



# Proposed amendments and Request to Advertise related to Short-term Residential Rental Use County Board Public Hearing

CPHD, Planning Division

December 10, 2016

- Background
  - Why regulate short-term rental
  - Why now?
- Models for proposed amendment
- Overview of key elements of proposed amendment and proposed Request to Advertise
- Overview of process and feedback

- On October 15, the County Board authorized advertisement of proposed amendments for public hearings to consider amendments to the Zoning Ordinance to regulate short term residential rental uses (e.g. Airbnb, VRBO, Craigslist and other on-line rental services)

- Short-term residential rental
  - Rental of residential dwelling units for short-term stays of less than 30 days per year (per person)
  - Currently prohibited in residential dwelling units
    - Zoning Ordinance defines dwelling units as units allowed exclusively for residential occupancy
    - Use classification system classifies residential use under “household living” category, characterizing residential occupancy as a use where tenancy is arranged on a month-to-month or longer basis
    - Residential units arranged for short-term stays of less than 30 days are classified under “overnight accommodations” and allowed only in buildings expressly approved for short-term stays (e.g. hotel, bed & breakfast)

- Why regulate this use?
  - Protect character of residential neighborhoods
  - Protect public health and safety

- Why now and why the short time frame?
  - The 2016 Virginia General Assembly passed legislation that would have precluded local governments from regulating short term residential rentals, regardless of zoning code regulations
  - The Governor asked the Virginia Housing Commission to study the issue and develop a version of the bill that could be acted upon by the 2017 General Assembly
  - Implementing regulations in Arlington now could help inform the State's decision

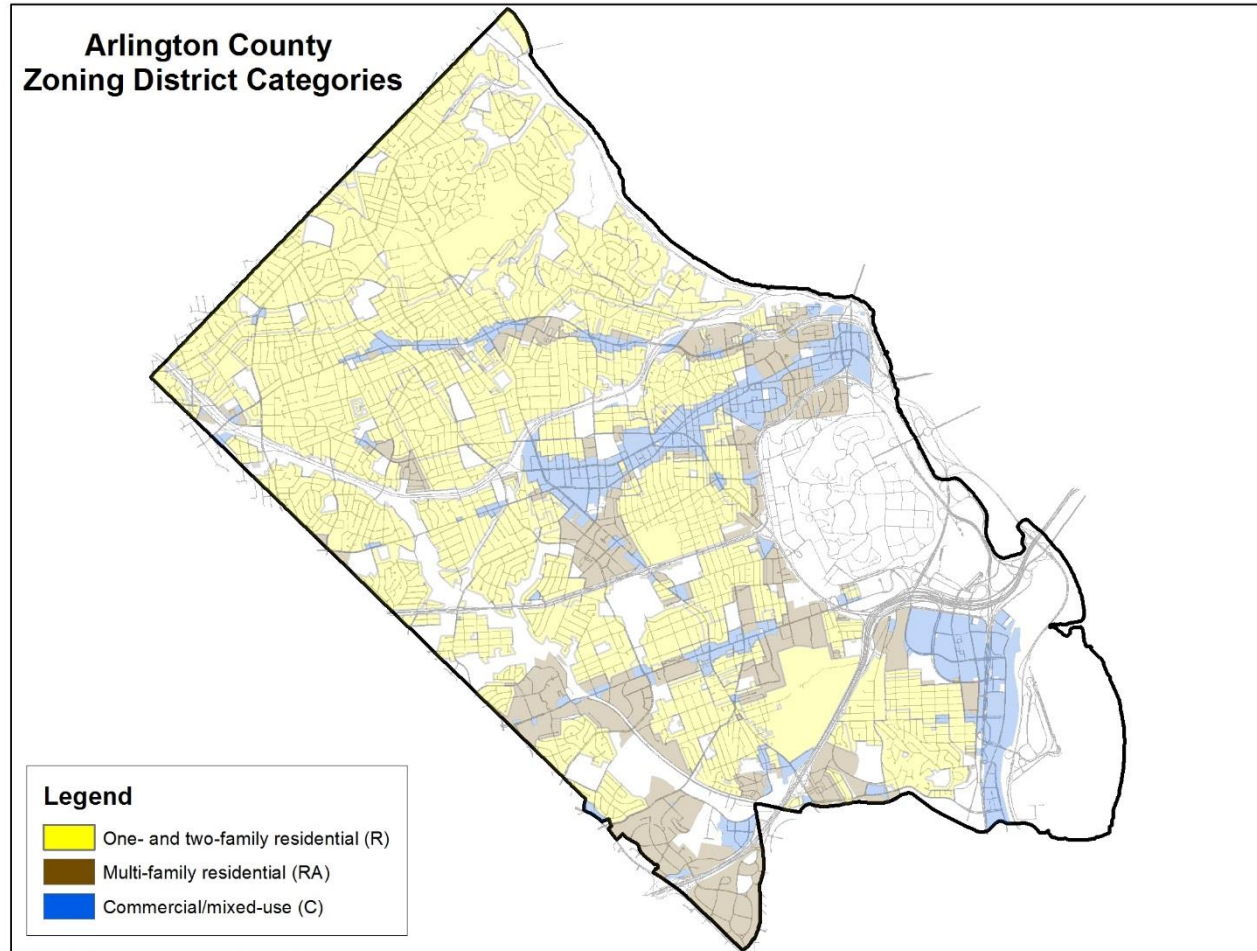
- How was proposed amendment developed?
  - Interdepartmental team comprised of subject experts
    - Planning and zoning
    - Building code
    - Housing
    - Transportation and parking
    - Economic development
  - Study of practices in other jurisdictions
    - Charlottesville, Roanoke, Botetourt County, VA
    - Portland, OR
    - Denver, CO
    - San Francisco, CA

