MEMORANDUM

To: Building and Development, Code Enforcement, Chris Thompson
   Building and Development, Permits, Evan Harlow & Theresa Stein
   Economic Development, Katy Lowitz
   Fire and Rescue, Fire Marshal’s Office, Deputy Chief Linda Hale
   Fire and Rescue, Maria Taylor
   Health Department, George Khan
   Health Department, Josh Hepner
   Health Department, Josh Anderson
   Planning and Zoning, Community Planning, Randall Farren
   Transportation & Capital Infrastructure, Transportation, Lou Mosurak
   Zoning Ordinance Committee (ZOC), c/o Ryan Reed
   Visit Loudoun, Beth Erickson
   Visit Loudoun, Diana Kelterborn
   Office of the County Administrator, Housing, Brian Reagan

From: Ethan Strickler, Planner, Zoning Administration

Date: 12/22/2021

Re: Progress Update on ZOAM-2018-0001, Short-Term Rentals

CC: County Administration, Charles Yudd
    County Administration, Valmarie Turner
    County Administration, David Street
    Office of the County Administrator, Housing, Sarah Coyle Etro
    County Attorney’s Office, Courtney Sydnor
    County Attorney’s Office, Jason Hobbie
    Planning and Zoning, James David
    Economic Development, Buddy Rizer
    Building and Development, Alan Brewer
    Fire and Rescue, Chief Keith Johnson
    Transportation and Capital Infrastructure, Joe Kroboth
    Transportation and Capital Infrastructure, John Thomas
    Health Department, David Goodfriend
    Planning and Zoning, Zoning Administration, Mark Stultz
    Planning and Zoning, Zoning Administration, Michelle Lohr

This Memorandum represents a progress update on the Zoning Ordinance Amendment (ZOAM) to establish regulations and standards for a short-term rental accessory use and a short-term rental principal use. Attached to this correspondence is the latest version of the draft text, dated December 22, 2021, which has been revised to reflect comments received to date by agency referral.
recipients, the Zoning Ordinance Committee ("ZOC"), and members of the public who submitted comments. The attached draft text will be circulated during the public outreach portion of the project, which precedes formal public hearings in front of the Planning Commission and Board of Supervisors.

If you have additional comments on the attached draft text, please email them to ethan.strickler@loudoun.gov or contact 703-777-0653.

**Attachments**

ARTICLE 5
ADDITIONAL REGULATIONS AND STANDARDS

5-101 Permitted Accessory Uses and Structures.

(A) Residential.

... (21) Short-Term Rental – Residential Accessory, pursuant to Section 5-669.

5-669 Short-Term Rental – Residential Accessory.

(A) Modifications Not Permitted. Notwithstanding Section 5-600 of this Ordinance, this Section 5-669(A) and Sections 5-669(B), 5-669(C)(1), 5-669(C)(2), 5-669(C)(3), 5-669(C)(5), 5-669(C)(6), 5-669(D), 5-669(G), and 5-669(H) below must not be modified by Minor Special Exception.

(B) Registration. A Short-Term Rental – Residential Accessory use shall be permitted only on a property that the Operator has registered in accordance with Chapter 1470 of the Codified Ordinances of Loudoun County, unless exempted from the registration requirement by Chapter 1470.03.

(1) An “Operator” must meet the definition of “Operator” under Chapter 1470 of the Codified Ordinance of Loudoun County.

(2) The annual registration must be on display in a visible location upon entry into the Short-Term Rental – Residential Accessory use and included with all advertising materials.

(C) Intensity and Character.

(1) Residency Requirement. The Operator must be a permanent resident of the parcel that contains the Short-Term Rental – Residential Accessory use. For the purposes of this section, a permanent resident is a person who occupies a dwelling for a minimum of 185 days out of the calendar year as their primary residence.

(2) Management Requirements. The Operator, or a Manager designated by the Operator, must be available at all times during all rental periods to address issues that arise. During all rental periods, the Operator or Manager must:
(a) Be available by phone or electronic means within 30 minutes and must be available to be onsite within 60 minutes.

