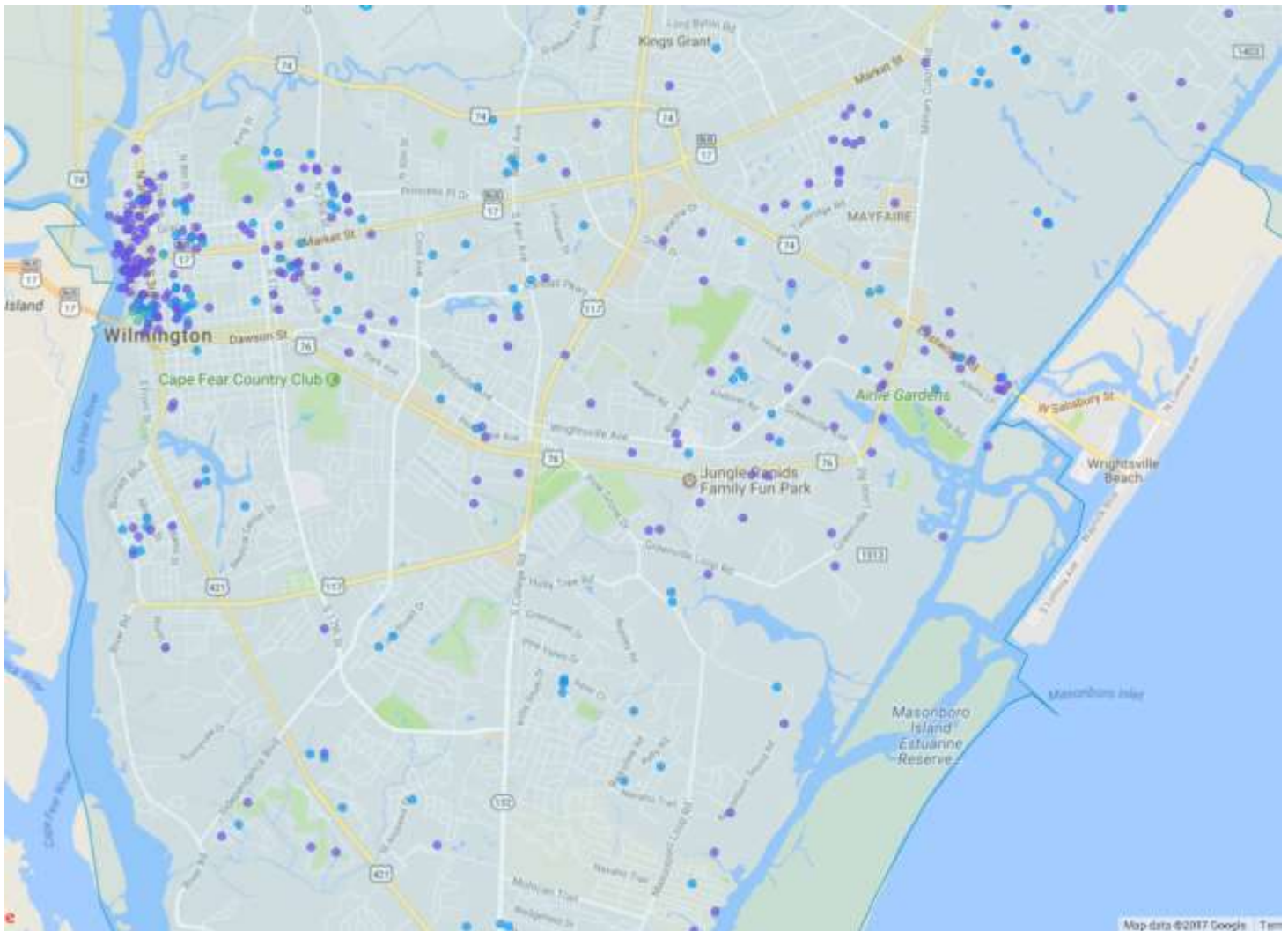
	Whole-house Lodging Type I	Whole-house Lodging Type II	Homestay
Districts permitted	R-20 – R-3, HD, HDR, HDMU, MFL-MFH, O&I, CB, RB, CBD, AI, MX, MSMU, UMX	R-20 – R-3, HD, HDR, HDMU, MFL-MFH, O&I, CB, RB, CBD, AI, MX, MSMU, UMX	R-20 – R-3, HD, HDR, HDMU, MHP, MFL-MFH, O&I, CB, RB, CBD, AI, MX, MSMU, UMX
Registration required	Yes; one registration per person	Yes; one registration per person	Yes; one registration per person
Housing unit type permitted	<ul style="list-style-type: none"> • Single-family detached • Duplex, triplex, quadraplex (only one unit, with principal resident in another of the units – in a quadraplex, that would allow one unit for the principal resident, one unit for whole-house lodging, and two units for long-term occupancy) • ADU (with principal resident in primary dwelling unit) 	Single-family detached and multifamily (5 or more attached units)	All housing unit types

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Supervision requirement	Principal resident required	Local operator within 20 miles	Onsite supervision required for all homestay locations
Separation requirement	None	400 feet within 1945 Corporate Limits, 650 feet outside 1945 Corporate Limits, measured from parcel lines	None
Inspections and life safety	Required	Required	Required
Off-street parking required	Yes	Yes	No
Maximum number of bedrooms	3	3	3
Effective Date of Ordinance	6-12 months from adoption in order to allow property owners to come into compliance or adopt a new use		

Based on research supplied by AirDNA.com, staff believes there are roughly 400 active whole-house lodging and homestay uses within the city limits. The map following is captured from AirDNA and represents data current through September 2017.

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Benchmark Cities Research – Updated October 2017

The benchmark research shows that there are no clear best practices or standards for addressing the issue of peer-to-peer rentals. While many cities are working towards developing regulations, other cities have adopted standards and are working on amendments to those standards.

Alexandria, VA	Not regulated
Annapolis, MD	<ul style="list-style-type: none"> • Regulations adopted in 2011 • Whole-house rentals allowed • Rental of bedrooms is considered a boarding house and not permitted • License required (\$100 fee) • Units rented for up to 6 months/year • No minimum rental period • Registration exception for certain specific events

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Asheville	<ul style="list-style-type: none"> • Regulations adopted November 2015; amendments considered (and rejected) since • Homestay permitted – up to 2 guest rooms • Whole-house rentals prohibited in residential zoning • No grandfathering with exception of 11 historic vacation cottages • Full-time staff position added to handle compliance
Carolina Beach	Not regulated
Chapel Hill	Not regulated; the definition of “dwelling unit” is used to govern duration of stay of one week or longer
Charleston, SC	<ul style="list-style-type: none"> • Regulations adopted in 2012; amendments currently under consideration (considered by Planning Commission 10/5/17, workshop scheduled for November 2017 – not scheduled for city council review) • Short-term rental overlay district created; allowed only in commercial zoning within the overlay • Rental period between 1 and 29 days • Business license required
Charlotte	Not regulated; B&B and boarding houses regulated
Chattanooga, TN	<ul style="list-style-type: none"> • Regulations adopted in 2009; amendments currently under consideration • Daily or weekly rentals, not to exceed 30 days • Whole-house rentals allowed in limited residential zoning districts and only in single-family structures • Weddings and events prohibited • No more than 5 sleeping rooms • No registration required
Durham	Not regulated; decided not to pursue regulations
New Bern	Not regulated
Raleigh	<p>Regulations under consideration since 2014; to date, the city council has rejected all proposed regulations brought forward for consideration</p> <p>Task force created to study issue and draft ordinance; City Council declined to vote on task force recommendation in June 2017.</p>
St. Augustine, FL	<ul style="list-style-type: none"> • Regulations adopted in 2010 • One or two-family dwelling units rented for a period of one week or more, but less than 3 months • Permitted in 2 residential zoning districts • Registration required • Large gatherings prohibited • No grandfathering of nonconforming uses • Enforcement staff dedicated specifically to short-term rentals
San Francisco, CA	<ul style="list-style-type: none"> • Regulations adopted in 2014 • Rental of all or a portion of a dwelling unit for 1-30 nights • Only permanent residents (owners/tenants who spend at least 275 days/year in the unit) permitted to rent short-term • Registration and life safety inspection required • Created office of Short-term Rentals with staff of 6
Santa Fe, NM	<ul style="list-style-type: none"> • Regulations adopted in 2009; amended in 2016

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	<ul style="list-style-type: none"> • Rental period of up to 30 days; only one rental period every 7 days • Residential zoning requires a permit; allowed without permit in accessory dwelling unit and “resort facility” • Cap of 1,000 permits citywide • Prohibition on commercial activity • Limit on occupants of twice the number of bedrooms • No grandfathering of nonconforming uses • In process of hiring dedicated staff and purchasing compliance software
Savannah, GA	<ul style="list-style-type: none"> • Regulations adopted 2014; amendments currently under consideration • Rental period of up to 30 days • On-site manager not required • Permitted in all housing types; excludes group living and other lodging uses • Registration required • Permitted in limited mixed-use, historic, and residential districts
Wrightsville Beach, NC	Not regulated

PROPOSED AMENDMENT

Due to the extensive nature of the proposed amendments, the full text is included as an attachment to this report.

