



STAFF REPORT

Agenda Title: Text Amendment – Chapters 46 & 54 (Homestays & Short-term rentals)

Staff Contact: Shannon Tuch

Meeting Date: November 15, 2022

Summary:

An introduction to proposed text amendments to Chapter 46-Short-term Rentals and Chapter 54-Zoning updating standards regulating short-term rentals (STRs) and homestays.

Background:

The Woodfin Board of Commissioners convened a special meeting (Town Hall Meeting) on June 28, 2022 and invited the community to attend and provide comments on a variety of topics. The meeting was held at the Woodfin Community Center with all members of the commission in attendance, along with key management staff. Approximately 50-60 residents also attended the meeting with 26 individuals providing comment, a summary of which is attached to this report. The greatest amount of public comment revolved around the subject of STRs.

Since the rapid rise of Airbnb and other similar on-line rental platforms, communities around the country have been struggling to understand and balance the impacts and benefits of the new use, and what regulatory options can be considered to help manage negative consequences. The town first adopted standards in 2015 which were subsequently amended in 2016. Since this time, additional case law, most notably Schroeder v. City of Wilmington, has helped clarify a municipality's ability to regulate this new land use.

Staff Analysis:

Given western North Carolina's appeal to visitors and vacationers, and based on the personal accounts, information and ideas shared in the meeting, and new information shared by the University of North Carolina School of Government, staff recommends consideration of the following:

A. Reformatting/Re-organization:

1. Reformat the regulations found in Chapter 30-Short-Term Rentals and fold them into Chapter 54-Zoning.
2. Create a consolidated "Permitted Uses Table" in Chapter-54 (currently found in Appendix A) and remove tables in individual districts.

B. Update/Add New Definitions:

1. Update definitions for *short-term rental*, *homestay* and *hotels, motels, inns* to clearly distinguish between uses, allowing for individualized regulation. Move definitions for *short-term rental* and *homestay* into Ch. 54 – Zoning.
 - Short-term rental: limit the number of bedrooms to three or fewer.
 - Homestay: remove "owner occupied" and replace with "resident-occupied"
 - Hotels, motels, inns: becomes a catch-all for all other forms of lodging.

2. Add new definitions for *home occupation*, *special event*, and *lodging*.

C. Create new “Limited Uses” Category and add to Chapter 54-Zoning & the “Permitted Uses Table”.

1. Clarify that a zoning permit is required for homestays and STRs.
2. Remove STRs as a permitted use in R7 and R10.
3. Update the use table to identify where (in what zoning districts) STRs may be permitted.
4. Add individual “Limited” use regulations for Homestays and STRs.
 - Limit the number of permits issued to a property owner/LLC to one
 - Require a contact name, phone number, and email for each property and post on the interior of the unit
 - Require off-street parking (i.e. one space per bedroom)
 - Require proof of insurance
 - Prohibit special events

Staff would further recommend that the town continue to avoid regulations that are legally problematic, or impractical to administer such as:

1. Annual permit
2. Separation requirements / density requirements
3. A cap on the number of rentals
4. A cap on the number of guests
5. Requiring a minimum stay

Review by other bodies:

All zoning text amendments must be reviewed by the Planning Board, who makes a recommendation to the Town Council. The Woodfin Planning Board reviewed the proposed changes at their October 4, 2022 and November 1, 2022 meetings and voted to recommend approval of the proposed text amendment with the following changes:

- 1) A definition of “special event” be added, and
- 2) The proposed standard that would amortize (phase-out) non-conforming STRs over five years be removed.

Members of the Planning Board also recommended that the Council support additional resources towards STR enforcement.

Staff Recommendation:

Staff concurs with the Planning Board and recommends approval of the proposed text amendments.

Over a 10 month period between December 1, 2021 – October 3, 2022, the town’s permit system shows 18 STR permit applications having been submitted. Over the last 5 weeks, since the October 4, 2022, Planning Board meeting, the town has received 26 STR permit applications. Should the Council wish to garner additional community input regarding the regulation of STRs, staff would recommend adopting the proposed standards now to curb speculative applications and revisit the standards once sufficient input is collected.