- A new home occupation use:  
**accessory homestay**
  - Like all other home occupations, accessory to residential use of a dwelling
  - Allowed in units used by the owner as his/her primary residence
  - Owner rents out that unit to lodgers for short-term stays (of less than 30 days per/year per person)



- Proposed standards incorporated into adopted home occupation standards\*:
  - Accessory to principal residential use of a dwelling (may incorporate all or part of a dwelling)
  - There may not be any evidence of the home occupation on the exterior of the dwelling; no signs; no storage or display of merchandise
  - No nonresident employees on premises (other than those conducting regular home maintenance)
  - No parking spaces may be added to the dwelling subsequent to establishment of the home occupation use

- Proposed zoning districts and portion of dwelling unit\*
  - All zoning districts where dwelling units are allowed (R, RA, C) and may occupy all or a portion of the dwelling unit



- Owner occupancy and primary residency\*
  - Unit used for accessory homestay must be used by the owner of the unit as his/her primary residence
  - Primary residency requires use of the unit by the owner for 185 days/yr
    - Advertised: range between 185-275 days/year
  - Staff also recommends that the County Board authorize an advertisement to consider allowing accessory homestay in units used by either the owner or a tenant as his/her primary residence, for consideration in January 2017

- Proposed lodger occupancy limitations\*
  - Larger of either six lodgers or two lodgers per number of bedrooms in the unit
    - Advertised: up to a maximum of the larger of 6 lodgers/2 per bedroom
  - Limited to one contract/night
  - Staff also recommends that the County Board authorize an advertisement to consider removing the limitation on number of contracts, for consideration in January, 2017

- Proposed accessory homestay host limitations\*
  - Family/caregiver suites could not be used for accessory homestay (not explicitly addressed in use standards, but prohibited by definition of family/caregiver suites)
  - Detached accessory buildings could not be used for accessory homestay
  - Accessory homestay permit would not allow for other commercial use (e.g. parties, banquets, weddings, charitable fund raising, etc.)

