Ordinance

Rev'd/Adopt

City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager **Date:** 6/19/2018

Ordinance Amending the Land Development Code, Chapter 18, to Allow Homestay Lodging in Residential, Historic, and Multi-family Districts as a Use Permitted with Prescribed Conditions, to Add Whole-house Lodging and Homestay Lodging in Some Commercial and Mixed-use Districts as Uses Permitted with Prescribed Conditions, to Add and Amend Definitions, to Delete Guest Lodging as a Permitted Use (LDC-1-717A)

CERTIFIED TO BE A TRUE COPY
City Clerk

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, the amendment set out below is intended to promote the public health, safety, and welfare by amending the Land Development Code to include regulations for short-term lodging.

THEREFORE, BE IT ORDAINED:

SECTION 1: Chapter 18, Article 5 of the Land Development Code, Section 18-177. R-20. Residential District (c) is hereby amended to add:

"(11) Homestay lodging."

SECTION 2: Chapter 18, Article 5 of the Land Development Code, Section 18-178. R-15. Residential District (c)(8) is hereby amended to read as follows:

"(8) Homestay lodging."

SECTION 3: Chapter 18, Article 5 of the Land Development Code, Section 18-179. R-10. Residential District (c) is hereby amended to add:

"(11) Homestay lodging."

SECTION 4: Chapter 18, Article 5 of the Land Development Code, Section 18-180. R-7. Residential District (c) is hereby amended add:

"(11) Homestay lodging."

SECTION 5: Chapter 18, Article 5 of the Land Development Code, Section 18-181. R-5. Residential District (c) is hereby amended to add:

"(11) Homestay lodging."

SECTION 6: Chapter 18, Article 5 of the Land Development Code, Section 18-182. R-3. Residential District (c) is hereby amended to add:

"(10) Homestay lodging."

SECTION 7: Chapter 18, Article 5 of the Land Development Code, Section 18-184. Multifamily Residential Districts (c) is hereby amended to add:

"(12) Homestay lodging."

SECTION 8: Chapter 18, Article 5 of the Land Development Code, Section 18-185. MX, Mixed Use District (c)(1)(e) is hereby amended to add:

"viii. Homestay lodging by prescribed conditions.
ix. Whole-house lodging by prescribed conditions."

SECTION 9: Chapter 18, Article 5 of the Land Development Code, Section 18-187. HD, Historic District (c) is hereby amended to add:

"(4) Homestay lodging."

SECTION 10: Chapter 18, Article 5 of the Land Development Code, Section 18-187. HD, Historic District (d)(7) is hereby amended as to read as follows:

"(7) Reserved."

SECTION 11: Chapter 18, Article 5 of the Land Development Code, Section 18-188. HD-MU, Historic District-Mixed Use (d) is hereby amended add:

"(6) Homestay lodging."

SECTION 12: Chapter 18, Article 5 of the Land Development Code, Section 18-188. HD-MU, Historic District-Mixed Use (e)(9) is hereby amended as to read as follows:

"(9) Reserved."

SECTION 13: Chapter 18, Article 5 of the Land Development Code, Section 18-189. HD-R, Historic District-Residential (d) is hereby amended to add:

"(4) Homestay lodging."

SECTION 14: Chapter 18, Article 5 of the Land Development Code, Section 18-190. O&I-1, Office and Institutional District 1 (c) is hereby amended to add:

"(18) Homestay lodging.
(19) Whole-house lodging."

SECTION 15: Chapter 18, Article 5 of the Land Development Code, Section 18-190. O&I-1, Office and Institutional District 1 (d)(2) is hereby amended to read as follows:

"(2) Reserved."

SECTION 16: Chapter 18, Article 5 of the Land Development Code, Section 18-191. O&I-2, Office and Institutional District 2 (c) is hereby amended to add:

"(19) Homestay lodging.
(20) Whole-house lodging."

SECTION 17: Chapter 18, Article 5 of the Land Development Code, Section 18-191. O&I-2, Office and Institutional District 2 (d)(5) is hereby amended to read as follows:

"(5) Reserved."

SECTION 18: Chapter 18, Article 5 of the Land Development Code, Section 18-193. MSMU, Main Street Mixed-use District (c)(2) is hereby amended to add:

"l. Homestay lodging.
m. Whole-house lodging."

SECTION 19: Chapter 18, Article 5 of the Land Development Code, Section 18-193. MSMU, Main Street Mixed-use District (d)(2) is hereby amended to read as follows:

"(2) Reserved."