Suggested Motion:

I move to approve the proposed text amendment and find that it is reasonable, is in the public interest, is consistent with the Town of Woodfin Comprehensive Plan, and meets the development needs of the community in that the request:

1. Provides additional clarity and predictability to development requirements, thereby supporting infill and economic development;
2. Enhances standards for community compatibility and harmony between land uses and concentrates higher impact uses in commercial areas;
3. Advances public health, safety, and welfare by preserving quality of life in residential neighborhoods and minimizes opportunities for nuisance issues and other conflicts; and
4. Supports goals to preserve housing, including affordable housing.

Attachments:

- (1) June 28, 2022 Special (Town Hall) Meeting Notes
- (2) Planning Board Recommendation
- (3) Draft Ordinance

Town Hall Meeting Summary

June 28, 2022

Woodfin Community Center

Attendees:

- Woodfin Board of Commissioners incl. Mayor Vebaun and Commissioners McAllister, Edgerton, Ervin, Butler, Thornton, and Lunsford.
- Town Staff incl. Ryan Vinson, Shannon Tuch, Adrienne Isenhower, Chief Michael Dykes, Sheri Powers
- Approximately 50+ residents/members of the public

Welcome:

- Mayor Vebaun opens the meeting at 5:01 p.m. and turns the mic over to Comm. McAllister to get things started.
- Comm. McAllister introduces the BOC, explains the purpose of the meeting, and how the meeting will be conducted. JM highlights items of interest incl.
 - Need for Town Center/Town Hall
 - Feedback on STVRs
 - Future of the Comm. Center
 - Growth & Development

Public Comment:

The following individuals spoke:

- Robert Bayer
- Walt Brewer
- Gary Wall
- Kimmie Hunter
- Scott Wren
- Coral Darby
- Ellen (last name?)
- Ken Kahn
- Collin Willis
- Mike Mc (?)
- Glenda Overbeck
- Stephen Fazo
- Garrett (last name?)
- Elenore Floyd
- Patty Miller
- Richard (Miller?)
- Larry Hopkins
- John (last name?)
- Jessica Bernstein
- Lucy Crown
- Courtney Hammond
- Jeff Feist
- Melissa (last name?)

- Marshal DeBruhl
- Rebecca Robertson
- Serena Townley

A summary of topics and comments includes:

Town Center/Town Hall:

- Reynold's Village is already a town center – infrastructure is already in place for growth
- WVL Hwy hasn't changed much over the years
- Not sure Reynold's Village is the right place for a town center
- Unclear where money for a new town hall would come from
- Town plans to pursue a Needs & Feasibility study this year; study will identify and evaluate potential sites, then can develop a cost estimate and look at funding options; new building construction would have to be financed over many years
- Could have a satellite town center down by the river
- Woodfin doesn't have an existing downtown/main street, so it may make more sense to have multiple town centers in various areas of the town (Merrimon, Riverfront, Reynold's, etc.)
- Certain parts of town have limitations (i.e. WVL Hwy.) – may want to survey private property that could be redeveloped for a new town hall/town center
- The Town of Woodfin currently controls property - could rebuild on property we already have
- A new town hall should be attractive and inviting; issues with no one answering the door at current town hall
- A community center with an amphitheater and communal arts space is needed
- Town facilities need to come with a plan for maintenance – shouldn't have to start over with something brand new
- Town should look at grant opportunities
- Should encourage safe pedestrian access; need for safe pedestrian crossings on Riverside Dr. to new parks

Town Identity:

- Should focus on creating a sense of place through wayfinding and welcome to Woodfin signage
- Need to create an identity/brand
- Woodfin is competing with AVL – need a brand that sets us apart
- Need a business association to market/brand the town
- Need someone (or a group) focused on economic development & business recruitment
- An interactive and accessible map could be used by visitors (and residents) to highlight town history and key sites – use QR code for people to access info remotely

Short-term Rentals (STRs):