Definitions	Code Section	Proposed Changes (additions <u>underlined</u> , deletions in strike through)
Add definition of whole-house lodging	18-812 (in alphabetical order)	<p><u>Whole-house lodging – Type I: Rental of an entire housing unit (dwelling unit) by the principal resident while the resident is away from the premises that provides lodging for pay, for a maximum continuous period of twenty-nine (29) days. This also includes rental of one unit within a duplex, triplex, or quadraplex whereby the principal resident lives in one of the other units within the same duplex, triplex, or quadraplex unit or the rental of an accessory dwelling unit or primary dwelling unit whereby the principal resident lives in the other unit on the same property.</u></p> <p><u>Type II: Rental of an entire single-family detached housing unit (dwelling unit) by an operator with no principal resident residing on the premises that provides lodging for pay, for a maximum continuous period of twenty-nine (29) days.</u></p> <p><u>Neither type I nor type II whole-house lodging types include serving of food. Both types are exempt from the definition of “family” and specifically exclude events and other non-lodging uses.</u></p>

Add definition of homestay	18-812 (in alphabetical order)	<u>Homestay – The rental of individual bedrooms within a dwelling unit that serves as the operator’s principal residence, that provides lodging for pay, for a maximum continuous period of twenty-nine (29) days, that does not include serving food, and to which the definition of family does not apply.</u>
Amend definition of principal residence	18-812 (in alphabetical order)	Principal residence: The residence a person: 1) uses as his/her voting address; 2) uses as the address on his/her driver’s license <u>and at least one (1) other form of identification determined acceptable by the New Hanover County Board of Elections as proof of residence (including but not limited to, a current utility bill, bank statement, government check, paycheck, or other government document;</u> 3) occupies for at least one hundred eighty-three (183) days during a calendar year.
Amend definition of housing unit	18-812 (in alphabetical order)	Housing unit (dwelling unit): One (1) or more rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly or longer basis , and physically separated from any other housing unit that may be in the same structure, and containing independent cooking and sleeping facilities for not more than one (1) family.
Uses – add regulations for homestay lodging (residential districts)	Code Section	Proposed Changes (additions <u>underlined</u> , deletions in strike through)
Add regulations for homestay lodging in the residential and historic districts	18-330	<p><u>Sec. 18-330. Homestay lodging in residential, multifamily, and historic districts.</u></p> <p><u>(a) Homestay uses are permitted in single-family zoning districts, including all of the R districts, the HD, HD-R, HDMU districts, and in all of the MF districts. Such uses shall only be allowed in lawfully permitted dwelling units serving as the principal residence of the host. Only a property owner may register a homestay lodging; however, a principal resident may act as a host. Homestay lodging uses do not include bed and breakfast lodging uses.</u></p> <p>1) <u>Registration.</u></p> <ol style="list-style-type: none"> <u>A property owner shall register each establishment annually with the city of Wilmington.</u> <u>Registration is restricted to property owner, who shall provide proof of possession of the registered premises by warranty deed, and to natural persons only. The host may be the property owner or another principal resident.</u> <u>A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.</u>

		<p>d. <u>Active registrations shall not expire, provided that a property owner shall renew registration on an annual basis. Registrations not renewed by the property owner shall deem the allowance of the use terminated by the property owner.</u></p> <p>e. <u>Registration does not vest the premises or the property owner with any rights. Registration terminates upon transfer of the property to another owner.</u></p> <p>2) <u>The maximum number of guest rooms allowed shall be one less than the total number of bedrooms in the primary dwelling unit, not to exceed three (3) guest rooms.</u></p> <p>3) <u>No more than three (3) motor vehicles or operated by patrons shall be parked onsite at any time.</u></p> <p>4) <u>The use provisions of this section are not subject to variance by the board of adjustment.</u></p> <p>5) <u>Any homestay lodging for which there are three (3) final determinations of violations of the City Code and/or criminal convictions related to the premises within one (1) year, shall constitute a violation of the terms registration and shall terminate registration. Offenders shall include property owners as well as lessees, tenants, guests, and occupants. A property owner who terminates registration shall be ineligible for registration for a period of three (3) years.</u></p> <p>6) <u>Any registrant of a homestay lodging shall be responsible for ensuring compliance with all federal, state, and local laws, including, but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the homestay.</u></p> <p>7) <u>Registrants are responsible for keeping in full force and effect during all times the dwelling unit is used as a homestay lodging a general liability policy with a company authorized to do business in North Carolina insuring against personal injury and property damage.</u></p> <p>8) <u>Homestay lodging hosts shall maintain records demonstrating that the home is their primary residence, the dates of rental, and the number of renters. Such records shall be made available, upon request, to the City Manager.</u></p>
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		9) <u>The definition of “family” and the restriction of a minimum thirty (30)-day rental period in the MF districts shall not apply to properly registered homestay lodging.</u>
Add homestay as a use permitted with prescribed conditions	18-177 18-178 18-179 18-180 18-181 18-182 18-184 18-187 18-188 18-189	Add <u>homestay lodging</u> under “uses permitted under prescribed conditions” in the R-20, R-15, R-10, R-7, R-5, R-3, MF, HD, HD-R, and HDMU districts
Uses – add regulations for whole-house lodging (residential districts)	Code Section	Proposed Changes (additions <u>underlined</u> , deletions in strike through)
Add regulations for whole-house lodging in the residential and historic districts	18-331	<p><u>Sec. 18-331. Whole-house lodging in residential, multifamily, and historic districts.</u></p> <p><u>Whole-house lodging uses in the residential, multifamily, and historic districts are permitted under the following conditions:</u></p> <p>(a) <u>Type I: Such uses shall only be permitted in lawfully permitted single-family detached, accessory dwelling units, duplex, triplex, and quadraplex units.</u></p> <p>1) <u>Only one unit may be permitted for whole-house lodging per parent lot or parcel (e.g., either the primary residence or the associated accessory dwelling unit; a single unit of any duplex, triplex, or quadraplex unit).</u></p> <p>2) <u>Whole-house lodging in any duplex, triplex, or quadraplex units requires that the operator be the principal resident on the premises in one of the other units.</u></p> <p>(b) <u>Type II: Such uses shall only be permitted in lawfully permitted single-family detached and multifamily dwelling units.</u></p> <p>1) <u>The minimum distance between type II whole-house lodging uses shall be four hundred (400) feet for parcels within the 1945 Corporate Limits and six hundred fifty (650) feet for parcels outside the 1945 Corporate Limits.</u></p>