- Proposed safety requirements\*
  - Required smoke and CO detector and fire extinguisher
  - Unit must meet USBC requirements for lodging use
  - Any sleeping room used must have met USBC requirements for a sleeping room at time it was created/converted
- Accessory dwellings\*
  - Either the main or the accessory dwelling could be used for accessory homestay
  - If the accessory dwelling is rented for accessory homestay, it would be limited to a maximum of two lodgers
  - If both the main and accessory dwelling are rented at the same time, the one contract limit still applies
  - Staff also recommends that the County Board authorize an advertisement to consider removing the limitation on number of contracts, for consideration in January, 2017

- Accessory homestay permit application requires\*
  - Contact information for owner and responsible party
  - Proof of primary residency
  - Valid for one year (Advertised: valid up to two years)
  - Not codified:
    - Proof of license from Commissioner of Revenue (or letter indicating not needed)
    - Notification requirement to neighbors is NOT proposed
- Revocation of permit\*
  - Three or more violations within one year
  - Failure to cooperate with a complaint investigation
  - If revoked, a new accessory homestay permit could not be obtained for one year (Advertised: revocation period of up to two years)
- Zoning Fees
  - Not proposed at this time; may be proposed with FY18 budget

- Advertised provisions not proposed\*
  - No off-street parking would be required
    - Advertised: up to one space could be required
  - There would be no cap on the number of units within an individual multiple-family dwelling unit
    - Advertised: A cap of any percentage of dwelling units
  - The proposed amendment would not regulate food service
    - Advertised: Food service may be provided



- New definitions

- Accessory homestay

- A home occupation in which an owner who occupies a dwelling unit as his/her primary residence, rents out that dwelling unit, or portion thereof, to a lodger

- Lodger

- An individual who contracts with an owner of a dwelling unit, for compensation, for not more than 30 days/yr

- Responsible party

- Owner or individual who is available 24 hr/day, 7 days/week and is located within 30 miles of an accessory homestay during its time of use

- Revised definitions

- Guest

- Clarifications consistent with practice

- Dwelling or dwelling unit

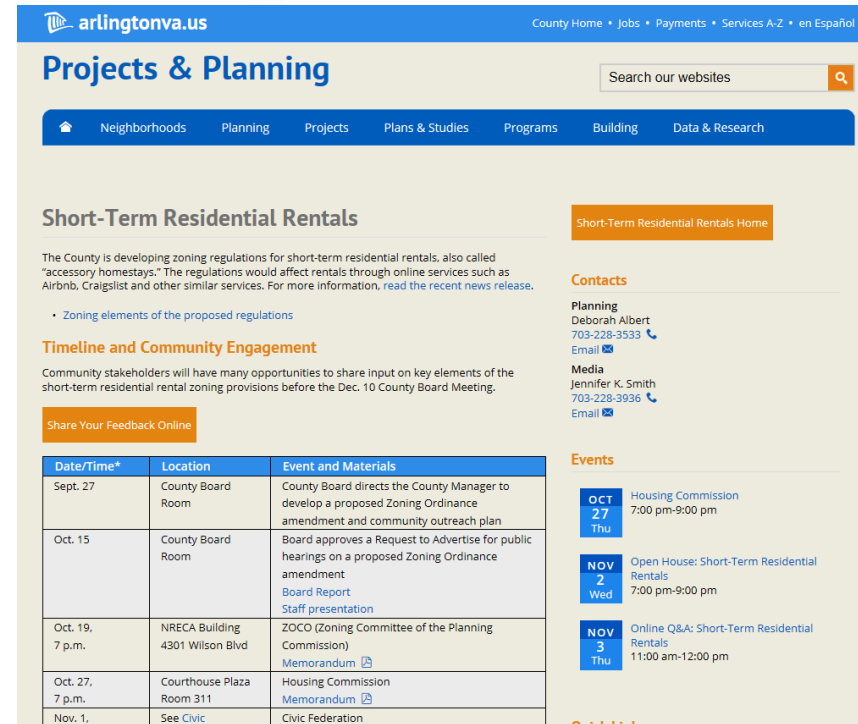
- With the proposed accessory homestay use, staff proposes that this definition should be more descriptive and articulate its one-family use

