

**TOWN OF HERNDON, VIRGINIA
PLANNING COMMISSION PUBLIC HEARING AGENDA
OCTOBER 28, 2019
HERNDON COUNCIL CHAMBERS BUILDING
765 LYNN STREET
7:00 P.M.**

CALL TO ORDER

1. Roll Call

APPROVAL OF AGENDA

APPROVAL OF MINUTES

2. September 9, 2019, Planning Commission Work Session Draft Minutes
3. September 23, 2019, Planning Commission Public Hearing Draft Minutes

COMMENTS

4. Comments from the Staff Members
5. Comments from the Commissioners
6. Comments from the Audience

PUBLIC HEARING

7. **ZONING ORDINANCE TEXT AMENDMENT – ZOTA #18-03**, to consider amending Chapter 78 (ZONING), by adding subsection 78-80.4(u), to permit and establish limitations on short-term rentals as an accessory use to residential dwelling units provided certain standards are met, whereas they are currently not permitted, and Section 78-180, (Definitions) to define the term. A maximum fee of \$200 will be established in Section 78-152.2(b)(3) (Fees), for a two-year permit and inspection for short-term rental establishments pursuant to Virginia Code 15.2-2286(A)(6). **(Continued from September 23, 2019 Planning Commission public hearing).**

ADJOURNMENT

Future Planning Commission Meetings:

November 18, 2019	Planning Commission work session	7:00 p.m.
November 25, 2019	Planning Commission public hearing	7:00 p.m.



MEMORANDUM

To: Chairman Jonas and Members of the Planning Commission
From: David Stromberg, Zoning Administrator DS
Date: October 28, 2019
Subject: ZOTA #18-03, Short-Term Rental Update

Staff has updated the draft language based on discussions during the October 21, 2019 work session.

Additional language was added to the section specifying submittal requirements for a zoning permit to operate a short-term rental.

The parking section was revised to specify that for single-family detached residences, 2 parking spaces are both the minimum and the maximum in order to have a short-term rental. In single-family attached townhomes and condo units, 1 parking space is both the minimum and maximum required.

Language has been added to prohibit short-term rental uses within accessory dwelling units. This provision may be reexamined at a future date as the result of on-going discussions regarding affordable and workforce housing policy.

During the work session, staff had erroneously told the Commission that a short-term rental could not occur in a conventional rental apartment. Under the language, if the primary lease holder can meet the 7-month residency requirement, has the authorization from the owner of the apartment complex, and can meet all of the other standards, they would be permitted to operate a short-term rental.

A draft resolution has been prepared for the Commission to recommend approval of ZOTA #18-03 to the Town Council. The resolution further recommends that the Council should direct staff to review short-term rentals regulations with the Planning Commission after the ordinance has been in effect for 2 years.

Attachments:

1. Draft resolution
2. Draft ordinance
3. Sample motions

TOWN OF HERNDON, VIRGINIA

PLANNING COMMISSION

RESOLUTION

OCTOBER 28, 2019

Resolution – to recommend approval of Zoning Ordinance Text Amendment ZOTA #18-03, to the Town Council of the Town of Herndon.

WHEREAS, the Planning Commission of the Town of Herndon, Virginia began holding public hearings on this zoning ordinance text amendment on June 12, 2018; and

WHEREAS, the proposed language has been revised based on resident input and several work session and public hearing discussions; and

WHEREAS, the Planning Commission has considered the appropriateness and benefits of the proposed text amendment compared to a no-action alternative and found the proposal to further promote the health, safety, and welfare of the residents of the town.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission for the Town of Herndon, Virginia that the Planning Commission hereby recommends approval of zoning ordinance text amendment ZOTA #18-03 to the Town Council of the Town of Herndon.

BE IT FURTHER RESOLVED that the Planning Commission recommends the Town Council direct staff to reevaluate the standards for short-term rentals with the Planning Commission within 24 months from the effective date of the ordinance.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