		<p><u>measured from parcel lines. In the case of a condominium or apartment development, this shall be measured from the parent parcel lines.</u></p> <p>2) <u>Such uses shall require a local operator/manager residing within twenty (20) miles of the property.</u></p> <p>(c) <u>The maximum number of bedrooms used for lodging per whole-house lodging unit shall be three (3).</u></p> <p>(d) Registration.</p> <ol style="list-style-type: none"> 1) <u>The property owner shall register each establishment annually with the city of Wilmington.</u> 2) <u>The owner shall provide proof of possession of the registered premises by warranty deed.</u> 3) <u>A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.</u> 4) <u>Registration is limited to natural persons only and no person shall be eligible for more than one registration for a whole-house lodging of any type in any residential district.</u> 5) <u>Active registrations shall not expire; however, all property owners shall renew registration on an annual basis. Registrations not renewed on an annual basis shall deem the use terminated by the property owner.</u> 6) <u>Registration does not vest the premises or the property owner with any rights. Registration terminates upon the sale of the property.</u> 7) <u>Only one registration may be issued per property, type I, type II, or bed and breakfast lodging.</u> <p>(e) <u>A minimum of one off-street parking space per rented bedroom is required. Within HD, HD-R, and HDMU districts, only curb cuts existing at the time of the adoption of this ordinance may be used to provide off-street parking. If off-street parking is not available on site, shared parking or rented spaces in a private or municipal parking deck or lot may be used to satisfy this parking requirement. Proof of a shared parking plan or rental of spaces shall be included with annual registration. A shared parking plan will be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record must be approved by the city attorney and</u></p>
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		<p><u>submitted to the city for recordation on forms made available in the office of the city attorney. Recordation of the agreement must take place before issuance of a registration for any short-term lodging use to be served by the off-site parking area. A short-term lodging registration shall be revoked if required off-street parking spaces cannot be provided.</u></p> <p>(f) <u>The use provisions of this section are not subject to variance by the board of adjustment.</u></p> <p>(g) <u>The definition of "family" and the restriction of a minimum thirty (30)-day rental period in the MF districts shall not apply to property registered whole-house lodging uses.</u></p> <p>(h) <u>Any use for which there are three (3) final determinations of violations of the City Code and/or criminal convictions related to the premises within one (1) year, shall constitute a violation of the terms of registration and shall terminate registration. Offenders shall include property owners as well as lessees, tenants, guests, and occupants. A premises for which registration has been terminated shall be ineligible for registration for a period of three (3) years.</u></p> <p>(i) <u>The property owner shall be responsible for ensuring compliance with all federal, state, and local laws, including, but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the lodging.</u></p> <p>(j) <u>Property owners are responsible for keeping in full force and effect during all times the unit is used as a short-term lodging a general liability policy with a company authorized to do business in North Carolina insuring against personal injury and property damage.</u></p> <p>(k) <u>Registration shall terminate upon any one of the following: discontinuance of use for a period of one hundred eighty (180) days or more, failure to renew annual registration, sale of the property.</u></p> <p>(l) <u>Written notice shall be conspicuously posted inside each short-term lodging unit setting forth the following information:</u></p>
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		<ol style="list-style-type: none"> 1) <u>The name and telephone number of the operator.</u> 2) <u>The address of the lodging, the maximum number of overnight occupants permitted and the day(s) established for garbage collection.</u> 3) <u>The non-emergency phone number of the city of Wilmington Police Department.</u> 4) <u>The annual registration number.</u> 5) <u>That parties, events, and large gatherings shall not be permitted on the premises.</u> <p>(m) <u>The operator shall ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection day and the carts removed from the street or alley on the scheduled collection day, in accordance with Sections 10-14 of the City Code.</u></p> <p>(n) <u>Preparation and service of food by operators for guests shall be prohibited. No cooking shall be permitted in individual bedrooms.</u></p>
Add regulations for whole-house lodging in the residential and historic districts	18-177 18-178 18-179 18-180 18-181 18-182 18-184 18-187 18-188 18-189	Add <u>whole-house lodging</u> under “uses permitted under prescribed conditions” in the R-20, R-15, R-10, R-7, R-5, R-3, MF, HD, HD-R, and HDMU districts
Uses – add regulations for whole-house and homestay lodging (commercial and mixed-use districts)	Code Section	Proposed Changes (additions <u>underlined</u> , deletions in strikethrough)
Add homestay and whole-house lodging in some commercial and mixed-use districts	18-185 18-190 18-191 18-193 18-194 18-195 18-196 18-200 18-202 18-204	Add <u>homestay</u> and <u>whole-house lodging</u> under “uses permitted under prescribed conditions” in the O&I-1, O&I-2, CB, RB, CBD, AI, RFMU, MX, MSMU, and UMX districts
Add regulations for whole-house lodging and homestay lodging in some commercial and mixed-use districts	18-329	<u>Sec. 18-329. Whole-house Lodging (Type I and Type II) and Homestays in the O&I 1, O&I-2, CB, RB, CBD, AI, RFMU, MX, MSMU, and UMX Districts.</u> (a) <u>Registration.</u>

		<p>a. <u>Property owners shall register each establishment annually with the city of Wilmington.</u></p> <p>b. <u>A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.</u></p> <p>(b) <u>Any use for which there are three (3) final determinations of violations of the City Code and/or criminal convictions related to the premises within one (1) year, shall constitute inadequate supervision and a violation of the terms of registration and shall terminate registration. Offenders shall include property owners as well as lessees, tenants, guests, and occupants. A premises for which registration has been terminated shall be ineligible for registration for a period of three (3) years.</u></p> <p>(c) <u>A property owner shall be responsible for ensuring compliance with all federal, state, and local laws, including, but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the short-term lodging.</u></p> <p>(d) <u>Property owners shall be responsible for keeping in full force and effect during all times the unit is used as a short-term lodging or homestay a general liability policy with a company authorized to do business in North Carolina insuring against personal injury and property damage.</u></p> <p>(e) <u>Written notice shall be conspicuously posted inside each short-term lodging unit setting forth the following information:</u></p> <p>(a) <u>The name and telephone number of the operator. If the operator resides more than twenty (20) miles from the property, the name and number of a manager within twenty (20) miles must also be posted.</u></p> <p>(b) <u>The address of the lodging, the maximum number of overnight occupants, and the day(s) established for garbage collection.</u></p> <p>(c) <u>The non-emergency phone number of the city of Wilmington Police Department.</u></p> <p>(d) <u>The annual registration documentation.</u></p> <p>(6) <u>The operator shall ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection and the carts removed from the street or alley on the scheduled collection day, in accordance with</u></p>
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		<u>Section 10-14 of the City Code.</u> <u>(7) Preparation and service of food by operators for guests shall be prohibited. No cooking shall be permitted in individual bedrooms.</u>
Clean up references to guest lodging	Code Section	Proposed Changes (additions <u>underlined</u> , deletions in strike through)
Delete prescribed conditions in entirety	18-277	Delete entire section
Delete definition	18-812	Delete definition entirely
Delete specific references	18-267 18-305 18-532 18-812	Delete references to “guest lodge” and “guest lodging” <ul style="list-style-type: none"> • 18-267 – Dormitory, private • Sec. 18-305. - Special uses in the Historic Districts, with the exception of the Historic District-Mixed Use (HD-MU) and the Central Business District-Historic District Overlay (BD-HDO). • Sec. 18-532 – Parking Schedule

CONSISTENCY WITH ADOPTED PLANS

While the *Create Wilmington Comprehensive Plan* does not address short-term lodging specifically, there are several relevant policies and considerations. The plan is designed to provide a framework for considering the “big picture,” looking beyond a parcel-by-parcel approach to a broader framework. The current reliance on a 1980s, suburban-style separation of uses forces inefficient development patterns and a heavy reliance on motor vehicle mobility. The use of “zoning districts with highly specific land uses” has fallen out of sync with desired development patterns and Wilmington’s modern development needs” and does not align neatly with the modern sharing economy (Policies, Chapter 1, p 3-16). The following analysis examines the proposal relative to the policies of the City’s Comprehensive Plan. Policies that most pertain to the proposed amendment are provided below. Not all policies carry equal weight, and depend on the specifics of the proposal.



Strong Support









Modest Support



Modest Non-support



Strong Non-support

Policies	1 Development & City Building
Neighborhood Conservation, Infill, and Redevelopment	
1.7.1	Growth should be accommodated in the city through mixed-use neighborhoods with a variety of housing types and price points. 
1.7.2	Revitalization and stabilization of neighborhoods at risk should be facilitated through grants, loans, housing rehabilitation efforts, commercial investment programs, capital improvements, public-private partnerships, and other actions.  
1.7.3	The need to increase housing supply, neighborhood commerce, and to mature as a city should be balanced with the need to protect desired neighborhood character, preserve historic resources, and protect the natural environment.  
1.7.4	Unique character areas that have become marked by vacant or abandoned buildings, underutilized older buildings, and low occupancy rates should be 

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priority areas for rehabilitation and adaptive reuse.		
1.7.5	Historic and unique neighborhoods with an abundance of desired character should be protected and conserved through the use of zoning, reinvestment, and other tools.	<div><div></div><div></div></div>
Policies	3 Housing	
Diversity of Housing Options		
3.1.5	The preservation of existing housing units, rather than demolition, should be encouraged, especially structures of historic significance.	<div><div></div><div></div></div>
Fair Housing, Universal Design, and Aging in Place		
3.4.1	Universal design and lifecycle housing should be encouraged to facilitate the ability of homeowners and neighborhood residents to age in place in their homes and neighborhoods.	<div><div></div><div></div></div>
3.4.3	Housing rehabilitation programs that assist elderly homeowners to repair, modernize, and improve the energy efficiency of their homes should be supported.	<div><div></div><div></div></div>
Policies	5 Economic Development	
Neighborhood Reinvestment		
5.2.1	In partnership with neighborhood groups, focused reinvestments to make safe, attractive, and walkable neighborhoods and attract skilled workers to Wilmington should be encouraged. A mix of housing types and price points should be encouraged to diversify neighborhoods, particularly around business clusters and schools.	<div><div></div><div></div></div>
Business Development		
5.3.5	In collaboration with businesses and neighborhoods, issues and conflicts that inhibit economic growth and neighborhood development should be addressed in order to help grow and expand job opportunities and provide a healthy economic base.	<div><div></div><div></div></div>
5.3.10	Low-impact, home-based businesses and “cottage industries” should be supported, where appropriate.	<div><div></div><div></div></div>
Tourism and Hospitality		
5.6.3	Diverse and accessible lodging and accommodations to support tourism growth should be supported through partnerships with developers, investors, and other local organizations.	<div><div></div><div></div></div>
Policies	11 Historic Preservation	
Wilmington’s Historic Identity		
11.1.2	The city’s historic resources and heritage should be recognized and promoted as an economic asset. As the city grows and redevelops, stewardship of neighborhoods, places, landmarks, historic districts, and landscapes should be fostered.	<div><div></div><div></div></div>
Housing, Adaptive Reuse, and Rehabilitation		
11.3.1	Adaptive reuse of historic buildings and sites should be encouraged to support the goals of housing diversity and affordability, economic development, environmental sustainability, parks and recreation, and urban design, particularly in areas with a strong historic context.	<div><div></div><div></div></div>
11.3.4	Reuse and rehabilitation of existing dilapidated homes should be encouraged and supported for use as scatter-site workforce housing units. The minimum housing code should be applied in a manner that ensures historic preservation.	<div><div></div><div></div></div>

