

ORDINANCE NO. (xxx-2016)
TC-14-16

AN ORDINANCE TO MODIFY THE ALLOWED PRINCIPAL USE TABLE IN THE CITY OF RALEIGH UNIFIED DEVELOPMENT ORDINANCE TO REGULATE SHORT TERM RESIDENTIAL LODGING FACILITIES

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 6.1.4 of the Part 10A Raleigh Unified Development Ordinance, Allowed Principal Use Table, is hereby amended by adding: “Short Term Residential Lodging Facility” to the Specific Use column as a separate entry underneath the “Overnight Lodging, Except as Listed Below” heading and marking it as a Limited Use in the following zoning districts:

R-1, R-2, R-4, R-6, R-10, RX, OX, NX, CX, DX.

Section 2. Section 6.2.2.B. of the Part 10A Raleigh Unified Development Ordinance, Boardinghouse, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

B. Boardinghouse

1. Defined

A facility that contains individual rooms ~~without cooking facilities~~ that are rented to the general public to more than 4 unrelated persons for periods in excess of 30 days. Includes rooming house, ~~lodging house and tourist home~~.

2. Use Standards

- a. The facility was constructed originally as a detached house.
- b. The total number of individuals occupying a boardinghouse is limited to 6.
- c. In a Residential District, there is no exterior advertising except 1 unlit announcement sign not to exceed 2 square feet in area.
- d. No boardinghouse can be located within 1,200 feet of another boardinghouse (determined by a straight line from property line to property line).
- e. The minimum tenant rental period exceeds 30 days.
- f. Cooking facilities are not permitted in the rented rooms of the boardinghouse.
- g. The facility complies with the City’s Housing Code, Article 11.6 of this UDO.

Section 3. Section 6.4.6 of the Part 10A Raleigh Unified Development Ordinance, Overnight Lodging, is hereby amended by inserting a new subsection “E”, which reads:

E. Short Term Residential Lodging Facility

1. Defined

The rental of a single-, two- or multiunit dwelling to accommodate visitors, vacationers or travelers where the rental occurs for less than 30 days at a time. A resident manager provides oversight for the operation of the short term rental and ensures that the applicable regulations are enforced.

2. **Use Standards**

- a. Every Short Term Residential Lodging Facility operator shall first apply for and procure a Short Term Residential Lodging Facility zoning permit from the City's Development Services Department. Permits must be renewed annually. Prior to the approval of any Short Term Residential Lodging Facility, the operator must first present proof that a tax account number has been established for the facility by filing a Room Occupancy Tax Application with Wake County. After day-one of the initial outset of the permitting program, applications will be time-stamped at the time of receipt of a complete application and will be evaluated and permitted in that order. The City will "hold" a 400' Short Term Residential Lodging facility buffer for a proposed site for a 10 day period to allow for a tax number to be procured from Wake County for this facility. All Short Term Residential Lodging Facilities that remain in operation, shall renew the permit annually thereafter by January 31 of each year. Failure to renew by this date will result in the loss of permit, thereby potentially rendering a site ineligible for a later permit.
- b. Every application for the Short Term Residential Lodging Facility prescribed herein shall be upon a form approved by the City Manager and shall be filed with the Development Services Department.
- c. No Short Term Residential Lodging Facility in the R-1, R-2, R-4 or R-6 zoning districts can be located within 400 feet of another Short Term Residential Lodging Facility (determined by a straight line from property line to property line).
- d. For all building types in the R-1, R-2, R-4, R-6 districts, and for a detached structure in the R-10 district, the maximum area devoted to short term residential lodging shall be two bedrooms and the maximum number of overnight guests per Short Term Residential Lodging Facility shall not exceed two adults and their minor children provided further that the total number of adults occupying the Short Term Residential Lodging Facility shall not exceed 4 adults at any one time, regardless of whether they reside there or lodge there. ~~*(see footnote 1 at end of Ordinance).~~ In these specified zoning districts, renting the entirety of a detached building type, regardless of how few bedrooms there are, is prohibited.
- e. Either the property owner of the Short Term Residential Lodging Facility or an on-site resident manager/operator must be domiciled on the premise for at least 275 calendar days per year and must be present in the dwelling unit throughout the rental period. Proof of address of the resident manager and telephone number must accompany the application.
- f. Cooking facilities are not permitted in the short term residential lodging bedroom.