_____, 2019

Ordinance - to amend Chapter 78 (ZONING), Article III (Residential Districts), Section 78-30.1 (R-15 - Residential Single-Family District), Section 78-30.2 (R-10 - Residential Single-Family District), Section 78-30.3 (RTC - Residential Townhouse cluster District), Section 78-30.4 (RM - Residential Multi-Family District), Article V (Planned Development Districts), Section 78-50.4 (PD-R - Planned Development Residential District), Section 78-50.6 (PD-D - Planned Development Downtown District), Section 78-50.7 (PD-TD - Planned Development Traditional Downtown District), Section 78-50.8 (PD-TOC - Planned Development Transit-Oriented Core District), Section 78-50.9 (PD-W - Planned Development - Worldgate District), Section 78-51.1 (PD-UR - Planned Development - Urban Residential), Article VIII (Accessory Uses), Section 78-80.4 (Standards for Specific Accessory Uses and Structures by Use Type), by adding subsection 78-80.4(U), to permit and establish limitations on short-term rentals as an accessory use to residential dwelling units provided certain standards are met, whereas they are currently not permitted. Section 78-80.2 (Table of Permitted and Allowed Accessory Uses and Structures) and Section 78-180 (Definitions) will be updated to reflect the new use. A fee of \$200 will be established in Section 78-152.2(b)(3) (Fees), for a two-year permit and inspection for short-term rental establishments pursuant to Virginia Code 15.2-2286(A)(6). ZOTA #18-03.

Recital

In adopting this ordinance, the Town Council has considered the factors set out in §15.2-2284, Code of Virginia.

BE IT ORDAINED by the Council for the Town of Herndon that:

1. Chapter 78, Zoning Ordinance, adopted March 28, 2006, of the Herndon Town Code (2000) as amended.

Section 78-30.1 – R-15 – Residential Single-Family District

D. Accessory Uses and Structures

(3) *Table of permitted and allowed accessory uses in the R-15 district .*

Table 78-30.1(d)(3): Permitted and Allowed Accessory Uses R-15 KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	R-15	Supplemental Use Regulations

<i>Short-term rental</i>	<i>P</i>	<i>§78-80.4(u)</i>

Section 78-30.2 – R-10 – Residential Single-Family District

D. Accessory Uses and Structures(3) *Table of permitted and allowed accessory uses in the R-10 District .*

Table 78-30.2(d)(3): Permitted and Allowed Accessory Uses R-10 KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	R-10	Supplemental Use Regulations

<i>Short-term rental</i>	<i>P</i>	<i>§78-80.4(u)</i>

Section 78-30.3 – RTC – Residential Townhouse Cluster District

D. Accessory Uses and Structures

(3) Table of permitted and allowed accessory uses in the RTC district.

Table 78-30.3(d)(3): Permitted and Allowed Accessory Uses RTC KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	RTC	Supplemental Use Regulations

<i>Short-term rental</i>	<i>P</i>	<i>§78-80.4(u)</i>

Section 78-30.4 – RM – Residential Multi-Family District

D. Accessory Uses and Structures*(3) Table of permitted and allowed accessory uses in the RM district.*

Table 78-30.4(d)(3): Permitted and Allowed Accessory Uses RM KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	RM	Supplemental Use Regulations

<i>Short-term rental</i>	<i>P</i>	<i>§78-80.4(u)</i>

Section 78-50.4 – PD-R – Planned Development Residential District

D. Accessory Uses and Structures(4) *Table of permitted and allowed accessory uses in the PD-R district.*

Table 78-50.4(d)(4): Permitted and Allowed Accessory Uses PD-R KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Z = Use Allowed Subject to Zoning Map Amendment Approval Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	PD-R	Supplemental Use Regulations

<i>Short-term rental</i>	<i>P</i>	<i>§78-80.4(u)</i>

Section 78-50.6 – PD-D – Planned Development Downtown District

D. Accessory Uses and Structures(4) *Table of permitted and allowed accessory uses in the PD-D district.*

Table 78-50.6(d)(4): Permitted and Allowed Accessory Uses PD-D KEY: P=Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Z=Use Allowed Subject to Zoning Map Amendment Approval Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	PD-D	Supplemental Use Regulations

<i>Short-term rental</i>	<i>P</i>	<i>§78-80.4(u)</i>

Section 78-50.7 – PD-TD – Planned Development Traditional Downtown District

D. Accessory Uses and Structures

(4) *Table of permitted and allowed accessory uses in the PD-TD district.*

Table 78-50.7(d)(4): Permitted and Allowed Accessory Uses PD-TD KEY: P=Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Z=Use Allowed Subject to Zoning Map Amendment Approval Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	PD-TD	Supplemental Use Regulations

<i>Short-term rentals</i>	<i>P</i>	<i>§78-80.4(u)</i>

Section 78-50.8 – PD-TOC – Planned Development Transit-Oriented Core District

D. Accessory Uses and Structures

(4) *Table of Accessory Uses PD-TOC .*

Table 78-50.8.F - Permitted Accessory Uses in PD-TOC KEY: P = Use Permitted By Right; S=Use Permitted Subject to Special Exception Approval; D = Use Permitted Subject to Development Plan Approval Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	PD-TOC	See Supplemental Regulations