The issue of regulating uses that have become increasingly popular in the new sharing economy has been difficult for cities all over the world to navigate and requires an understanding that these uses require a different regulatory response than more traditional uses. Allowing an entire segment of the economy to remain illegal “forces that economic activity underground, where it is more difficult to understand that nature of the economic activity. Instead, regulations must be “reimagined to achieve the same purpose of the regulations first written for the traditional industry, as well as the new markets created by the sharing economy¹.”

The goals of this proposal are to:

1. Ensure the safety, welfare and convenience of renters, owners and neighboring property owners throughout Wilmington.
2. Balance the legitimate livability concerns with the rights of property owners to use their property as they choose.
3. Recognize the need to limit short-term rental options within the neighborhoods to ensure compatibility, while recognizing the benefits of short-term rentals in economic development, business, film, hospital-related short stays, and transitional housing.
4. Help maintain the city’s needed housing supply for residential use, balanced with the need to evolve with current economic realities.
5. Protect the character of the neighborhoods by limiting the number and concentration of short-term rentals in residential zones. The transient rental of dwelling units has the potential to be, but is not necessarily, incompatible with surrounding residential uses.
6. To balance the regulation of dwellings listed for transient occupancy necessary to ensure that these uses will be compatible with surrounding residential uses, will not materially alter the neighborhoods in which they are located and in a manner that is enforceable and equitable.

CONCLUSION / RECOMMENDATION

The matter of short-term lodging is one of diverse opinions, options, regulations, and courses of action. Staff acknowledges there are strong opinions on all sides of the issue. While there are no clear planning best practices, staff believes the proposed amendment represents regulations that best meet the needs of the city, best support the *Create Wilmington Comprehensive Plan* and is in the public interest. This amendment would limit proliferation of short-term lodging uses in a manner inconsistent with protecting neighborhood character. Registration of such uses will aid in code enforcement and the time-limited nature of registration allows for evaluation and reassessment to determine persistent types of violations and repeat offenders so that specific, targeted solutions may be developed in the future. Staff recommends **approval** of the amendment to the Land Development Code as proposed.

NEIGHBORHOOD CONTACT

Advertisement Date(s)

Planning Commission
12/1/17

City Council

¹ Miller, Stephen R., *First Principles for Regulating the Sharing Economy*, University of Idaho College of Law, 2015

LDC-1-717 Short-term Lodging

The Planning Commission held work sessions to discuss proposed amendments on July 12 and August 23, 2017 and a third work session in October 18, 2017, where public input was heard.

Public input meetings were held on March 17, 2016 and March 14, 2017. Online and paper surveys were conducted in March 2016.

Staff presented the issue to City Council in May, June, October, and November 2016 and again in February, April, and May 2017.

Detailed information from public input meetings, surveys, and presentations to City Council can be found online at www.wilmingtonnc.gov/rentals

ACTIONS TO DATE

<i>Planning Commission</i>	Scheduled for public hearing on 12/6/17 Work sessions were held with the Planning Commission on 7/12/17, 8/23/17, and 10/18/17
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Information from the October 18 Planning Commission work session:

Following a presentation from staff, the Planning Commission heard public input on the issue. There were several speakers in favor of and in opposition to short-term lodging. Following the public input session, the Planning Commission directed staff to make revisions to the July draft ordinance and to schedule the proposed ordinance for public hearing at the December Planning Commission meeting.

Information from the August 23 Planning Commission work session:

Following a presentation from staff, the Planning Commission continued to discuss specific issues related to enforcement, on-site supervision, increased flexibility for homestay lodging, and separation requirements for whole-house lodging.

Information from the June 7 Planning Commission work session:

Following a presentation from staff, the Planning Commission discussed enforcement issues, alternative way to limit the number of short-term lodging uses (such as allowing one per every 20 homes rather than one per 650 feet), the possibility of allowing homestays without restriction, and what is driving the need for a code amendment at this time. It was suggested that whole-house rentals be permitted without a separation requirement if there is proximate supervision.

ATTACHMENTS

1. Minutes from the Planning Commission work sessions
2. Complete draft of proposed code changes

CITY OF WILMINGTON
PLANNING COMMISSION MEETING MINUTES
June 7, 2017

A special called work session of the Wilmington Planning Commission was held on June 7, 2017 at 4:00 p.m. in the City Council Chambers, City Hall Wilmington, North Carolina.

Members Present:

Chairman Deb Hays
Vice-Chairman Richard Collier
Mr. Bruce McGuire
Mr. Kemp Roberts
Mr. Jeff Hovis
Ms. Laura Miller
Mr. Bruce Bowman

Members Absent:

None

Staff Present:

Glenn Harbeck, Director
Ron Satterfield, Assistant Director
Meredith Everhart, Deputy City Attorney
Christine Hughes, Senior Planner
Kathryn Thurston, Zoning Administrator
Tamara Mercer, Planning Coordinator

Chairman Hays called the special work session to order at 4:00 p.m.

- 1. SHORT TERM RENTALS/SHORT TERM LODGING: The Planning Commission will hold a SPECIAL called work session for discussion of short term rentals/short term lodgings. Christine Hughes, Senior Planner 910.341.5885 christine.hughes@wilmingtonnc.gov**

Senior Planner, Christine Hughes reviewed the staff's timeline for addressing the issue which has been: benchmarking and key issues, public input session in March of 2016, an online survey in spring 2016, presentations to Council; May, June, October, November 2016, and February 2017, a public input session in March 2017, and the subsequent presentations to Council in April and May 2017.

She said in early 2017, HostCompliance.com identified approximately 514 distinct locations currently operating in Wilmington. This count does not differentiate between whole-house and homestay rentals, nor does it indicate the zoning of each location. Staff notes that it is difficult to discern the type of rental (hosted or whole house), the address, or the zoning of the various locations.

Ms. Hughes reviewed the proposed definition of "short-term lodging" as: An establishment in a private home that provides lodging for pay, for a period of seven days or less, where the primary use is for tourism rather than a residential dwelling unit that does not serve meals. Such a use shall be subject to applicable General Statutes, including but not limited to NCGS 130A-247 and 143-138(b2)(2) which is consistent with NCGS.

The proposed definition of "Homestays": A type of home occupation that involves the rental of individual bedrooms in a dwelling unit that provides lodging for pay, for a maximum continuous period of 29 days or less, that does not include serving food, and to which the definition of "family" does not apply. Homestays in Commercial Districts are proposed as: O&I-1, O&I-2, CB, RB, CBD, RFMU, AI, UMX, and MX. She noted these districts allow hotels and motels. She discussed the possible requirements for registration, violations and compliance.

Ms. Hughes reviewed "Homestays" in Residential Districts would be permitted as a home occupation in the R, H, and MF districts which would follow the current B & B regulations. Home occupations are allowed as: operator's principal residence, incidental to the use of the dwelling unit as a home, no exterior changes to the appearance of the premises, and only one per dwelling unit. She noted they would be allowed only in a single-family dwelling or in an accessory unit. She discussed the possible requirements for registration, violations and compliance. Registration would be required on annual basis, must be a primary residence, 650

feet or one block from any homestay, B&B, or STL, Inactive registrations would expire. Ms. Hughes explained peer to peer rentals.

There was a lengthy question and answer period. Commissioner Bowman pointed out that code requirements for commercial businesses need a sprinkler system and he asked about fire safety requirements in this case. Commissioner Bowman asked for statistics on the harm that these businesses do to a community. He questioned the logistics of enforcing the regulations. Ms. Hughes replied enforcement would be conducted the same as all the city's zoning regulations.

