

ZO 18 - 473

(Also see amendments to Articles 7.2 and 13 of Chapter 4 of the Fairfax County Code, relating to Business, Professional and Occupational License Tax and Transient Occupancy Tax, adopted simultaneously on July 31, 2018)

**ADOPTION OF AN AMENDMENT TO CHAPTER 112
(ZONING) OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, July 31, 2018, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA:

Amend Chapter 112 (Zoning Ordinance), as follows:

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by revising the current definition of DWELLING and DWELLING, MOBILE HOME and to add new definitions for SHORT-TERM LODGING and TRANSIENT OCCUPANCY to read as follows:

DWELLING: A building or portion thereof, but not a MOBILE HOME, designed or used for residential occupancy. The term ‘dwelling’ does not mean a motel, rooming house, hospital, or other accommodation used for more or less TRANSIENT OCCUPANCY, except a dwelling may be used for SHORT-TERM LODGING.

DWELLING, MOBILE HOME: A single family residential unit with all of the following characteristics: (a) designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems; (b) designed to be transported after fabrication on its own wheels or on a flat bed or other trailer or detachable wheels; (c) arriving at the site where it is to be occupied as a dwelling complete, conventionally designed to include major appliance, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like; (d) designed for removal to and installation or erection on other sites.

A mobile home may include one or more units, separately towable, which when joined together shall have the characteristics as described above. For the purposes of this Ordinance, a mobile home shall not be deemed a SINGLE FAMILY DETACHED DWELLING. A MOBILE HOME does not include TRANSIENT OCCUPANCY, except a mobile home may be used for SHORT-TERM LODGING.

SHORT-TERM LODGING: The provision of a room or space that is suitable or intended for transient occupancy, in exchange for a charge for the lodging. Such use does not include ACCESSORY DWELLING UNIT, BED AND BREAKFAST, HOTEL/MOTEL, or TEMPORARY FAMILY HEALTH CARE STRUCTURE.

TRANSIENT OCCUPANCY: Use of a DWELLING or MOBILE HOME, or part thereof, for sleeping or lodging purposes for fewer than 30 consecutive nights.

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, as follows:

- **Amend Sect. 10-102, Permitted Accessory Uses by revising the lead-in paragraph and adding a new Par. 35, as follows:**

Accessory uses and structures may include, but are not limited to, the following uses and structures; any such use or structure must be in accordance with the definition of Accessory Use contained in Article 20.

35. Short-Term Lodging, limited by the provisions of Sect. 105 below.

- **Add a new Sect. 10-105, Short-Term Lodging, to read as follows:**

10-105 Short-Term Lodging

Short-Term Lodging, as defined in Article 20, is permitted in a dwelling or mobile home only upon the Zoning Administrator's issuance of a permit and is subject to the following limitations:

1. For the purposes of this section, the following definitions apply:
 - A. Authorized Agent: an adult designated by a Short-Term Lodging Operator who consents to be available to address issues or emergencies that may arise during any Short-Term Lodging stay.
 - B. Permanent Resident: a person who occupies or intends to occupy a dwelling or mobile home for at least 185 days out of the calendar year for the purposes of establishing the dwelling or mobile home as that person's primary residence. A person may have only one permanent residence.
 - C. Short-Term Lodging Operator: an owner or tenant of a property who offers that property for Short-Term Lodging.
2. A dwelling or mobile home used for Short-Term Lodging must:
 - A. Be open, upon request, for inspection by County personnel during reasonable hours; and
 - B. Comply with the requirements of the applicable version of the Virginia Uniform Statewide Building or Virginia Manufactured Home Safety Regulations, as determined by the Building Official; and
 - C. Have a working multi-purpose fire extinguisher and interconnected smoke detectors and carbon monoxide detectors (when required for a fireplace or gas service); and
 - D. Have a plan posted inside the door to each sleeping room showing the exit pathway from the sleeping room to the nearest exit from the dwelling or mobile home; and