- 32% of revenues collected for rentals go to “guest services” and occupancy taxes
- Through an act by the General Assembly, occupancy taxes [in Buncombe County] go to the Tourism Development Authority (TDA) to further promote tourism and do not come back to towns or cities to support infrastructure. There have been some efforts to reform how occupancy taxes are distributed, but they have stalled.
- Nuisance issues reported with STRs included general disruption of neighborhood harmony but also issues that come with large groups of unrelated people and/or events (i.e. weddings) that draw large crowds. Specific disturbances noted included:

- Noise/sleep disturbance
- drinking/partying/mischief
- negligence (unattended outdoor fires)
- inadequate off-street parking (on-street parking of cars overwhelming the street)
- large truck traffic making deliveries, etc.
- Inadequate/undersized septic for large groups
- Other concerns cited included:
 - Concern over loss of housing and housing stability (no housing for the people who work in the area); “We live in a tourist economy, and if we don’t provide housing then we are hurting the industry”.
 - lack of controls, either through private restrictions or through town ordinances
 - Misleading marketing where more STRs are added than originally described - no recourse
- Benefits of STRs were also mentioned including that the income provided helps to supplement income and supports housing stability
- If proper oversight is provided, nuisance issues can be minimized
- We should try to find the balance that allows residents to benefit from STRs; support for sensible regulation
- Community harmony can be achieved with housing diversity that includes both homestays and STRs
- Ideas to help address concerns included:
 - Provide clear information on what is currently allowed, and what isn’t
 - Differentiate between whole house STRs and Homestays
 - Require a minimum stay
 - Limit the number of STRs permitted in one area
 - Limit the number per owner
 - Eliminate whole house vacation rentals (only allow homestays)
 - Only allow STRs in commercial districts
 - Require a certain number of affordable housing units with new developments [inclusionary zoning]
 - Need an STR czar
- Town officials have been trying to get a sense of how much of a concern STRs – sounds like this is a high priority [applause]

Environment:

- Woodfin (and WNC) will become a climate refuge – need to move faster to prepare for influx
- Don’t allow high intensity uses in steep slope or other environmentally sensitive areas; should have the least impact on the environment but also on the neighbors
- If we want to promote growth, we have to plan appropriately for infrastructure needed to support that growth
- Please save the trees [applause]
- Should promote sensible development standards that support pollinators and minimize light pollution; town has already done a lot and adopted a native plant list to be used on town property, and a dark sky ordinance
- Need more bike and ped infrastructure (greenways, ped crossings, sidewalks, bike paths); particular concern along Riverside Dr. with new parks

Other:

- Would love a map of Woodfin on the website
- There are additional opportunities for the community to learn more and provide input including monthly Board of Commissioner meetings – liked former practice of a quarterly “state of the town” talks
- Want to welcome newcomers
- Out of state developers do not care about the people who live here, they are not interested in helping address problems
- Asheville is the most expensive city to live in in the state

Mayor thanks everyone for coming out. Encourages everyone to attend meetings or watch at home.

Meeting is adjourned 6:27 p.m.

Land Uses & Use Categories	Permitted, Limited and Special Uses in Districts										
	R-43	R-21	R-10	R-7	CS	CS-2	CS-3	MV	TR	LI	HI
Residential											
Single-family dwellings	P	P	P	P		S	S	P	P		
Two-family dwellings			P	P		S	S	P	P		
Multi-family dwellings			P	P		S	S	P	P		
Double-wide manufactured homes			P	P							
Business											
Animal hospitals					S	S	S			S	S
Auction sales, except livestock					S		S			P	P
Automobile parts and supplies, retail					P		P			P	P
Automobile repair garages, but excluding body works and open storage of wrecked cars					P		P			P	P
Automobile repair garages, including body works and open storage of wrecked cars							S			S	P
Automobile sales, new and used					P		P			P	P
Bakeries, retail					P	S	P	S		P	
Banks and other financial institutions, including loan and finance companies					P	P	P		P		
Barber and beauty shops					P	P	P	S	P		
Boat and trailer sales					P		P			P	P
Car wash					P	S	P			P	P
Catalogue sales					P	P	P		P		
Dairy bars and ice cream manufacturing for retail sales on the premises only					P	S	P		P		
Dry cleaning and laundry pickup stations					P	S	P				
Electrical wholesale supply house and repair shops							S			P	
Exterminators						S	S			P	P
Feed and seed stores						S	S			S	S
Floral shops					P	P	P		P		
Funeral homes and mortuaries					P	S	S			P	
Game and amusement rooms, including pool halls					S		S			S	
Homestay	L	L	L	L				L			
Home occupation	L	L	L	L				L			
Hotels, motels, inns					P	P	P			P	
Jewelry repair and pawn shops					P	P	P				
Kennels					S	S	S			P	P
Launderette and laundromats					P	S	P			P	
Locksmiths and gunsmiths					P	P	P			P	
Manufactured home display area							S			P	P
Meat markets, retail only, but excluding the killing or dressing of any flesh or fowl					P	P	P			P	