Chairman Hays asked to review the home occupation regulations in the code and Ms. Hughes reviewed the home occupation allowances. Ms. Hughes explained that the city staff views the regulations as uniform across the city in order to maintain fair regulations in all districts. There was further discussion regarding the reasons for separation of the historic district from the rest of the city.

Commissioner Bowman moved to adjourn the work session at 5:17 p.m. and the motion was seconded by Commissioner McGuire.

The motion carried 7 – 0, unanimously.

Respectfully submitted,

Tamara Mercer
Planning Coordinator

CITY OF WILMINGTON
PLANNING COMMISSION WORK SESSION MINUTES
 July 12, 2017

A special work session of the Wilmington Planning Commission was held on July 12, 2017 at 4:00 p.m. in the City Council Chambers, City Hall Wilmington, North Carolina.

Members Present:

Chairman Deb Hays
 Mr. Bruce McGuire
 Mr. Kemp Roberts
 Mr. Richard Collier
 Mr. Jeff Hovis
 Ms. Laura Miller
 Mr. Bruce Bowman

Members Absent:

None

Staff Present:

Glenn Harbeck, Director
 Ron Satterfield, Assistant Director
 Amy Schaefer, Assistant City Attorney
 Christine Hughes, Senior Planner
 Nicole Smith, Associate Planner
 Kathryn Thurston, Zoning Administrator
 Tamara Mercer, Planning Coordinator

Chairman Hays called the special work session to order at 4:00 p.m.

1. WORK SESSION TOPIC- (please note this is not a Public Hearing) Short Term Rentals/Short Term Lodging: Christine Hughes, Senior Planner 910.341.5885 christine.hughes@wilmingtonnc.gov

Senior Planner Christine Hughes said in late 2015, the City Manager directed planning staff to review the existing code regulations related to short-term lodging, operating as peer-to-peer rentals via online platforms, and to review benchmark cities that have recently addressed or are addressing the issue of short-term lodging. Since that time, City Council has been presented with a detailed review of best practices across the country, including an in-person presentation from planners from Asheville, Raleigh, and Cornelius, North Carolina.

Ms. Hughes noted that this amendment reflects months of research, discussion among City Council members, public input, best practices, and the most recent assessment of legal issues. The amendment references “short-term lodging,” or whole-house rentals, whereby there is no host onsite during the time of the rental, and “homestays,” or the rental of rooms (as a home occupation in the residential districts) while the permanent resident is onsite during the rental period. Both homestays and short-term lodging are presented as conditional uses in the residential and commercial districts. Staff notes that deleting the proposed addition of “short-term lodging” to the residential districts but not the commercial districts would effectively allow the use only in the identified commercial districts (those where hotel/motel is currently a permitted use) and prohibit them in the residential districts. “Guest lodging” is proposed to be deleted as a use, as the definition of this use potentially conflicts with the new uses proposed. Staff believes there is currently only one guest lodging establishment legally permitted, and it would be allowed to continue to operate as a grandfathered, non-conforming use.

In early 2017, HostCompliance.com identified approximately 514 distinct locations currently operating in Wilmington. This count does not differentiate between whole-house and homestay rentals, nor does it indicate the zoning of each location. Staff notes that it is difficult to discern the type of rental (hosted or whole house), the address, or the zoning of the various locations. The code enforcement implications of this approach to regulating homestays and short-term lodging in the manner proposed are twofold: First the allowance of a limited number of uses at defined locations enables code enforcement staff to readily identify which locations are operating outside of the parameters of the code. It does not require staff to try to determine whether a stay is within a prescribed timeframe or number of nights and second the time-limited nature of registration allows for evaluation and reassessment to determine persistent types of violations and repeat offenders and to develop specific, targeted solutions.

Ms. Hughes said the benchmark research shows that there are no clear best practices or standards for addressing the issue of peer-to-peer rentals. While many cities are working towards developing regulations, other cities have adopted standards and are working on amendments to those standards.

Ms. Hughes said the proposed amendment, in summary, would:

- Allow homestay as a home occupation in the R, H, and MF districts with a separation requirement
- Allow short-term lodging as a use permitted by prescribed conditions in the R, H, and MF districts with a separation requirement
- Allow homestay and short-term lodging in the same commercial districts where hotel/motel is permitted
- Delete guest lodging as a permitted use and remove all references to guest lodging

Ms. Hughes reviewed the current regulations and the proposed changes to address this issue and she asked for the Planning Commission to direct staff in policy making. She said the public input thus far was on both extremes of the spectrum either for or against crafting code regulations. There has been a diverse collection of opinions which can be reviewed on-line on the city's website for short-term lodging/short-term rentals.

Commissioner McGuire asked about on-street parking availability as addressed on page 16 paragraph c. Ms. Hughes clarified how it would be determined. She said the language which is taken from the code regulations, asks the applicant if they are an operator and to demonstrate that there is adequate on-street parking available. She discussed the hours for those parking without a permit. She noted the difficulty with enforcement on some blocks as to residents who live there and visiting vehicles trying to park in the limited spaces.

In response to an inquiry by Commission McGuire regarding the requirements for separation in commercial districts, Ms. Hughes noted that on page 14, section 18-329 in the code, the definition is clarified under prescribed conditions in commercial districts.

Commissioner Bowman submitted his recommendations, addressing the topic as follows:

1. Add definition for Transient Boarding House per NC Building Code containing more than one "family" (see exist. definition).
2. Allow Transient Boarding Houses in Single Family residential districts meeting supplemental provisions in the same fashion as Bed and Breakfasts. Provisions would be similar to those currently outlined in staff's "Homestay" definition.
3. Add definition for "Short Term Rental with On-Site Supervision" in which two or more dwelling units are located on the same parcel with one dwelling unit used as a principal residence and the other(s) rented on a weekly basis including principal residence and compliant accessory apartment (whether attached or detached), garage apartment, duplex, triplex, or quadraplex. Compliant dwelling units must satisfy land area and Article 6 requirements or be historic and grandfathered.
4. Allow "Short Term Rental with On-Site Supervision" by right in single-family districts.
5. Add definition for "Short Term Rental with Off-Site Supervision" where one or more dwelling units on the same parcel are rented on a weekly basis without on-site supervision. Similar to staff's definition of Short Term Lodging.
6. Allow Short Term Rental with "Off-Site Supervision" in Single Family residential zones meeting supplemental provisions. Short Term Rentals with Off-Site Supervision in residential historic districts shall only be allowed by special use permit.
7. Allow three or fewer unrelated people residing in one dwelling unit offering weekly room rentals if supervised by a resident that is using the dwelling as their principal residence. Short-term registration is required but not regulated other than enforcing nuisance complaints.
8. Enforce nuisance complaints within residential zones in a robust fashion for short and long term rentals as well as owner occupied residences.
9. Periodic assembly events involving tents or outdoor amplified music to be handled by permit including restriction on frequency per year for any one address.
10. All Short Term Rentals shall require annual registration and shall be subject to revocation based on nuisance complaints.
11. All Short Term Rentals up to 90 days shall be applicable subject to room occupancy taxes.

Commissioner Bowman continued and explained his reasons for his suggestions. He said his notes defined homestays as rented beds in a dwelling and defined accessory apartments separate from the whole house. Most double dwelling units are supervised, although his main concern was for properly supervised short term rentals. He was concerned with the definition of three or fewer un-related persons. He said people are room-mates and it doesn't make sense to enforce housing between room-mates. He discussed the regulations for

boarding houses. He noted what the NC building code requirements for units that need to install a sprinkler system such as hotels and multi-units. The city's definition should be consistent with NC building code. He stated that permit requirements already address regulating special events such as weddings, tent rentals and events with music.

Commissioner McGuire said the historic district is unique and the houses are close and guest users are unfamiliar with the district. He was concerned with a short term rental with off-site supervision. Ms. Hughes pointed out the requirements in Article 6, in which that situation could be addressed under the special use permit process. Mr. McGuire believed the historic district needed additional code restrictions.

Homestays in commercial districts were discussed. Short term rentals in commercial districts were less of a concern, Mr. McGuire said when a home becomes a business that is different. On-site and off-site supervision was discussed and separation requirements was further discussed. Units that might be considered 'grandfathered' were considered. Noise and nuisances happen whether it is a rental or an owner occupied stated Commissioner Bowman. Commissioner Bowman asked what the reason was for restricting them other than to collect tax or privilege license revenue.

Ms. Thurston, Zoning Administrator explained the zoning requirements for owner occupied businesses and those businesses considered a 'grandfathered' unit.