- E. Have one designated parking space available for lodgers, which the Operator has the authority to reserve for Short-Term Lodging purposes.
3. A Short-Term Lodging Operator must:
- A. Be a permanent resident of the property hosting the Short-Term Lodging Use. Permanent residency must be demonstrated at the time of application for a permit to operate Short-Term Lodging; and
 - B. Obtain written consent from the owner of the property for the Short-Term Lodging Use; and
 - C. Assume responsibility for determining whether any regulations, prohibitions, and covenants applicable to the dwelling or mobile home prohibit Short-Term Lodging; and
 - D. Designate at least one person who consents to serve as an Authorized Agent for the Short-Term Lodging Operator. Contact information (name, address, telephone, and email address) for the Authorized Agent(s) must be provided on the application for a Short-Term Lodging permit, posted in a prominent location within the area made available for Short-Term Lodging, and provided in any written material given to lodgers during their overnight stay.
4. The Short-Term Lodging Use is subject to the following use limitations:
- A. A dwelling or mobile home may be used for Short-Term Lodging for no more than 60 nights per calendar year.
 - B. The maximum number of lodgers per night may not exceed 6 adults, except where the Virginia Uniform Statewide Building Code requires fewer occupants.
 - C. All lodgers occupying a Short-Term Lodging must be associated with the same rental contract. The maximum number of rental contracts per night is one.
 - D. Events and activities—including luncheons, banquets, parties, weddings, meetings, fund raising, commercial or advertising activities, and any other gathering of persons other than the authorized lodgers, whether for direct or indirect compensation—are prohibited in association with any Short-Term Lodging.

- E. All advertisements for Short-Term Lodging, posted on any platform online or in any other format, must (i) include the Short-Term Lodging permit number and (ii) identify the location of the parking space required by Par. 2E, above, and any other available parking or public transportation options.
 - F. A Short-Term Lodging Operator must maintain a guest log including the name, address and telephone number of all overnight lodgers. The guest log must be made available upon request to any County employee or agent tasked with enforcing the Zoning Ordinance or other applicable part of the County Code.
 - G. Short-Term Lodging is prohibited in a detached accessory structure, accessory dwelling unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.
 - H. The Zoning Administrator's issuance of a permit does not abrogate, nullify, or invalidate any other provision of federal, state, or local law; any restrictive covenant; or any property owners' association by-law.
5. Permit Required
- A. An application for a Short-Term Lodging permit must be submitted to the Zoning Administrator on a form furnished by the County along with a filing fee of \$200.
 - B. The permit will be valid for two years from the date of issuance.
 - C. A permit for Short-Term Lodging may be revoked by the Zoning Administrator because of the failure of the Short-Term Lodging Operator to comply with all applicable regulations set forth in this Section or elsewhere in the Zoning Ordinance. The Zoning Administrator will give notice of any such revocation by letter to the Short-Term Lodging Operator and the property owner, where applicable, setting forth the grounds upon which the permit was revoked, the date and time when the revocation is effective, and the appeals procedure. These provisions do not preclude the Zoning Administrator's use of any other remedy prescribed by law with respect to violations of this Ordinance.

Amend Article 18, Administration, Amendments, Violations and Penalties, by amending Part 1, Administration, Sect. 106, Application and Zoning Compliance Letter Fees, to modify the Category 5 Special Exception fees in Par. 1, and to amend Par. 5, as follows:

1. Application for a variance, appeal, special permit or special exception:

Category 5 special exception

- Bed and Breakfast \$8180
- All other uses \$16375

5. Fees for food trucks, small cell facilities, home occupations, short-term lodging, sign permits and site plans shall be as specified in Articles 2, 10, 12 and 17, as applicable.

This amendment shall become effective on October 1, 2018 at 12:01 a.m.

GIVEN under my hand this 31st day of July 2018.



CATHERINE A. CHIANESE
Clerk to the Board of Supervisors