- **Building Code**

- Accessory homestay would be subject to ALL other federal, state and local laws, including the Virginia USBC (Building Code)
- Multiple-family (condominium and apartment buildings, low-rise, garden-style and high-rise)
  - Building code issues may preclude accessory homestay from occurring in multiple-family buildings due to different requirements for fire protection, accessibility accessible parking and means of egress than required for single-family units
    - It is probable that most existing or older multiple-family buildings **would require retrofitting to the entire building** in order to accommodate accessory homestay in any dwelling unit
    - New multiple-family buildings could be developed with these standards in place to accommodate future accessory homestay use, if desired

- The proposed standards provide staff with the tools to address problems with the goal of promoting the most fundamental purposes of zoning, which include:
  - Protecting public health, safety and welfare
  - Preserving neighborhood character

- Outreach
  - November 1 – Civic Federation
  - November 2 – Chamber of Commerce
  - **November 2 – Public open house**
  - **November 3 – Virtual Q&A**
  - November 21 – Commission on Aging
  - November 21 – Transportation Commission
- Frequently Asked Questions
- Online feedback form
  - 379 responses
- Web site – search “homestay” on County home page
  - Subscription listserv used for email updates



The screenshot shows the Arlington VA website's 'Projects & Planning' section for 'Short-Term Residential Rentals'. It includes a search bar, navigation tabs (Neighborhoods, Planning, Projects, Plans & Studies, Programs, Building, Data & Research), and a 'Share Your Feedback Online' button. A table lists upcoming events with dates, locations, and materials.

Date/Time*	Location	Event and Materials
Sept. 27	County Board Room	County Board directs the County Manager to develop a proposed Zoning Ordinance amendment and community outreach plan
Oct. 15	County Board Room	Board approves a Request to Advertise for public hearings on a proposed Zoning Ordinance amendment Board Report Staff presentation
Oct. 19, 7 p.m.	NRECA Building 4301 Wilson Blvd	ZOCO (Zoning Committee of the Planning Commission) Memorandum <a href="#">↗</a>
Oct. 27, 7 p.m.	Courthouse Plaza Room 311	Housing Commission Memorandum <a href="#">↗</a>
Nov. 1.	See Civic	Civic Federation

- **Advisory group and commission review**
  - October 19 and November 15 – Zoning Committee
  - October 27 – Housing Commission
  - November 8 – Economic Development Commission
  - November 22 – Commission on Aging
  
  - November 21 – Transportation Commission
    - Voted unanimously (6-0) to recommend that no parking be required for accessory homestay
  
  - November 30 - Planning Commission
    - Voted unanimously (8-0) to recommend that the proposed amendments be adopted with the following changes:
      - Allow in units used by either the owner or a tenant as his/her primary residence
      - Do not limit the number of contracts for accessory homestay
      - Do not reference food service in the accessory homestay regulations
    - Also recommended that the County Board direct staff to develop a seamless, one-stop process between the Zoning and Commissioner of the Revenue offices

- Support for allowing accessory homestay
  - Source of supplemental income
  - Community building
  - Cultural exchange
  - Revenue and tourist generator
- Opposition to allowing accessory homestay
  - Concerns with impacts (trash, noise, loss of neighbor familiarity)
  - Commercial lodging already available
  - Not appropriate for residential areas/buildings
- Opposition to regulating accessory homestay
  - Difficult to enforce
  - Property owners should be able to use their property in any way they choose
  - Use is already occurring with minimal impacts
- Concerns related to distinctions between short-term rental of residential dwelling units versus hotels
  - Short-term residential rental is reasonable, but should be subject to same safety and taxation requirements as are other lodging uses

# Staff recommendation

1. Adopt proposed amendments to define and regulate accessory homestay as a new home occupation use, and to establish standards for such use, **effective December 31, 2016**, related to:
  - Accessory use in all zoning districts where dwellings are allowed
  - Owner-occupancy and primary residency requirements
  - Lodger occupancy and accessory homestay host limitations
  - Use of accessory dwellings
  - Safety requirements
  - Administration
  
2. Authorize advertisement of amendments for consideration by the Planning Commission and County Board in January, 2017 to:
  - Allow accessory homestay in units occupied by either the owner or a renter who uses the dwelling as his/her primary residence; and
  - Remove the limitation on number of contracts allowed for accessory homestay