- g. The short term residential lodging unit may have a separate entrance, or may be accessed through the primary dwelling.
- h. No exterior advertising is allowed.
- i. Within a residential zoning district, short term residential lodging units are only permitted within the Detached House, Attached House and Townhouse building types. Within mixed-use districts, short term residential lodging units are not restricted to these building types.
- j. No short-term lodger shall remain in any short term residential lodging facility for longer than 30 consecutive days. Following the expiration of the 30 day period, no short-term lodger shall occupy the same dwelling without a gap of at least 7 consecutive calendar days.
- k. In residential zoning districts, Short Term Residential Lodging Facility tenants may not utilize the premises for holding special events or gatherings.
- l. The premise cannot also be used for “Live-Work” or a “Day Care, Home”.
- m. Every Short Term Residential Lodging Facility operator shall maintain for a period of 3 years a list of all short term lodgers staying at the facility.

3. Revocation of permit

The Planning and Zoning Administrator shall revoke the Short Term Residential Lodging Facility permit following a written determination that any resident of the facility, resident manager of the facility, the operator of the facility and/or their short term lodgers have been:

- a. Convicted of violating on the Short Term Residential Lodging Facility *premise* a “Criminal Law two or more times within a 365 day period.”
Criminal Law” means a conviction of any of the following:
 - i. Article 27 of Chapter 14 of the North Carolina General Statutes.
 - ii. Article 3 of Chapter 18B of the North Carolina General Statutes.
 - iii. N.C.G.S 14.71.1.
 - iv. N.C.G.S 14-292.
- b. Received within a 365 day period two or more “Verified Violations” of any combination of:
 - i. Any City Code zoning regulation on the Short Term Residential Lodging Facility *premise*.
 - ii Any noise regulation on the Short Term Residential Lodging Facility *premise*.
 - iii Any nuisance prohibited by City Code section 12-6002 on the Short Term Residential Lodging Facility *premise*.
- c. Any combination of convictions and/or Verified Violations of two or more items from a. and b. above within a 365 day period.

A Verified Violation means a determination made by a Code City enforcement official or a judge, with notice of violation of the City Code, opportunity for respond to the noticed alleged failures and an order or

other mandate issued to the owner or any other person imposing a sanction or requiring further actions to comply with the City Code, including, without any limitation, the payment of civil penalties or administrative fees, or implementation of corrective measures, or cessation of activities which are not authorized by the City Code, or conviction of a criminal Code offense for failure to comply with the Code provisions listed in this subsection. A verified violation that is appealed continues as a verified violation unless it is overturned on appeal. If the violation is reinstated on a further appeal, it resumes its status as a verified violation.

Once lawfully revoked, a new permit for a Short Term Residential Lodging Facility cannot be issued or re-instated for the premise for a period of at least 365 days.

Section 4. Staff will create an application form for this use, or modify an existing application form to accommodate this use. The application form will require property owner consent, where the applicant is not the property owner. Upon adoption of this ordinance, the “Development Fee Schedule” will be amended to include an application fee of \$150.00 per rental unit for any initial application for short term residential rental and a renewal fee of \$82.00 per rental unit (the current fee for a zoning permit) for any subsequent renewal of a short term residential rental and adjusted annually in accordance with ENR and CPI.

Section 5. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 6. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 7. This text change has been reviewed by the Raleigh City Planning Commission.

Section 8. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 9. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 10. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in N.C.G.S. §14-4(a) or similar limitations.

Section 11. This ordinance is effective 30 days after adoption. No applications can be submitted until the effective day of the ordinance. At the initial outset of the program, on day-one, all completed applications that are received by the close of business will be assigned a corresponding transaction number. On day-two of the program, all transaction numbers received the previous day will be put into a vessel and drawn at random. With each transaction number

pulled, the City will then plot the location in IMAPS, if a previous transaction did not impose a “STRLF spacing buffer” over the location in question, then the application can be considered for approval and IMAPS updated as such to reflect the corresponding spacing buffer. If a transaction number is pulled for a location that has already been excluded by a previous application’s spacing buffer, then the subsequent application will be rejected. After day-one of the initial outset of the permitting program, complete applications will be time-stamped at the time of receipt and will be evaluated and permitted in that order.

Footnotes:

1. “provided further that the total number of adults occupying the Short Term Residential Lodging Facility shall not exceed 4 adults at any one time, regardless of whether they reside there or lodge there.”