Medical and dental clinics					P	P	P		P	P	
Miniature golf					P	P	P			P	
Newspaper offices					P	P	P			P	
Use Category	Permitted Uses										
	R-43	R-21	R-10	R-7	CS	CS-2	CS-3	MV	TR	LI	HI
Office supplies and equipment, sales and service				P	P	P	P		P		
Offices, business, professional and public					P	P	P	S	P	P	P
Opticians and optical goods stores					P	P	P		P		
Outdoor recreation uses such as go cart track and riding stables							S				P
Photographic studios and camera supply stores					P	P	P	S	P		
Printing and reproduction establishments						P	P			P	P
Printing, engraving and publishing establishments						P	P			P	P
Radio and television stations					P	S	S			P	P
Radio and television repair shops					P	P	P		P	P	
Rest and convalescent homes		S	S	S		S	S			S	
Restaurants, including drive-in					P		P		P	P	P
Retail establishments					P	S	P				
Service stations					S		S			S	P
Shoe repair and shine shops					P	P	P		P		
Short-term rental					L	L	L			L	
Small electric and appliance repair shops					P	P	P				
Tailor, dressmaking and millinery shops					P	P	P		P		
Taxicab stands					P		S				
Telephone and telegraph offices					P	P	P				
Theatres, indoor					P	P	P			P	
Truck stop							S			P	
Warehousing, except for the storage of dangerous or offensive items such as uncured hides or explosives					P		S			P	P
Wholesale establishments							S			P	P
Industrial											
Automobile wrecking and junkyards											S
Building materials storage and sales yards							S			S	S
Contractors' offices with the interior storage of materials					P					P	P
Contractors' offices with storage yards							S			S	S
Farm machinery, sales and repairs							S			S	S
Flour and feed mills											P
Freezer lockers and ice plants							S			P	P
Industrial supplies and equipment, sales and service							S			S	S
Metal fabricating plants, including boiler and tank works											P
Mini storage warehouses										P	P
Planting works											P
Plumbing and heating supply houses							S			P	P

Sawmills, planing mills, pallet and basket factories											P
Sheet metal, roofing, plumbing, heating and refrigeration shops							S			P	P
Wholesale storage of gasoline and oil products, including bottled gas and oxygen										P	P
Use Category	Permitted Uses										
	R-43	R-21	R-10	R-7	CS	CS-2	CS-3	MV	TR	LI	HI
Manufacturing											
Air conditioning and heating equipment manufacturing											P
Alcohol and alcohol beverage manufacturing					S		S			P	P
Amusement, recreational and sporting goods manufacturing							S			P	P
Apparel and clothing manufacturing, including hosiery							S			P	P
Apple packing sheds											P
Automobile parts and accessories manufacturing							S			P	P
Bakeries and other establishments manufacturing prepared food products for wholesale distribution						S	P			P	P
Bedding and carpet manufacturing and cleaning establishments							S			P	P
Belting and brake lining manufacturing							S			P	P
Boat and trailer repairs manufacturing							S			P	P
Bottling works							S			P	P
Bowling alleys and skating rinks					P		P			P	P
Business machines manufacturing							S			P	P
Cabinet, caskets and woodworking							S			P	P
Carbon and battery products manufacturing											P
Coffee, tea and spices processing							S			P	P
Drugs, medicines, and cosmetics manufacturing							S			P	P
Dry cleaning and laundry plants							S			P	P
Electrical appliances and electronic equipment manufacturing							S			P	P
Felt and sandpaper manufacturing							S			P	P
Fertilizer manufacturing and sales											P
Furniture manufacturing						S	S			P	P
Furriers and fur storage					P		P			P	P
Glass, ceramic and tile manufacturing							S			P	P
Hardware and housewares manufacturing							S			P	P
Hotels, inns and motels					P	S	P			P	
Insulation materials and wall board manufacturing							S			P	P
Leather products, including luggage and shoe manufacturing							S			P	P
Musical instrument manufacturing						S	S			P	P
Paper products manufacturing						S	S			P	P
Plastic products manufacturing										P	P
Pottery, porcelain, or vitreous china manufacturing											P
Precision instruments manufacturing							S			P	P
Printing plants						S	S			P	P