Chairman Hays discussed her concerns with VRBO, Airbnb and when the minimum housing code is violated and the difference between staying for one night versus a longer term stay. She mentioned adequate on-street parking and inquired about permitting on the regulated blocks downtown which required an on-street residential permit. Commissioner Bowman was concerned the rules might create a heavy burden and then the business goes underground to defy regulations. He was concerned this would create a need for more staff for code enforcement if they are over-regulated.

Ms. Hughes said the requirement is one parking space per bedroom and there are the blocks which are registered with the parking manager. She noted there is a whole process to become a permitted block for parking.

Chairman Hays reviewed the benchmark city and the research conducted thus far and requested additional benchmark city information. She asked for Charleston and Asheville's LDC amendments. She discussed software resources to identify the short term rentals. She noted enforcement remedies for citizen complaints for parking, noise and for trash violators.

Ms. Hughes reviewed the discussion topics and the next procedure for addressing the issue. Mr. Hovis believed a public hearing would currently be premature as they are not ready to move forward with the issue. It was determined that another work session would be scheduled.

Commissioner Hovis moved to adjourn the work session and the motion was seconded by Commissioner Miller.

The motion carried 7 – 0, unanimously.

There being no further business the work session adjourned at 5:52 p.m.

Respectfully submitted,

Tamara Mercer
Planning Coordinator

CITY OF WILMINGTON
PLANNING COMMISSION MEETING MINUTES
SPECIAL MEETING
August 23, 2017

A special work session of the Wilmington Planning Commission was held on August 23, 2017 at 4:00 p.m. at 115 North 3rd Street, 5th floor, Harrelson Conference Room, Wilmington, NC.

Members Present:

Chairman Deb Hays
Mr. Bruce McGuire
Mr. Jeff Hovis
Mr. Bruce Bowman

Members Absent:

Mr. Richard Collier- excused
Ms. Laura Miller- excused
Mr. Kempt Roberts

Staff Present:

Meredith Everhart, Deputy City Attorney
Christine Hughes, Senior Planner
Kathryn Thurston, Zoning Administrator
Tamara Mercer, Planning Coordinator
Chance Dunbar, Parking Manager

Chairman Hays called the meeting to order at 4:00 p.m.

1. SHORT TERM RENTALS/SHORT TERM LODGING: Work session and discussion regarding Short Term Rentals/ Short Term Lodging. Christine Hughes, Senior Planner 910.341.5885 christine.hughes@wilmingtonnc.gov

Chairman Hays noted that all received emails from citizens were shared with the entire Commission. She noted that Vice-Chairman Collier and Commissioner Miller had given prior notice that they could not attend and their absence was excused.

Chairman Hays introduced Chance Dunbar, the City of Wilmington Parking Manager for the downtown parking program, and Mr. Dunbar explained the parking program for the downtown area for Residential Parking Permit (RPP) holders and how they formed the program. Along the participating streets in the program, Mr. Dunbar said parking is by permit only from 11pm to 3 am, 7 days a week, as well as other restrictions for non-permitted vehicles. He said a neighborhood would have to identify a parking need in order to qualify for a Residential Parking Permit. The area or block would submit a petition of 2/3 of the property homeowners on the block. Then a week long study assessing the vehicle counts would be conducted which must yield that there is 70% of the parking spaces are occupied. Of those occupied spaces, 30-50% of the vehicles are outside licensed and registered vehicles that are registered out of the area. Then a neighborhood vote by the property owners and/ or registered vehicle residents would be completed in order to implement the Residential Parking Permit block.

The cost is \$25.00 per year, per vehicle and there are three vehicles allowed per residence and one annual visitors pass is also allowed. Mr. Dunbar noted that the city cannot force a block into the RPP program. The program must be requested by its residents, however the City can limit the number of vehicles.

Commissioner McGuire suggested the home-stay or short-term rental could be restricted to two vehicles. Ms. Hughes explained the rules for a home occupation and the parking requirements for the vehicles for a home occupation.

Chairman Hays reviewed the definitions as presented in the staff report. Ms. Hughes clarified the definitions for a hosted homestay and the provisions for allowing rentals with an accessory use the code regulations. She then reviewed the definition for an un-hosted or unoccupied whole house short-term rental.

Zoning Administrator, Kathryn Thurston reviewed the sizes of lots in the historic district, and said due to the discrepancies in sizes, that some lots are considered grandfathered nonconforming. She said there is not a minimum dimension for a single residence but for a duplex the lot must have a minimum of 4,500 square feet. Commissioner Bowman was concerned with nuisance enforcement and on-site monitoring. He noted that a dwelling unit exists and they won't increase as they already exist. He suggested that for regulating new

permits, that could include the larger lot area and to address vacant lots that are buildable through permitting.

Commissioner McGuire suggested the city could regulate short-term rentals similar to the regulations for downtown Bed and Breakfasts, and determine how many should be allowed per block. Commissioner Bowman questioned how that monitoring would be determined.

Ms. Hughes reviewed the definition of short-term lodging as: *Rental of an entire housing unit that provides lodging for pay, for a maximum continuous period of 29 days, that does not include serving food, and to which the definition of 'family' does not apply. This definition is limited to lodging uses and excludes events and any other non-lodging uses.* She explained there could be a general consensus within the vetting process, through a percentage of neighbors agreeing, which houses would allow short-term rentals with the issuance of a Special Use Permit. That strategy was based upon the regulations in Portland, Oregon.

Commissioner Hovis had concerns with that approach. He explained why he disagreed with polling the neighbors to regulate themselves. It would be over regulating. Commissioner Bowman added that some people are doing this to pay their mortgage and maintain their home.

Commissioner McGuire believed that one short-term rental per block would alleviate issues on a block. There was a discussion on the process of recommending regulations with the citizen's input and vetting the process before submitting to the City Council. Ms. Hughes reviewed the definitions and conditions which were suggested in the ordinances from the benchmark cities researched. Impacts to neighborhoods were discussed. Commissioner McGuire said the business use would impact parking, noise, trash and safety in a residential neighborhood.

Commissioner Bowman said we need a few rules that can be enforced but not a myriad of rules and regulations to which the code then can't be enforced. He said collecting taxes and complying with the privilege license should be priority. Ms. Hughes reviewed the commissioners concerns and she suggested she draft another proposal and utilize the software to track the properties which are listed on the short-term rental platforms such as Airbnb, VRBO, and Homeaway.

Chairman Hays believed the neighbors as a community should participate in the process. She added if 75% of neighbors approve a listing, who is not the same owners, those STRs could receive compliance and take into account the distances between properties. Ms. Hughes felt more comfortable working with the Attorneys Office, to draft such regulations. Mr. McGuire added that this was concerning whole house rentals without an owner supervising on-site.

Ms. Thurston reviewed the 'principal residence' existing definition: *The residence of a person who: 1) uses as his/her voting address; 2) uses as the address on his/her driver license and at least one other form of identification determined acceptable by the NHC Board of Adjustment of Elections as proof of residence (including but not limited to a current utility bill, bank statement, government check, paycheck, or other document) and 3) occupies the residence for at least 183 days during a calendar year.*

There was a lengthy discussion regarding the logistics of monitoring the STRs.

It was determined that the Planning Commission would schedule another special meeting in order to receive public input on the topic. Attorney Everhart noted that the Commission would formally waive rules for opening a discussion to the public and could set a time limit for the public comment portion. Ms. Hughes will request the Commissioners via email for available dates to hold the special meeting for public input.

Commissioner Hovis moved to adjourn the work session and the motion was seconded by Commissioner Miller.

The motion carried 4 – 0, unanimously.

There being no further business the work session adjourned at 5:55 p.m. Please note this in not a verbatim record of the proceedings.

Respectfully submitted,

Tamara Mercer

Planning Coordinator

PROPOSED AMENDMENT

Following are the proposed amendments to the Land Development Code. Additions are underlined, deletions are in ~~strikethrough~~.

Chapter 18, Article 5. Division II. District Regulations.

Sec. 18-177. R-20 Residential District.

(c) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

(11) Homestay and whole-house lodging

Sec. 18-178. R-15, Residential District.

(c) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations:

(8) ~~Reserved~~ Homestay and whole-house lodging

Sec. 18-179. R-10, Residential District.

(c) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(11) Homestay and whole-house lodging

Sec. 18-180. R-7, Residential District.

(c) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(11) Homestay and whole-house lodging

Sec. 18-181. R-5, Residential District.

(c) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(11) Homestay and whole-house lodging

Sec. 18-182. R-3, Residential District.