SECTION 20: Chapter 18, Article 5 of the Land Development Code, Section 18-194. CB, Community Business District (c) is hereby amended to add:

"(27) Homestay lodging.
(28) Whole-house lodging."

SECTION 21: Chapter 18, Article 5 of the Land Development Code, Section 18-194. CB, Community Business District (d)(6) is hereby amended to read as follows:

"(6) Reserved."

SECTION 22: Chapter 18, Article 5 of the Land Development Code, Section 18-195. RB, Regional Business District (c) is hereby amended to add:

"(27) Homestay lodging.
(28) Whole-house lodging."

SECTION 23: Chapter 18, Article 5 of the Land Development Code, Section 18-195. RB, Regional Business District (d)(6) is hereby amended to read as follows:

"(6) Reserved."

SECTION 24: Chapter 18, Article 5 of the Land Development Code, Section 18-196. CBD, Central Business District (c) is hereby amended to add:

"(15) Homestay lodging.
(16) Whole-house lodging."

SECTION 25: Chapter 18, Article 5 of the Land Development Code, Section 18-200. AI, Airport Industrial District (f) is hereby amended to add:

"(21) Homestay lodging.
(22) Whole-house lodging."

SECTION 26: Chapter 18, Article 5 of the Land Development Code, Section 18-202. RFMU, Riverfront Mixed-use District (c)(1)(e) is hereby amended to add:

"ix. Homestay lodging, provided the requirements of Sec. 18-329 are met.
x. Whole-house lodging, provided the requirements of Sec 18-329 are met."

SECTION 27: Chapter 18, Article 5 of the Land Development Code, Section 18-203. RO, Residential Office District (d)(6) is hereby amended to read as follows:

"(6) Reserved."

SECTION 28: Chapter 18, Article 5 of the Land Development Code, Section 18-204. UMX, Urban Mixed-use District (b)(2) amended to add:

"j. Homestay lodging.
k. Whole-house lodging."

SECTION 29: Chapter 18, Article 6 of the Land Development Code, Section 18-267. Dormitory, private (f) is hereby amended to read as follows:

"(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, 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, 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."

SECTION 30: Chapter 18, Article 6 of the Land Development Code, Section 18-277, Guest Lodging shall be amended to read as follows:

"Sec. 18-277. Reserved."

SECTION 31: Chapter 18, Article 6 of the Land Development Code, Section 18-289, Multifamily District Mixed Use (MFMU) within the MF-M, MF-MH, and MF-H Districts (k)(8) shall be amended to read as follows:

"8. Reserved."

SECTION 32: Chapter 18, Article 6 of the Land Development Code, Section 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 (CBD-HDO) (d) shall be amended to read as follows:

"(d) Reserved."

SECTION 33: Chapter 18, Article 6 of the Land Development Code, Sections 18-329 and 18-330 shall be amended to read as follows:

"Sec. 18-329. Whole-house Lodging and Homestay Lodging in the O&I.-1, O&I-2, CB, RB, CBD, AI, RFMU, MX, MSMU, and UMX Districts.

(a) Registration.
   1. Property owners shall register each establishment annually with the city of Wilmington.
   2. 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 parcel (on, adjacent to, or within the property) by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling three hundred sixty five (365) day period, shall constitute a violation of the terms of registration and shall terminate registration. For any registration that is terminated due to code/criminal violations, a property owner shall be ineligible for registration for a period of three (3) years.

(c) A property owner, as well as any host/operator, shall: 1) 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; and 2) not allow any party, event, classes, weddings, receptions, or other large gatherings on the premises.

(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 commercial general liability insurance with a total limit of not less than $500,000 each occurrence for bodily injury and property damage.

(e) Written notice shall be conspicuously posted inside each short-term lodging unit setting forth the following information:

1. The name and telephone number of the host/operator.
2. The address of the lodging, the maximum number of overnight occupants, and the day(s) established for garbage collection.
3. The non-emergency phone number of the city of Wilmington Police Department.
4. The annual registration documentation.
5. That parties, events, classes, weddings, receptions, and other large gatherings are not permitted.

(f) The host/operator shall ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection day(s) and the carts removed from the street or alley on the scheduled collection day, in accordance with Section 10-14 of the City Code.

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

(h) Short-term lodging uses shall be prohibited on the ground floor of street-facing facades, excluding alleys, except within any properly permitted single-family, duplex, triplex, quadraplex, and multifamily structures existing at the time of the adoption of this ordinance.