Textile and cordage manufacturing							S			P	P
Trailer manufacturing							S			P	P
Window and door manufacturing							S			P	P

Use Category	Permitted Uses										
	R-43	R-21	R-10	R-7	CS	CS-2	CS-3	MV	TR	LI	HI
Civic, Educational, and Governmental											
Assembly halls, coliseums, armories, ballrooms, and similar structures					P		P			P	P
Business colleges, barber and beauty colleges and schools, music and dance studios					P	P	P	S	P	P	
Churches and their customary related uses	S	S	S	S	S	S	S	S	S	S	S
Clubs and lodges, fraternities, sororities, and social, civic, and other similar organizations operating on a nonprofit basis					P	S	S	S		P	P
Industrial trade schools and research laboratories					P	S	S			P	
Kindergartens and day nurseries			S	S	S	S	S	S	P	S	S
Libraries, museums and art galleries					P	P	P	P	P	P	
Noncommercial, public or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools and fishing lakes	P	P	P	P	P	S	S	P		P	P
Public elementary schools and private schools having curricula approximately the same as ordinarily given in public schools	P	P	P	P	P	S	P	S		P	
Public safety facilities such as fire and police stations and rescue squad headquarters	S	S	S	S	S	S	S	P	P	S	S
Public works and public utility facilities						S		S	P	S	S
Public works and public utility facilities such as transformer stations, pumping stations, water towers and telephone exchanges	S	S	S	S	S	S	S	S	S	S	S
Public works and utility facilities, but excluding service and storage yards					P	S	S	S		P	
Other											
Any form of agriculture or horticulture, including the sale of products on the property where produced	P	P	P	P	P	P	P	P	P	P	P
Customary incidental home occupation	P	P	P	P		P	P	S			
Group development			S	S	S	S	S		S	S	S



ORDINANCE AMENDING CHAPTERS 30 AND 54 OF THE CODE OF ORDINANCES OF THE TOWN OF WOODFIN TO AMEND STANDARDS REGULATING SHORT-TERM RENTALS AND HOMESTAYS

Ordinance: 2022-xxx

Passed _____

WHEREAS, the Town of Woodfin has the authority pursuant to Article 1 of Chapter 160D of the North Carolina General Statutes to adopt development regulations; and

WHEREAS, the Woodfin Town Council may amend said regulations from time to time in the interest of the public health, safety, and welfare; and

WHEREAS, the Town initiated a recommendation to amend Chapters 46-Subdivisions and 54-Zoning of the Town of Woodfin Code of Ordinances; and

WHEREAS, the public hearing for this text amendment has been noticed in compliance with the North Carolina General Statutes; and

WHEREAS, the Woodfin Planning Board reviewed this text amendment recommendation at its November 1, 2022, public meeting and voted 2-0 to find the amendment a reasonable request considering the potential benefits to development of the Town of Woodfin and surrounding community; and

WHEREAS, the Woodfin Board of Commissioners held the public hearing on November 15, 2022 and, after hearing such, made the following required findings:

The development code text amendment is consistent with the comprehensive plan in the following ways:

1. Provides additional clarity and predictability to development requirements, thereby supporting infill/economic development;
2. Enhances standards for community compatibility and harmony between land uses and concentrates higher impact uses in commercial areas;
3. Advances public health, safety, and welfare by preserving quality of life in residential neighborhoods and minimizes opportunities for nuisance issues and other conflicts; and
4. Supports goals to preserve housing, including affordable housing.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Woodfin, that Chapters 30-Short-term Rental and 54-Zoning are hereby amended as follows:

Section 1:

- a. Amend **PART II – CODE OF ORDINANCES** by deleting Chapter 30 - SHORT-TERM RENTALS in its entirety.
- b. Amend **Sec. 54-10. -Definitions.** by inserting the following definitions alphabetically:

Homestay means a lodging use that occurs within a resident-occupied single-family dwelling wherein space in the home is rented to transients for compensation for a period of less than one month, and where the use is incidental and subordinate to the primary residential use of the property. A homestay may or may not have a separate kitchen, bathroom and/or entrance.

Home occupation means an accessory use of a dwelling unit or an accessory structure for limited non-residential purposes which is clearly incidental and subordinate to the use of the dwelling unit as a permanent and full-time residence.

Lodging means a land use that includes the renting of room(s) for transient stays. A single-family dwelling, or any portion thereof, rented or leased for intervals of less than one month is considered a "lodging" use.

Short-term rental (STR) means a lodging use that occurs within a single dwelling unit containing a maximum of three bedrooms that is rented to transients for compensation for a period of less than one month.

Special event means a temporary outdoor activity held on public or private property, including, but not limited to, seasonal sales, the display of goods and merchandise associated with a retail use, community or cultural events, music or arts events, performances, celebrations/parties, festivals, fairs, and carnivals.

- c. Amend **Sec. 54-10. -Definitions.** by amending the following definitions:
Hotels, motels, inns means a lodging use contained within a building or series of buildings providing accommodations to transients for compensation, offering either short or extended-stay facilities, and that may customarily include incidental or ancillary services including housekeeping, dining, meeting rooms and recreational facilities.
- d. Amend **Sec. 54-34(a) -Certificate of zoning compliance.** to read as follows:
 - (a) No building, sign or other structure shall be erected, moved, added to, or structurally altered, nor shall any land disturbing activity, including clearing and grubbing of trees and other vegetation be initiated, nor shall a new use or expansion of an existing use occur until an application for a zoning compliance permit is approved by the planning director.

No zoning compliance permit shall be issued except in conformity with the provisions of this chapter.

[Leave subitems 1-3 unchanged]

e. Amend **Sec. 54-41(c) & (d) as follows:**

(c) *Penalties.* Violations of this Code shall subject the offender to a civil penalty upon the issuance of a citation for a violation. The town may recover the civil penalty, if not paid to the town administrator within 30 days of the date the citation was issued, in a civil action in the nature of a debt pursuant to G.S. 160A-175. Each day that any violation of the provisions of this Code continues shall constitute a separate and distinct offense and subject the violator to additional civil penalty. The civil penalty shall be \$100.00 for each violation unless otherwise provided in this Code. For purposes of determining the amount of the civil penalty pursuant to this section, the failure to pay the civil penalty shall not constitute a separate and distinct offense that subjects the offender to additional penalty.

(d) *Repeat violation.* For every violation that occurs within one year of the receipt of a notice of violation for a previous offense of the same nature will not require new notice and will result in an immediate civil penalty.

f. Amend **Sec. 54-143. -Uses allowed.** by replacing this section in its entirety with the following:

Sec. 54-143. -Designation of districts and uses allowed.

(a) *Zoning districts.* For the purposes set forth in this Article, the Town of Woodfin is divided into zoning districts, taking into account the design, size, and/or location of one or more of the following:

- (1) Transportation facilities;
- (2) Schools, parks and other public or community facilities;
- (3) Emergency and solid waste collection services;
- (4) Sanitary sewer and stormwater infrastructure;
- (5) Water supply for community consumption and fire protection;
- (6) Access and location to other utility services;
- (7) Potential hazards from fire, flooding, and diseases;
- (8) Access to light and air from buildings;
- (9) Protection for occupants of buildings from noise, dust, fumes and other nuisances caused by traffic and other uses;
- (10) Topography, water bodies and other natural features;
- (11) Current use of land and buildings for residences, businesses, industries, places of worship, schools and for other uses and heights of buildings, the size and location of yards, and the density of population in each of the zoning districts hereinafter mentioned.