(c) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(10) Homestay and whole-house lodging

Sec. 18-184. Multifamily Residential Districts (MF-L, MF-M, Mr-MH, MF-H)

(c) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

(12) Homestay and whole-house lodging

Sec. 18-185. MX, Mixed Use District.

(c) Permitted uses

(1) Principal uses

(e) Entertainment and lodging category

ix. Homestay and whole-house lodging by prescribed conditions

Sec. 18-187. HD, Historic District.

(c) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(4) Homestay and whole-house lodging

(d) Permitted by special use permit. The following uses are permitted subject to the issuance

of a special use permit and provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(7) ~~Guest lodging reserved~~

Sec. 18-188. HD-MU, Historic District-Mixed Use.

(d) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(6) Homestay and whole-house lodging

(e) Permitted by special use permit. The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(9) ~~Guest lodging reserved~~

Sec. 18-189. HD-R, Historic District-Residential.

(d) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(4) Homestay and whole-house lodging

Sec. 18-190. - O&I-1, Office and Institutional District 1.

(c) *Uses permitted under prescribed conditions.* The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(2) ~~Reserved~~ Homestays and whole-house lodging

(d) Permitted by special use permit. The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(2) ~~Guest lodging reserved~~

Sec. 18-191. - O&I-2, Office and Institutional District 2.

- (c) *Uses permitted under prescribed conditions.* The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(2) ~~Reserved~~ Homestays and whole-house lodging

- (d) Permitted by special use permit. The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(5) ~~Guest lodging reserved~~

Sec. 18-193. MSMU, Main Street Mixed-use District.

- (c) *Uses permitted under prescribed conditions.* The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(3) Homestay and whole-house lodging

Sec. 18-194. CB, Community Business District.

- (c) *Uses permitted under prescribed conditions.* The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(27) Homestay and whole-house lodging

- (d) Permitted by special use permit. The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(6) ~~Guest lodging reserved~~

Sec. 18-195. RB, Regional Business District.

- (c) *Uses permitted under prescribed conditions.* The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(27) Homestay and whole-house lodging

- (d) Permitted by special use permit. The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(6) ~~Guest lodging reserved~~

Sec. 18-196. CBD, Central Business District.

- (c) *Uses permitted under prescribed conditions.* The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(15) Homestay and whole-house lodging

Sec. 18-200. - AI, Airport Industrial District.

- (f) *Uses permitted under prescribed conditions.* The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(20) Homestay and whole-house lodging

Sec. 18-204. UMX, Urban Mixed-use District.

- (2) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

j. Homestay and whole-house lodging

Sec. 18-202. RFMU, Riverfront Mixed-use District.

e. *Entertainment and lodging category.*

ix. Homestay and whole-house lodging, provided the requirements of Article 6 are met.

Sec. 18-203. RO, Residential Office District.

(d) Permitted by special use permit. The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, [Article 6](#), and all other applicable requirements established in these regulations.

(6) ~~Guest lodging reserved~~

Article 6. Division I. Prescribed Conditions, Special Use Prerequisites, and Accessory Uses and Structures.

Sec. 18-267. - Dormitory, private.

(f) In the districts where permitted, a proposed private dormitory shall not locate closer than a one-mile radius from any existing permitted private dormitory, fraternity house, sorority house, ~~guest lodge~~, family care home, group home supportive small, group home supportive, medium, group home supportive, large, and group home residential in a residential district. The distance between the proposed use and the existing permitted private dormitory, fraternity house, sorority house, ~~guest lodge~~, family care home, group home supportive small, group home supportive, medium, group home supportive, large, and group home supportive residential shall be measured by following a straight line from the nearest point of the lot line of the proposed use to the nearest point of the lot line of the lot on which the existing permitted use is located.

Sec. 18-277. - ~~Guest lodging. Reserved~~

~~Guest lodging shall comply with the following:~~

- ~~(a) The minimum lot size shall be three thousand (3,000) square feet.~~
- ~~(b) There shall be a floor plan showing the number of lodging units along with the residential quarters provided as a principal residence.~~
- ~~(c) There shall be no more than two (2) residents occupying a bedroom, and the usable floor space shall be no less than two hundred fifty (250) square feet per resident, except that a child may also occupy the bedroom of the child's parents.~~
- ~~(d) There shall be a management plan submitted with the application for a special use permit that includes at a minimum the following:~~

- ~~(1) A plan of supervision that includes adequate supervision provided twenty-four (24) hours per day by full-time, compensated, on-premises resident supervisory~~

- ~~personnel associated with the facility and said personnel shall be of a level sufficient to adequately supervise the residents and to monitor and enforce the other requirements of this section. Adequate supervision shall also be provided in accordance with any licensing requirement. If a license is not required or does not require adequate supervision, then the guest lodging shall have written operating procedures or manual and a structured system of management. Any more than three (3) final determinations of violations of the City Code and/or criminal convictions related to the premises within one (1) month, or six (6) within one (1) year shall constitute inadequate supervision and a violation of the special use permit. Offenders shall include property owners as well as lessees, tenants, residents, and occupants.~~
- ~~(2) A plan for noise and solid waste management approved as part of the management and site plan.~~
- ~~(3) Adequate provision for the recreation and laundry needs of the guests.~~
- ~~(4) Projected maximum number of residents/guests and any resident supervisory personnel.~~
- ~~(5) Hours of operation.~~
- ~~(6) Delivery hours.~~
- ~~(7) On-site food preparation or dining facilities are for residents and lodging guests only. Continental breakfast may be catered by external vendors.~~
- ~~(8) No liquor license.~~
- ~~(9) No amplified sound shall emanate from the premises.~~
- ~~(e) In the HD and HDMU zoning districts a proposed guest lodge shall not locate closer than a one (1) mile radius from any existing permitted guest lodge, private dormitory, fraternity or sorority house, family care home, group home supportive small, group home supportive, medium, group home supportive, large, and group home residential in a residential district. The distance between the proposed use and the existing permitted private dormitory, fraternity house, sorority house, guest lodge, family care home, group home supportive small, group home supportive, medium, group home supportive, large, and group home supportive residential shall be measured by following a straight line from the nearest point of the lot line of the proposed use to the nearest point of the lot line of the lot on which the existing permitted use is located.~~
- ~~(f) For new construction, the facade of the structure shall be designed to be architecturally compatible with the streetscape for the district in which it is located. Any proposed change to the facade of an existing structure shall be architecturally compatible with the surrounding neighborhood.~~
- ~~(g) The guest lodge shall not be established, constructed, expanded, altered, changed, operated, or occupied, except in accordance with the Minimum Housing Code and Abandoned Structures Ordinance, and all applicable federal, state, and local regulations, including, but not limited to, any licensing requirements.~~
- ~~(h) In historic districts, all signs shall be nonilluminated and shall not exceed four (4) square feet in area.~~

Sec. 18-289. - Multifamily District Mixed Use (MFMU) within the MF-M, MF-MH, and MF-H Districts.

- (k) Commercial uses shall be limited to the following:

8. Guest Lodging Reserved

Sec. 18-305. - Special uses in the Historic Districts, with the exception of the Historic District-Mixed Use (HD-MU) and the Central Business District-Historic District Overlay (BD-HDO).

~~(a) Applications for guest lodging shall include a management plan.~~

Sec. 18-329. Whole-house Lodging (Type I and Type II) and Homestays in the O&I 1, O&I-2, CB, RB, CBD, AI, RFMU, MX, MSMU, and UMX Districts.

(a) Registration.

- a. Property owners shall register each establishment annually with the city of Wilmington.
- b. A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.
- (b) Any use for which there are three (3) final determinations of violations of the City Code and/or criminal convictions related to the premises within one (1) year, shall constitute inadequate supervision and a violation of the terms of registration and shall terminate registration. Offenders shall include property owners as well as lessees, tenants, guests, and occupants. A premises for which registration has been terminated shall be ineligible for registration for a period of three (3) years.
- (c) A property owner shall be responsible for ensuring compliance with all federal, state, and local laws, including, but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the short-term lodging.
- (d) Property owners shall be responsible for keeping in full force and effect during all times the unit is used as a short-term lodging or homestay a general liability policy with a company authorized to do business in North Carolina insuring against personal injury and property damage.
- (e) Written notice shall be conspicuously posted inside each short-term lodging unit setting forth the following information:
 - (a) The name and telephone number of the operator. If the operator resides more than twenty (20) miles from the property, the name and number of a manager within twenty (20) miles must also be posted.
 - (b) The address of the lodging, the maximum number of overnight occupants, and the day(s) established for garbage collection.
 - (c) The non-emergency phone number of the city of Wilmington Police Department.
 - (d) The annual registration documentation.
- (6) The operator shall ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection and the carts removed from the street or alley on the

scheduled collection day, in accordance with Section 10-14 of the City Code.