<i>Short-term rentals</i>	<i>P</i>	<i>§78-80.4(u)</i>

Section 78-50.9 – PD-W – Planned Development Worldgate District

D. Secondary uses permitted. The following secondary uses shall be permitted only in a PD-W district which contains one or more principal uses; only when such uses are presented on an approved Fairfax County final development plan prepared in accordance with the provisions of Article 16 of the Fairfax County Zoning Ordinance if developed prior to January 2, 2005, or on an approved town general development plan if developed after January 2, 2005, and subject to the use limitations set forth in section 78-50.90(e) below.

(7) *Dwellings*

a. Short-term rentals in accordance with the provisions of Section 78-80.4(u).

Section 78-51.1 – PD-UR – Planned Development-Urban Residential

D. Accessory Uses and Structures

(4) *Table of permitted and allowed accessory uses in the PD-UR district.*

Table 78-51.1(d)(4): Permitted and Allowed Accessory Uses PD-UR KEY: P=Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Z=Use Allowed Subject to Zoning Map Amendment Approval <i>Uses may be subject to use specific standards as noted in the last column</i>		
ACCESSORY USE	PD-UR	Supplemental Use Regulations

<i>Features such as fences, walls, retaining walls, gate houses, trash enclosures, refuse containers, screening enclosures, storage sheds, and swimming pools</i>	<i>P</i>	<i>§78-80.3(c) §78-21(f) §78-114</i>
<i>Short-term rentals</i>	<i>P</i>	<i>§78-80.4(u)</i>

Section 78-80.2 – Table of Permitted and Allowed Accessory Uses and Structures

C. Table of Permitted and Allowed Accessory Uses and Structures

	Table 78-80.2(d): TABLE OF PERMITTED AND ALLOWED ACCESSORY USES & STRUCTURES KEY: P=Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Z=Use Allowed Subject to Zoning Map Amendment Approval													
	Notes: 1. A blank cell means the use is prohibited in the district; 2. Uses may be subject to use specific standards noted in the last column. ** For Permitted Accessory Uses in PD-TOC see section 78-50.78; For Accessory Uses Permitted and Allowed in PD-W see section 78-50.89													
	Residential Districts				Business Districts					Planned Development District				Suppl Reqs.
ACCESSORY USE	R 15	R 10	R TC	RM	CC	CS	CO	O& LI	PD-R	PD-B	PD-TD PD-D	PD-UR	PD-TOC PD-W	See Section
School Uses in Conjunction with, and on the same site as, Religious Institution	S	S			S			S	Z	Z	Z		**	§78-80.4(r)
<i>Short-Term Rental</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>					<i>P</i>		<i>P</i>	<i>P</i>	<i>**</i>	<i>§78-80.4(u)</i>
Social Service and Similar Community Service Uses	S	S	S	S	S	S							**	§78-80.4(s)

Section 78-80.4 Standards for Specific Accessory Uses and Structures by Use Type. Accessory uses and structures listed below shall comply with the following specific standards.

U. Short-Term Rentals. *Short-term rentals are permitted as an accessory use to a dwelling unit, as defined in Section 78-180, provided the following conditions are met:*

- (1) *Zoning permit required. Prior to operating within the town, the operator of a short-term rental shall apply for and obtain a short-term rental zoning permit. No short-term rental zoning permit shall be considered unless the following documents are provided:*
 - a. *A completed short-term rental zoning permit application provided by the town and submitted to the Zoning Administrator along with a filing fee of \$200.*
 - b. *Two forms of identification with address displayed to establish primary residency at the location of the proposed short-term rental. Acceptable forms include a government-issued ID, mortgage or lease documents, or other forms deemed appropriate by the zoning administrator.*
 - c. *Written authorization from the property owner if the primary resident is not the property owner.*
 - d. *A site plan indicating the number and location of off-street parking spaces.*
 - e. *Proof of notification to the homeowners association or condo association of intention to operate a short-term rental, if applicable.*
 - f. *A short-term rental permit shall be good for a period of two years from the date of issuance.*
- (2) *Residency. Any operator of a short-term rental must be the primary resident of the property. For the purposes of this Section, primary resident shall mean an individual who has occupied the dwelling unit for 7 of the previous 12 months.*
- (3) *Occupancy. The maximum occupancy during any rental period shall not exceed 6 adults, except where the Virginia Uniform Statewide Building Code allows fewer occupants.*
- (4) *Entertainment. Events and activities including, but not limited to, luncheons, banquets, parties, amplified or acoustic concerts, weddings, meetings, fund raising, commercial or advertising activities to include filming, and any other gathering of persons other than the authorized renters, whether for direct or indirect compensation, are prohibited in association with any short-term rental. This language must be included in the advertisement for the rental of the property.*
- (5) *Parking. Parking must be located on-site or in spaces reserved exclusively for the use of the operator of the short-term rental property.*
 - a. *For any single-family detached residence, a minimum of 2 parking spaces are required and no more than 2 non-resident vehicles are permitted on-site during a rental period.*