(b) Provide contact information of the Operator and/or Manager to guests of the Short-Term Rental – Residential Accessory use in writing prior to the beginning of the rental period. The contact information must also be posted in a visible location within the area available for rent.

(3) **Rental Period.** A dwelling, or portion thereof, shall only be used as a Short-Term Rental – Residential Accessory use for a maximum of 180 days in a calendar year.

(4) **Rental Capacity.** The following capacity limits apply to a Short-Term Rental – Residential Accessory use per night:

(a) **Guest Rooms.** The number of rooms and/or bedrooms used for overnight accommodations for guests must not exceed 4 per parcel.

(b) **Guest Capacity.** The total number of guests permitted per night must not exceed a maximum of 8 guests per parcel. This requirement is not intended to limit the number of guests that may sleep in a given bedroom nor the number of dwelling units per parcel used for the Short-Term Rental – Residential Accessory use.

(c) For parcels served by an individual sewage disposal system, the total number of guests permitted per night for a Short-Term Rental – Residential Accessory use must not exceed the maximum permitted capacity of the individual sewage disposal system, as approved by the Health Department.

(5) **Food Service Not Permitted.** The Operator or Manager must not prepare, serve, or arrange for the catering of food, or alcoholic beverages for consumption by any guests of the Short-Term Rental – Residential Accessory use. The Short-Term Rental – Residential Accessory use must not contain restaurant facilities.

(6) **Private Parties and/or Temporary Special Events Not Permitted.** Private parties and/or Special Events pursuant to Section 5-500(C) are not permitted in association with the Short-Term Rental – Residential Accessory use.
(7) **Dwelling Unit Types Permitted.** A Short-Term Rental – Residential Accessory use is permitted to operate only in a principal dwelling unit and/or in any accessory dwelling unit approved pursuant to Section 5-613 provided that the capacity limits set forth in Section 5-669(C)(4) are met for the parcel as a whole.

(D) **Zoning Permit Requirements.** A Zoning Permit is required for all Short-Term Rental – Residential Accessory uses.

(1) In accordance with Section 6-1000, the Zoning Permit application must provide such information and documentation as necessary to demonstrate compliance with all applicable Zoning Ordinance requirements and authorize the Zoning Administrator to conduct an inspection prior to approval of the Zoning Permit to verify compliance with all applicable Zoning Ordinance requirements. At a minimum, the Zoning Permit application must provide the following:

(a) Written consent from the property owner.

(b) The name and contact information of the Operator and/or Manager (if applicable).

(c) The type of dwelling unit(s) that will be rented.

(d) The address of the dwelling unit(s) that will be rented.

(e) The maximum rental capacity.

(f) A sketch plan showing the location of the dwelling unit(s) being rented and the required parking.

(2) The approved Zoning Permit for the Short-Term Rental – Residential Accessory use must be displayed in a visible location upon entry into the Short-Term Rental- Residential Accessory use and included with all advertising materials.

(3) The Zoning Permit for a Short-Term Rental – Residential Accessory use is valid for only the original Operator and dwelling(s) listed on the Zoning Permit application and must not be transferable to any future Operator or other property. Changes to the information...
pertaining to the Operator or dwelling(s) listed on the Zoning Permit will require the issuance of a new Zoning Permit.

(4) No more than one Zoning Permit for a Short-Term Rental – Residential Accessory use shall be permitted per parcel.

(5) A Zoning Permit for a Short-Term Rental – Residential Accessory use must not be issued on a parcel that is subject to an approved zoning permit for a Bed and Breakfast Homestay use, Bed and Breakfast Inn use, Country Inn use, Rural Retreats and Resorts use, or Short-Term Rental – Commercial Whole House use.

(6) The County approval of a Short-Term Residential Accessory use through the issuance of a Zoning Permit is not intended to abrogate, annul, or otherwise interfere with any easement, covenant or other private agreement or legal relationship, such as those of a Homeowners’ Association. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements or legal relationships, the regulations of this Ordinance must govern.

(7) A Zoning Permit for a Short-Term Rental – Residential Accessory use cannot receive approval until the use receives any required building code approval(s) from the department of Building and Development, fire code approval(s) from the Fire Marshal, and Health Department approval(s).