This footnote, if the Commission decides to include it within the text of Section 6.4.6.2.e. above Section 12. The language in section 3 (code section E.2.d), was intended to place restrictions on operators of Short Term Residential Lodging Facilities from renting out rooms on a combination of both long-term and short-term basis. However, to prevent a distinction in the type of households (blood vs. shared household) that could operate a Short Term Residential Lodging Facility, it was determined that the best way to approach this would be to limit the overall number of adults occupying a Short Term Residential Lodging Facility, regardless of the length of term or relation, to no more than 4. If this proposed language was added to the Ordinance, a household, comprised of three adults, would be limited to renting to no more than one short-term lodger at a time. Under this regulation, a household of four adults would be prohibited from operating a Short Term Residential Lodging Facility entirely, unless at least one of the residents was away. The City Staff see some merit to including this overall limit on the number of adults as a way of better enforcing density/occupancy regulations, in conjunction with a Short Term Residential Lodging Facility as it relates to the definition of “household” which is defined as “One or more persons occupying a dwelling unit, provided that unless all members are related by blood, marriage or adoption, no household shall contain more than 4 unrelated persons. A household may include 5 or fewer foster children place in a family foster home licensed by the State of North Carolina.”

ADOPTED:

EFFECTIVE:

DISTRIBUTION:

Prepared by the Department of City Planning



Certified Recommendation

Raleigh Planning Commission

CR#

Case Information: TC-14-16 /

SHORT TERM RESIDENTIAL LODGING FACILITY

Comprehensive Plan Guidance

<i>Applicable Policy Statements</i>	Policy ED 6.5 – Lodging Work with developers, investors, and other local organizations to plan and provide diverse and accessible lodging and accommodations to support tourism growth.
	Policy LU 5.2 - Managing Commercial Development Impacts Manage new commercial development using zoning regulations and through the conditional use zoning and development review processes so that it does not result in unreasonable and unexpected traffic, parking, litter, shadow, view obstruction, odor, noise, and vibration impacts on surrounding residential areas.
	Policy LU 8.3 - Conserving, Enhancing, and Revitalizing Neighborhoods Recognize the importance of balancing the need to increase the housing supply and expand neighborhood commerce with the parallel need to protect neighborhood character, preserve historic resources, and restore the environment.
<i>Action Items</i>	Not applicable

Summary of Text Change

<i>Summary</i>	Amends Sections 6.1.4. of the Part 10A Raleigh Unified Development Ordinance to create a new use called “short term residential lodging facility.” A definition and use standards have been created for the use. Additionally, Section 6.2.2.B is being modified to clarify that the Boardinghouse use is intended as a residential use and as such is not a short term residential lodging facility.
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Summary of Impacts

<i>Impacts Identified</i>	<p><u>Adoption of TC-14-16:</u></p> <ol style="list-style-type: none">1. The adoption of the text change would create a new use that allows short term lodging within a residential property, not to exceed 30 days in duration. The text change would clarify the distinction between short
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	<p>term residential lodging facility, bed & breakfast and boardinghouse uses.</p> <p>2. The adoption of the text change would further clarify that a Boardinghouse is a residential use, intended to provide housing on a longer-term basis and to remove any comparison between it and a Lodging House or a Tourist Home.</p> <p><u>No Action:</u></p> <p>1. Short term residential lodging facility would not be an allowed use, except in conjunction with a bed & breakfast.</p>
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Public Meetings

<i>Submitted</i>	<i>Committee</i>	<i>Planning Commission</i>

Planning Commission Recommendation

<i>Recommendation</i>	Approval
<i>Findings & Reasons</i>	Adoption of this text change would permit short term residential rentals in a number of zoning districts; the use is not currently permitted. The proposed standards are reasonable. The City Council has asked for additional, separate analysis of the spacing radius and the regulations related to whole-house rental.
<i>Motion and Vote</i>	Motion: Schuster Second: Lyle In favor: Schuster, Lyle, Tomasulo, Terando, Swink, Braun, Hicks, Jeffreys

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the attached Staff Report.