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

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.

Homestay lodging uses shall only be allowed in lawfully permitted dwelling units serving as the principal residence of a host. Only a property owner may register a homestay lodging; however, the 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 a property owner, who shall provide proof of possession of the registered premises, and to natural persons only. A 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. If a property owner fails to renew a registration, the registration shall be considered terminated by the property owner.
   (e) Registration does not vest the premises or property owner with any rights. Registration terminates upon transfer of the property to another owner.
   (f) Any bedroom rentals for periods of twenty-nine (29) days or less not properly registered as a bed and breakfast shall register as a homestay.

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

3) In the R-20, R-15, R-10, R-7, R-5, R-3, HD, HD-R, and HDMU districts:

   (a) The host shall issue a parking placard to each guest parking on site.
   (b) Guest parking shall be restricted to behind the plane of the front façade of the home, except on an existing improved parking surface existing at the time of the adoption of this ordinance.
   (c) 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) If there are three (3) final determinations of violations of the City Code and/or criminal convictions related to the parcel (on, adjacent to, or within the property) by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling three hundred sixty-five (365) day period, shall constitute a violation of the terms of registration and shall terminate registration. For any registration that is

terminated due to code/criminal violations, the owner(s) of the property shall be ineligible for registration for a period of three (3) years.

6) Any property owner registering a homestay lodging, as well as any host, shall: 1) 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; 2) not allow any party, event, classes, weddings, receptions, or other large gatherings on the premises.

7) Property owners registering a homestay lodging are responsible for keeping in full force and effect during all times the dwelling unit is used as a homestay lodging commercial general liability insurance with a total limit of not less than $500,000 each occurrence for bodily injury and property damage.

8) Homestay lodging registrants and hosts shall maintain records demonstrating that the home is a host's primary residence, the dates of rental for the previous three hundred sixty-five (365) days, 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.

10) 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 host.
(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.
(e) That parties, events, classes, weddings, receptions, and other large gatherings are not permitted."

SECTION 34: Chapter 18, Article 9 of the Land Development Code, Section 18-532, Parking Schedule shall be amended to strike the entire row containing Guest Lodging from the table.

SECTION 35: Chapter 18, Article 15 of the Land Development Code, Section 18-812, Definitions, shall be amended to strike the definition of Guest Lodging.

SECTION 36: Chapter 18, Article 15 of the Land Development Code, Section 18-812, Definitions, shall be amended to add the following, in alphabetical order:

"Homestay lodging - The business engaged in the rental of individual bedrooms within a dwelling unit that serves as a host's principal residence, including any single-family or accessory apartment, 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.

Homestay Host: a permanent, full-time resident of a property who is present during the homestay term for the entire time lodgers are staying on the property. The host may be temporarily absent from the property for purposes related to normal residential activities, such as shopping, working, attending classes, etc.; however, a host must be at the property overnight when lodgers are present.

Whole-house lodging - A business engaged in the rental of an entire dwelling unit that provides lodging for pay, for a maximum continuous period of twenty-nine (29) days and does not include the include serving of food. Whole-house lodging uses are exempt from the definition of "family." "

SECTION 37: Chapter 18, Article 15 of the Land Development Code, Section 18-812, Definitions, shall be amended to change the definition of Housing Unit to read as follows:

"Housing unit (dwelling unit): One (1) or more rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, 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."

SECTION 38: Chapter 18, Article 15 of the Land Development Code, Section 18-812, Definitions, shall be amended to change the definition of Principal Residence to read as follows:

"Principal residence: The domicile where an individual has a true, fixed, permanent home and principal establishment, and to which place, whenever absent, the individual has the intention of returning. A principal residence is the one a person: 1) uses as his/her voting address; and 2) uses as the address on one of the following: his/her federal and state tax returns, military purposes, passport, vehicle registration, insurance policy, driver's license, bank account, or any other bill or item that requires a response; and 3) occupies for at least one hundred eighty-three (183) days during a calendar year."

SECTION 39: That any short-term lodging establishment existing at the time of the adoption of this ordinance shall be brought into compliance with this ordinance on or before the effective date of this ordinance.

SECTION 40: That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Article III, Section 18-52 of the Land Development Code.

SECTION 41: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 42: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 43: That this ordinance shall be effective March 1, 2019.

Bill Saffo, Mayor

Adopted at a regular meeting

on July 17, 2018.

ATTEST:

Penelope Spicer-Sidbury, City Clerk

APPROVED AS TO FORM:

City Attorney