(E) Simultaneous Rental Contracts Not Permitted. All guests staying within an individual and separate dwelling unit during a rental period for a Short-Term Rental – Residential Accessory use must be covered under the same rental agreement.

(F) Parking Requirements.

(1) In addition to the off-street parking spaces required for the existing dwelling units on the parcel, pursuant to Section 5-1100, the following parking requirements apply, and such parking spaces must be shown on the sketch plan required in Section 5-669(D):

(a) For a rental capacity of 4 or less guests, one (1) off-street parking space shall be required.
(b) For a rental capacity of 5-8 guests, two (2) off-street parking spaces shall be required.

(2) The Zoning Administrator may modify the parking requirements of this Section if the Operator can demonstrate that the requirements of this Section cannot be met because of (a) the exceptional size and/or shape of the lot; (b) environmental or engineering constraints on the lot; (c) special accessibility needs; or (d) other extraordinary situations or conditions of the lot. The Zoning Administrator may attach conditions to any modification to ensure that the results of the modification will be in accordance with the purpose and intent of this Section.

(3) On-street parking is not permitted to count towards the required parking unless requested pursuant to Section 5-669(F)(2).

(G) Safety Requirements. To the extent permissible under state law, dwellings used for the Short-Term Rental – Residential Accessory use must meet the following requirements:

(1) Each bedroom and floor must have an operational smoke detector that is interconnected with the smoke detectors in the rest of the structure.

(2) Each floor must have at least one operational fire extinguisher that is clearly marked and accessible to guests.

(3) Each floor must have at least one operational carbon monoxide detector.

(4) All rooms used for sleeping must have at least two means of egress.

(5) A fire safety plan and emergency contact information, including the contact information for the Operator or Manager, local law enforcement, and fire and rescue, must be posted in a visible location.

(H) Use of Affordable Dwelling Units (ADUs) Not Permitted. ADUs provided in accordance with Article 7 of this Ordinance cannot be used for Short-Term Rental – Residential Accessory uses.
Proposed Article 8 Definition(s):

Short-Term Rental – Residential Accessory: The renting of a portion or the entirety of a dwelling as an accessory use to a principal dwelling that is the primary residence of the Operator, for a period of fewer than 30 consecutive days, and no more than 180 days per calendar year, in exchange for compensation.
5-670  Short-Term Rental – Commercial Whole-House

(A) **Modifications Not Permitted.** Notwithstanding Section 5-600 of this Ordinance, this Section 5-670(A) and Sections 5-670(B), 5-670(C)(1), 5-670(C)(4), 5-670(C)(5), 5-670(D), 5-670(I), and 5-670(K) must not be modified by Minor Special Exception.

(B) **Registration.** A Short-Term Rental – Commercial Whole-House use shall be permitted only on a property that the Operator has registered in accordance with Chapter 1470 of the Codified Ordinances of Loudoun County, unless exempted from the registration requirement by Chapter 1470.03.

(1) An “Operator” must meet the definition of “Operator” found in Chapter 1470 of the Codified Ordinance of Loudoun County.

(2) The annual registration must be on display in a visible location upon entry into the Short-Term Rental – Commercial Whole-House use and included with all advertising materials.

(C) **Intensity and Character.**

(1) **Management.**

(a) **Management Requirements.** The Operator, or a Manager designated by the Operator, must be available at all times during all rental periods to address issues that arise. During all rental periods, the Operator or Manager must:

(i) Be available by phone or electronic means within 30 minutes and must be available to be onsite within 60 minutes.

(ii) Provide contact information for the Operator and/or Manager to guests of the Short-Term Rental – Commercial Whole House use in writing prior to the beginning of the rental period. The contact information must also be posted in a visible location within the area available for rent.

(2) **Rental Capacity.** The following capacity limits apply to a Short-Term Rental – Commercial Whole-House use per night:
(a) **Guest Rooms.** The number of rooms and/or bedrooms used for overnight accommodations for guests must not exceed 5 per parcel.

(b) **Guest Capacity.** Unless otherwise specified in this Section, the number of guests permitted per night must not exceed a maximum of 10 guests per parcel. This requirement is not intended to limit the number of guests that may sleep in a given bedroom nor the number of dwelling units per parcel used for the Short-Term Rental – Commercial Whole House use.