- b. *For any townhouse or condo, a minimum of 1 parking space is required and no more than 1 non-resident vehicle is permitted on-site during a rental period.*
- (6) *Contracts. The operator of any short-term rental is prohibited from entering into more than one contract for any given night.*
 - a. *Contract must include entertainment restrictions as described in Section 78-80.4(U)(4).*
 - b. *Contract must include parking restrictions as described in Section 78-80.4(U)(5).*
- (7) *Recreational vehicles. Any recreational vehicle located on the lot is prohibited from being used for a short-term rental.*
- (8) *Accessory dwelling units. Short-term rentals shall be prohibited within an accessory dwelling unit.*
- (9) *Limitation on nights. The operator is limited to a maximum of 90 rental nights per year where the unit may be rented without the operator present. There is no limit on nights when the operator is present during a short-term rental.*
- (10) *Safety. Each short-term rental must have the following:*
 - a. *A working multipurpose fire extinguisher.*
 - b. *Interconnected smoke detectors.*
 - c. *Carbon monoxide detector if any gas appliances or fireplaces are present.*
 - d. *A direct means of egress outside of the structure from any sleeping room available for short-term rental.*
- (11) *Noncompliance. If the owner conducting the short-term rental violates, or if the short-term rental becomes by conduct inconsistent with any provision of this article or other ordinance, law or regulation governing use of the dwelling for a short-term rental, the zoning administrator may take action pursuant to Article XVII, Enforcement Violations and Remedies, including revoking the short-term rental zoning permit.*
- (12) *Registry. Failure to register or renew on the Short-Term Rental Registry pursuant to the Herndon Town Code (2000), shall be deemed a reason for revocation.*

TABLE 78-152.2(b)(3): FEES FOR DEVELOPMENT APPLICATIONS
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TYPE OF FEE	AMOUNT
MISCELLANEOUS ADMINISTRATIVE REVIEWS	
Request for early site occupation prior to completion of improvements in accordance with section 78-204.1 <i>78-120.1</i> and 78-204.2 <i>78-120.2</i> application flat fee	\$50.00
Request for early site occupation prior to completion of improvements in accordance with section 78-204.1 <i>78-120.1</i> and 78-204.2 <i>78-120.2</i> , per inspection	\$50.00
Mobile Food Unit Preparer, Full Service Zoning Permit	\$100.00
<i>Short-term Rental Permit</i>	<i>\$200.00</i>

Section 78-180 – Definitions. The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section.

“Short-term rental. The provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy. Such unit does not include bed and breakfast establishment, boarding house, hotel (including extended stay hotels), or motels.

2. This ordinance shall become effective on January 1, 2020.

TOWN OF HERNDON, VIRGINIA

PLANNING COMMISSION

Sample Motions

October 28, 2019

Motion – To recommend APPROVAL of ZOTA #18-03

I move to recommend **approval** of Zoning Ordinance Text Amendment ZOTA #18-03 to permit and establish limitations on short-term rentals as an accessory use to residential dwelling units provided certain standards are met. I further recommend that the standards for short-term rentals be brought back before the Planning Commission within 24 months after the effective date, as determined by the Town Council, for reevaluation.

Motion – To CONTINUE of ZOTA #18-03

I move to **continue** Zoning Ordinance Text Amendment ZOTA #18-03, to permit and establish limitations on short-term rentals as an accessory use to residential dwelling units provided certain standards are met, to the **DATE CERTAIN** meeting of the Planning Commission.

Motion – To recommend DENIAL of ZOTA #18-03

I move to recommend **denial** of Zoning Ordinance Text Amendment ZOTA #18-03 to permit and establish limitations on short-term rentals as an accessory use to residential dwelling units provided certain standards are met, for the following reasons:

(state reasons)