(b) *Uses allowed.* Only the following permitted "P", limited "L" and special "S" uses may be allowed in any district as enumerated in the following table:

Table of Uses

[Insert "Table of Uses" here]

- (1) Special uses shall be permitted in specified districts after review and approval by the Board of Adjustment in accordance with procedures and standards established in [Sec. 54-77](#), [Sec. 54-144](#) and other standards identified elsewhere in this chapter.
 - (2) Limited uses shall be permitted in specified districts after review and approval by the planning director in accordance with the standards established in [Sec. 54-144](#) and elsewhere in this chapter.
 - (3) Any use not listed is not allowed unless the planning director determines that the use is similar to a listed use. When determining whether a proposed use is similar to a listed use, the planning director will consider the following:
 - a. The actual or projected characteristics of the proposed use.
 - b. The relative amount of site area or floor area and equipment devoted to the proposed use.
 - c. Relative amounts of sales.
 - d. The customer type.
 - e. The relative number of employees.
 - f. Hours of operation.
 - g. Building and site arrangement.
 - h. Types of vehicles used and their parking requirements.
 - i. The number of vehicle trips generated.
 - j. How the proposed use is advertised.
 - k. The likely impact on surrounding properties.
 - l. Whether the activity is likely to be found independent of the other activities on the site.

Where a use is determined not to be similar to any listed use, a text amendment is required prior to establishment of that use.
- (c) *General regulations for all districts.* The following requirements shall pertain to all zoning districts and any structure or building therein.
- (1) *Building height.* The heights of buildings shall not exceed 35 feet unless otherwise approved as part of the site plan review for a conditional zoning.
 - (2) *Off-street parking.* Off-street parking shall be provided as required in [section 54-176](#).
 - (3) *Lot coverage.* The maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed the following requirements:
 - a. 30 percent of the total lot area for one unit;
 - b. 35 percent of the total lot area for a duplex; or
 - c. 50 percent of the total lot area for three or more units.
 - (4) *Accessory uses and structures.* Accessory structures, and use of accessory structures, are permitted in any district but shall be subordinate and incidental to a primary use and structure.

- a. An accessory structure may not be established or permitted until the principal structure is established or permitted.
 - b. Accessory structure use is limited to those uses permitted in the zoning district in which the structure is located.
 - c. Accessory structures may not be located in:
 - i. Any portion of the property that is beyond the leading edge of the front façade of a building;
 - ii. Any required front yard or side yard setback;
 - iii. Within 20 feet of any street or highway line; or
 - iv. Within ten feet of any property line that is not a street or highway line, regardless of setbacks.
- g. Amend **Sec. 54-144. -General requirements for all districts.** by replacing the section with a new section as follows:

Sec. 54-144. -Limited and Special Uses.

(a) *Limited Uses.* Limited uses are permitted by right, in the districts identified in the Table of Uses found in [Sec. 54-143](#) above, and provided that the specific standards set forth in this section are satisfied. The specified standards are intended to ensure these uses fit the intent of the districts within which they are permitted, and that these uses are compatible with other development permitted within the districts. Identified limited uses shall comply with the following.

(1) Home occupation.

- a. The business activity shall be conducted entirely within the dwelling and carried on by the occupants thereof.
- b. A maximum of one employee who is not a resident of the property shall be allowed.
- c. No display of goods, products, services, signage, or other forms of advertising shall be visible from outside of the dwelling.

(2) Homestay.