(c) For parcels served by an individual sewage disposal system, the total number of guests permitted per night for a Short-Term Rental – Commercial Whole-House use must not exceed the maximum permitted capacity of the individual sewage disposal system approved by the Health Department.

(3) **Lot Area:**

(a) The minimum lot area for a Short-Term Rental – Commercial Whole-House use with a guest capacity of greater than 8 guests per night, as defined by Section 5-670(C)(2), is 5 acres.

(4) **Food Service Not Permitted.** The Operator or Manager must not prepare, serve, or arrange for the catering of food or alcoholic beverages for consumption by any guests of the Short-Term Rental – Commercial Whole-House use. The Short-Term Rental – Commercial Whole-House use must not contain restaurant facilities.

(5) **Private Parties and/or Special Events Not Permitted.** Private parties and/or Special events pursuant to Section 5-500(C) are not permitted in association with the Short-Term Rental – Commercial Whole-House use.

(6) **Dwelling Unit Types Permitted.** A Short-Term Rental – Commercial Whole-House use is permitted to operate only in a non-owner-occupied principal dwelling unit and/or in any non-owner-occupied accessory dwelling unit approved pursuant to Section 5-613 provided that the capacity limits set forth in Section 5-670(C)(2) are met for the parcel as a whole.
(D) **Zoning Permit Requirements.** A Zoning Permit is required for all Short-Term Rental – Commercial Whole-House uses.

(1) In accordance with Section 6-1000 the Zoning Permit application must provide such information and documentation as necessary to demonstrate compliance with all applicable Zoning Ordinance requirements and authorize the Zoning Administrator to conduct an inspection prior to approval of the Zoning Permit to verify compliance with all applicable Zoning Ordinance requirements. At a minimum, the Zoning Permit application must provide the following:

   (a) Written consent from the property owner.

   (b) The name and contact information of the Operator and/or Manager (if applicable).

   (c) The type of dwelling unit(s) that will be rented.

   (d) The address of the dwelling unit(s) that will be rented.

   (e) The maximum rental capacity.

   (f) A sketch plan showing the location of the dwelling unit(s) being rented, the required parking, and any wells and/or drainfields on the parcel that is subject to the permit application.

(2) The approved Zoning Permit for the Short-Term Rental – Commercial Whole-House use must be displayed in a visible location upon entry into the Short-Term Rental – Commercial Whole-House use and included with all advertising materials.

(3) The Zoning Permit for a Short-Term Rental – Commercial Whole-House use is valid for only the original Operator and dwelling(s) listed on the Zoning Permit application and must not be transferable to any future Operator or other property. Changes to the information pertaining to the Operator or dwelling(s) listed on the Zoning Permit will require the issuance of a new Zoning Permit.

(4) No more than one Zoning Permit for a Short-Term Rental – Commercial Whole-House use shall be permitted per parcel.
A Zoning Permit for a Short-Term Rental – Commercial Whole-House use must not be issued on a parcel that is subject to an approved Zoning Permit for a Bed and Breakfast Homestay use, Bed and Breakfast Inn use, Country Inn use, Rural Retreats and Resorts use, or for a Short-Term Rental – Residential Accessory use.

The County approval of a Short-Term Rental – Commercial Whole House use through the issuance of a Zoning Permit is not intended to abrogate, annul, or otherwise interfere with any easement, covenant or other private agreement or legal relationship, such as those of a Homeowners’ Association. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements or legal relationships, the regulations of this Ordinance must govern.

A Zoning Permit for a Short-Term Rental – Commercial Whole-House use cannot receive approval until the use receives any required building code approval(s) from the department of Building and Development, fire code approval(s) from the Fire Marshal, and Health Department approval(s).

Simultaneous Rental Contracts Not Permitted. All guests staying within an individual and separate dwelling unit during a rental period for a Short-Term Rental – Commercial Whole-House use must be covered under the same rental agreement.