(7) Preparation and service of food by operators for guests shall be prohibited. No cooking shall be permitted in individual bedrooms.

Sec. 18-330. Homestay lodging in residential, multifamily, and historic districts.

(a) Homestay uses are permitted in single-family zoning districts, including all of the R districts, the HD, HD-R, HDMU districts, and in all of the MF districts. Such uses shall only be allowed in lawfully permitted dwelling units serving as the principal residence of the host. Only a property owner may register a homestay lodging; however, a principal resident may act as a host. Homestay lodging uses do not include bed and breakfast lodging uses.

1) Registration.

- a. A property owner shall register each establishment annually with the city of Wilmington.
- b. Registration is restricted to property owner, who shall provide proof of possession of the registered premises by warranty deed, and to natural persons only. The host may be the property owner or another principal resident.
- c. A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.
- d. Active registrations shall not expire, provided that a property owner shall renew registration on an annual basis. Registrations not renewed by the property owner shall deem the allowance of the use terminated by the property owner.
- e. Registration does not vest the premises or the property owner with any rights. Registration terminates upon transfer of the property to another owner.

2) The maximum number of guest rooms allowed shall be one less than the total number of bedrooms in the primary dwelling unit, not to exceed three (3) guest rooms.

3) No more than three (3) motor vehicles owned or operated by patrons shall be parked onsite at any time.

4) The use provisions of this section are not subject to variance by the board of adjustment.

5) Any homestay lodging for which there are more than three (3) final determinations of violations of the City Code and/or criminal convictions related to the premises within one (1) year, shall constitute a violation of the terms registration and shall terminate registration. Offenders shall include property owners as well as lessees, tenants, guests, and occupants. A property owner who terminates registration shall be ineligible for registration for a period of three (3) years.

6) Any registrant of a homestay lodging shall be responsible for ensuring compliance with all federal, state, and local laws, including, but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the homestay.

7) Registrants are responsible for keeping in full force and effect during all times the dwelling unit is used as a homestay lodging a general liability policy with a company authorized to do business in North Carolina insuring against personal injury and property damage.

- 8) Homestay lodging hosts shall maintain records demonstrating that the home is their primary residence, the dates of rental, and the number of renters. Such records shall be made available, upon request, to the City Manager.
- 9) The definition of “family” and the restriction of a minimum thirty (30)-day rental period in the MF districts shall not apply to properly registered homestay lodging.

Sec. 18-331. Whole-house (Type I and Type II) lodging in residential, multifamily, and historic districts.

Whole-house lodging uses in the residential, multifamily, and historic districts are permitted under the following conditions:

- (a) Type I: Such uses shall only be permitted in lawfully permitted single-family detached, accessory dwelling units, duplex, triplex, and quadraplex units.
 - i. Only one unit may be permitted for whole-house lodging per parent lot or parcel (e.g., either the primary residence or the associated accessory dwelling unit; a single unit of any duplex, triplex, or quadraplex unit).
 - ii. Whole-house lodging in any duplex, triplex, or quadraplex units requires that the operator be the principal resident on the premises in one of the other units.
- (b) Type II: Such uses shall only be permitted in lawfully permitted single-family detached and multifamily dwelling units.
 - i. The minimum distance between type II whole-house lodging uses shall be four hundred (400) feet for parcels within the 1945 Corporate Limits and six hundred fifty (650) feet for parcels outside the 1945 Corporate Limits, measured from parcel lines. In the case of a condominium or apartment development, this shall be measured from the parent parcel lines.
 - ii. Such uses shall require a local operator/manager residing within twenty (20) miles of the property.
- (c) The maximum number of bedrooms per whole-house lodging unit shall be three (3).
- (d) Registration.
 - i. The property owner shall register each establishment annually with the city of Wilmington.
 - ii. The owner shall provide proof of possession of the registered premises by warranty deed.
 - iii. A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.
 - iv. Registration is limited to natural persons only and no person shall be eligible for more than one registration for a whole-house lodging of any type in any residential district.
 - v. Active registrations shall not expire; however, all property owners shall renew registration on an annual basis. Registrations not renewed on an annual basis shall deem the use terminated by the property owner.

- vi. Registration does not vest the premises or the property owner with any rights. Registration terminates upon the sale of the property.
 - vii. Only one registration may be issued per property, type I, type II, or bed and breakfast lodging.
- (e) A minimum of one off-street parking space per rented bedroom is required. Within HD, HD-R, and HDMU districts, only curb cuts existing at the time of the adoption of this ordinance may be used to provide off-street parking. If off-street parking is not available on site, shared parking or rented spaces in a private or municipal parking deck or lot may be used to satisfy this parking requirement. Proof of a shared parking plan or rental of spaces shall be included with annual registration. A shared parking plan will be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record must be approved by the city attorney and submitted to the city for recordation on forms made available in the office of the city attorney. Recordation of the agreement must take place before issuance of a registration for any short-term lodging use to be served by the off-site parking area. A short-term lodging registration shall be revoked if required off-street parking spaces cannot be provided.
- (f) The use provisions of this section are not subject to variance by the board of adjustment.
- (g) The definition of “family” and the restriction of a minimum thirty (30)-day rental period in the MF districts shall not apply to property registered whole-house lodging uses.
- (h) Any use for which there are three (3) final determinations of violations of the City Code and/or criminal convictions related to the premises within one (1) year, shall constitute a violation of the terms of registration and shall terminate registration. Offenders shall include property owners as well as lessees, tenants, guests, and occupants. A premises for which registration has been terminated shall be ineligible for registration for a period of three (3) years.
- (i) The property owner shall be responsible for ensuring compliance with all federal, state, and local laws, including, but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the lodging.
- (j) Property owners are responsible for keeping in full force and effect during all times the unit is used as a short-term lodging a general liability policy with a company authorized to do business in North Carolina insuring against personal injury and property damage.
- (k) Registration shall terminate upon any one of the following: discontinuance of use for a period of one hundred eighty (180) days or more, failure to renew annual registration, sale of the property.
- (l) Written notice shall be conspicuously posted inside each short-term lodging unit setting forth the following information:
- i. The name and telephone number of the operator.
 - ii. The address of the lodging, the maximum number of overnight occupants permitted and the day(s) established for garbage collection.
 - iii. The non-emergency phone number of the city of Wilmington Police Department.
 - iv. The annual registration number.

- v. That parties, events, and large gatherings shall not be permitted on the premises.
- (m) The operator shall ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection day and the carts removed from the street or alley on the scheduled collection day, in accordance with Sections 10-14 of the City Code.
- (n) Preparation and service of food by operators for guests shall be prohibited. No cooking shall be permitted in individual bedrooms.

Article 9. Off-street Parking and Loading; Driveways

Sec. 18-532. Parking Schedule
(Strike from the table)

Guest lodging		1 per guest room and 1 per supervisor and staff person
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Article 15. Definitions.

Sec. 18-812. Definitions.

~~Guest lodging: A premises in which rooms are rented, with or without board, on a fee basis to permanent or transient guests; provided all accessory services, such as dining rooms, shall be available to such guests only and not open to the general public.~~

Homestay – The rental of individual bedrooms within a dwelling unit that serves as the operator's principal residence, that provides lodging for pay, for a maximum continuous period of twenty-nine (29) days, that does not include serving food, and to which the definition of family does not apply.

Housing unit (dwelling unit): One (1) or more rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease ~~on a weekly or longer basis~~, and physically separated from any other housing unit which may be in the same structure, and containing independent cooking and sleeping facilities for not more than one (1) family.

Principal residence: The residence a person: 1) uses as his/her voting address; 2) uses as the address on his/her driver's license and at least one (1) other form of identification determined acceptable by the New Hanover County Board of Elections as proof of residence (including but not limited to, a current utility bill, bank statement, government check, paycheck, or other government document; 3) occupies for at least one hundred eighty-three (183) days during a calendar year.

Whole-house lodging – Type I: Rental of an entire housing unit (dwelling unit) by the principal resident while the resident is away from the premises that provides lodging for pay, for a maximum continuous period of twenty-nine (29) days. This also includes rental of one unit within a duplex, triplex, or quadraplex whereby the principal resident lives in one of the other units within the same duplex, triplex, or quadraplex unit or the rental of an accessory dwelling unit or primary dwelling unit whereby the principal resident lives in the other unit on the same property.

Type II: Rental of an entire single-family detached housing unit (dwelling unit) by an operator with no principal resident residing on the premises that provides lodging for pay, for a maximum continuous period of twenty-nine (29) days.

Neither type I nor type II whole-house lodging types include serving of food. Both types are exempt from the definition of “family” and specifically exclude events and other non-lodging uses.