- a. A permit to establish a homestay use is required prior the use occurring on the property.
- b. Only one homestay shall be permitted per lot, tract or parcel.
- c. Homestay permits shall be limited to one per person, immediate household, LLC, corporation, trust or other legal entity. A person's immediate household shall include a spouse, children, or any other relative residing in the same home. An ownership stake of five percent or more in an LLC, corporation, trust or other legal entity shall constitute ownership for the purposes of this limitation.
- d. The homestay operation shall be managed and carried on by a person who is: 1) 18 years or older, 2) a full-time resident of the dwelling unit; and 3) present during the homestay term for the entire time lodgers are staying at the property. To be a "full-time resident," the person must reside on the property on a permanent basis, and it must be the person's primary home. For purposes

of this homestay ordinance, a person can only have one primary, full-time residence, and the homestay must be operated from that primary, full-time residence. In order to be "present during the homestay term," the full-time resident shall be at the property overnight and not away on vacation, visiting friends or family, travelling out of town for business or personal reasons, etc. during the homestay term. However, the full-time resident may be temporarily absent from the property for purposes related to normal residential activities such as shopping, working, attending class, etc. e. Applicants must definitively affirm that they live at the property from which the homestay is operated and that they have only one primary, full-time residence. A minimum of two documents establishing proof of residency shall be supplied from an approved list of documents. This does not apply to property owners acting as a co-applicant.

- e. A minimum of one off-street parking space per bedroom shall be required and illustrated on an approved site plan.
- f. When the property owner does not reside on the property, an application for a homestay permit must be submitted by the full-time resident of the property and the property owner together as co-applicants. The homestay permit shall be issued to both parties with all rights and responsibilities afforded to the applicants equally.
- g. No non-residential activities other than lodging shall be allowed.
- h. No special events may be hosted on a homestay property.
- i. No signage shall be allowed for homestays.
- j. The homestay owner or operator shall maintain liability insurance on the property, which covers the homestay use and homestay guests.
- k. Emergency and contact information including a name, phone number and email address must be posted prominently inside the homestay.
- l. The homestay owner or operator must pay any applicable taxes, including occupancy and sales taxes, to the appropriate governmental entity.
- m. The homestay area of the dwelling shall comply with applicable building codes.
- n. Violations of these standards, or failure to obtain a permit for a homestay shall be subject to enforcement action as set forth in Sec. 54-41.

(3) Short-term rental.

- a. A permit to establish a short-term rental use is required prior the use occurring on the property.
- b. Only one short-term rental shall be permitted for any single-family dwelling or single-family property.
- c. Short-term rental permits shall be limited to one per person, immediate household, LLC, corporation, trust or other legal entity. A person's immediate household shall include a spouse, children, or any other relative residing in the same home. An ownership stake of five percent or more in an LLC, corporation, trust or other legal entity shall constitute ownership for the purposes of this limitation.

- d. No more than 10 percent of units in a multi-family or multi-tenant building or development may be used as short-term rentals.
- e. No non-residential activities other than lodging shall be allowed.
- f. No special events may be hosted on a short-term rental property.
- g. No signage shall be allowed for homestays.
- h. The short-term rental owner shall maintain liability insurance on the property, which covers the lodging use and short-term rental guests.
- i. Emergency and contact information including a name, phone number and email address must be posted prominently inside the short-term rental.
- j. The short-term rental owner must pay any applicable taxes, including occupancy and sales taxes, to the appropriate governmental entity.
- k. The short-term rental shall comply with applicable building code.
- l. Violations of these standards, or failure to obtain a permit for a short-term rental shall be subject to enforcement action as set forth in Sec. 54-41 and shall be subject to the following schedule of penalties:

First offense	\$100.00
Second offense	\$300.00
Third offense	\$500.00 and revocation of permit for one year

- h. Amend **Sections 54-145(b), 146(b), 147(b), 148(b), 149(b), 151(b), 152(b), 153(b), 154(b), 155(b) Uses**. By replacing item “(b)” in each sub-section with the following:
 (b) *Allowable land uses*. All permitted uses, limited uses, and special uses are identified in Sec. 54-143(c). Table of uses. Standards for limited uses and special uses are found elsewhere in this chapter.

[Remove individual use tables in each sub-section.]

- i. Remove “APPENDIX A. – PERMITTED USES TABLE”

Section 2: If any provisions of this Ordinance are for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, independent provision and such holding shall not affect the validity of any other provision thereof, and to that end, the provisions of this Ordinance are hereby declared to be severable.

Section 3: This Ordinance shall be effective on this xxth day of [month] 2022.

Ayes _____

Nays _____

Abstains _____

Attest:

M. Jerry Vahaun, Mayor

Town Clerk