Planning Director Date

Planning Commission Chairperson Date

Staff Coordinator: Eric Hodge: eric.hodge@raleighnc.gov



Zoning Staff Report / TC-14-16

Short Term Residential Lodging Facility

Request

<i>Section Reference</i>	Part 10A §6.1.4 Create new use titled “Short Term Residential Lodging Facility”
<i>Basic Information</i>	Amends the Part 10A Raleigh Unified Development Ordinance’s Allowed Principal Use Table to create a use titled “short term residential lodging facility”. The UDO currently contains a “Bed & Breakfast” use, which is limited to a small number of districts. This new use would permit the short term rental of two bedrooms within a dwelling.
<i>PC Recommendation Deadline</i>	December 5, 2016

Comprehensive Plan Guidance

<i>Applicable Policies</i>	<p>Policy ED 6.5 – Lodging Work with developers, investors, and other local organizations to plan and provide diverse and accessible lodging and accommodations to support tourism growth.</p> <p>Policy LU 5.2 - Managing Commercial Development Impacts Manage new commercial development using zoning regulations and through the conditional use zoning and development review processes so that it does not result in unreasonable and unexpected traffic, parking, litter, shadow, view obstruction, odor, noise, and vibration impacts on surrounding residential areas.</p> <p>Policy LU 8.3 - Conserving, Enhancing, and Revitalizing Neighborhoods Recognize the importance of balancing the need to increase the housing supply and expand neighborhood commerce with the parallel need to protect neighborhood character, preserve historic resources, and restore the environment.</p>
<i>Action Items</i>	Not applicable

Contact Information

<i>Staff Coordinator</i>	Eric Hodge: eric.hodge@raleighnc.gov ; 919.996.2639
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History/Overview

The topic of short term residential rentals was initially discussed by the Law & Public Safety Committee. The City Council authorized a text change on July 7, 2015, known as TC-7-15. The Planning Commission recommended approval with revisions on October 27, 2015. On November 3, 2015 the City Council received the Planning Commission's recommendation but had concerns about the text change and the potential impacts this use could have on neighborhoods and nearby residents. The item was then referred back to the Planning Commission for further consideration and evaluation. The text was altered to create an allowance for the short term rental of two bedrooms within a residence in most zoning districts. This is a departure from the existing "Bed & Breakfast" use, which does allow short term rentals, albeit in limited zoning districts. A bed & breakfast must be located within a historic structure or district. The ordinance would define short term rentals as a period of less than 30 days. On April 26th the Planning Commission recommended approval of the revised TC-7-15. On June 7th the council took action and TC-7-15 failed.

This text change represents discussion of the Economic Development and Innovation Committee, which was received by the City Council on September 6, 2016.

Purpose and Need

This text change would permit an emerging use of renting out a portion of a residential structure to visitors and travelers. The use would permit existing homeowners to supplement income by renting bedrooms to visitors with minimal impact on the surrounding neighborhood. City staff has noted a current shortfall in existing hotel rooms in Raleigh.

Alternatives Considered

Both the Law & Public Safety Committee and the Text Change Committee explored a range of development standards and impacts associated with the proposed text change. Another alternative recommendation was rejected by the City Council on November 3, 2015 and referred back to the Planning Commission with a Council vote of 7-1. The Planning Commission recommended another version of the regulations to the Council on April 26th, 2016. That recommendation failed to be approved on June 7th, 2016 and as such was rendered "denied". A separate vote was taken to discuss this topic at an upcoming Economic Development and Innovation Committee meeting. At the August 9, 2016 Economic Development and Innovation Committee meeting, staff was directed to craft an ordinance related to short term residential rentals. The attached memo discusses the minor changes that were made from the previous ordinance for TC-7-15. A black-line version of the Ordinance has also been included showing the edits.

Scoping of Impacts

Potential adverse impacts of the proposed text change have been identified as follows:

- Increased traffic.
- Increased demand for on-street parking.
- Increased noise.
- Increase in the number of properties owned by absentee landlords.
- Loss of residential dwelling units when converted to lodging units (whole-dwelling scenario).
- Housing costs may increase due to competition for the housing stock from lodging operators.

The adverse impacts of taking no action (retaining the existing regulations) have been identified as follows:

The status quo would be maintained. Short term rental of a residential unit would not be permitted outside of a Bed & Breakfast. The City is aware of many existing residential units that are being rented, which would require code enforcement action.

Impacts Summary

Adoption of Proposed Text Change

Additional lodging accommodations will be added to the City and help to support tourism growth and business development.

No action

Short term rental of a residential unit would not be permitted outside of a Bed & Breakfast. The City is aware of many existing residential units that are being rented, which would require code enforcement action.