Parking Requirement. The required off-street parking spaces for a Short-Term Rental – Commercial Whole-House Rental use are 2.5 per dwelling unit and 1 per room and/or bedroom used for overnight accommodations for guests. On-street parking is not permitted to count towards required parking.

Exterior Lighting. Exterior lighting for a Short-Term Rental – Commercial Whole-House use is subject to Sections 5-652(A)(1), 5-652(A)(2), and 5-652(A)(3) (Exterior Lighting Standards). In addition to the requirements of Section 5-652, the maximum height of pole-mounted exterior lighting shall be 12 feet.

Roads/Access. For any Short-Term Rental – Commercial Whole-House use that is located on a lot or parcel which does not have frontage on a publicly maintained road, documentation shall be provided to the Zoning Administrator, at the time of Zoning Permit application, demonstrating that
the private access easement serving such lot may be used to provide access
to the use.

(I) **Safety Requirements.** To the extent permissible under state law, dwellings
used for the Short-Term Rental – Commercial Whole-House use must meet
the following requirements:

1. The fire and building code requirements as defined in 13VAC5-51-91. Section A, 109.1 Inspection and Section 310.2 of the USBC or
   inspecting under § 27-98.2 of the Code of Virginia.

2. Each bedroom and floor must have an operational smoke detector
   that is interconnected with the smoke detectors in the rest of the
   structure.

3. Each floor must have at least one operational fire extinguisher that
   is clearly marked and accessible to guests.

4. Each floor must have at least one operational carbon monoxide
   detector.

5. All rooms used for sleeping must have at least two means of egress.

6. A fire safety plan and emergency contact information, including the
   contact information for the Operator or Manager, local law
   enforcement, and fire and rescue, must be posted in a visible
   location.

(J) A structure existing prior to January 7, 2003, located within an Historic Site
District or Historic and Cultural Conservation District may be used as a
Short-Term Rental – Commercial Whole-House and shall be exempt from
the minimum lot area requirements specific above, provided that any
expansion or enlargement of such structure shall not exceed 15% of the total
floor area existing prior to January 7, 2003, unless a greater expansion is
approved by Minor Special Exception, pursuant to Section 6-1300.

(K) **Use of Affordable Dwelling Units (ADUs) Not Permitted.** ADUs provided
in accordance with Article 7 of this Ordinance cannot be used for Short-
Term Rental – Commercial Whole House Rental uses.
Article 8 – Definitions

Short-Term Rental – Commercial Whole House: The renting of a non-owner-occupied single family detached dwelling or a non-owner-occupied accessory dwelling that is accessory to a principal single family detached dwelling in which the entire dwelling is used for providing overnight accommodations for a period of fewer than 30 consecutive days in exchange for compensation.
Short Term Rental – Commercial Whole-House Zoning District Use List (Draft)

Permitted in the following zoning districts:

AR-1 (Section 2-100), pursuant to Section 5-670
AR-2 (Section 2-200), pursuant to Section 5-670
A-10 (Section 2-300), pursuant to Section 5-670
A-3 (Section 2-400), pursuant to Section 5-670
RC (Section 2-900), pursuant to Section 5-670
JLMA-20 (Section 2-1300), pursuant to Section 5-670
TR-10 (Section 2-1400), pursuant to Section 5-670
TR-3 (Section 2-1500), pursuant to Section 5-670
PD-CV (permitted in “Village Core” and “Village Conservancy and Village Satellite Conservancy”) (Section 4-900), pursuant to Section 5-670
PD-RV (permitted in “Village Center – Residential Area” and “Village Center – Commercial and Workplace Areas”) (Section 4-1200), pursuant to Section 5-670

Permitted by Minor SPEX in the following districts:

CR-1 (Minor) (Section 2-500), pursuant to Section 5-670, by Minor Special Exception
CR-2 (Minor) (Section 2-600), pursuant to Section 5-670, by Minor Special Exception
CR-3 (Minor) (Section 2-700), pursuant to Section 5-670, by Minor Special Exception
JLMA-1 (Minor) (Section 2-1000), pursuant to Section 5-670, by Minor Special Exception
JLMA-2 (Minor) (Section 2-1100), pursuant to Section 5-670, by Minor Special Exception
JLMA-3 (Minor) (Section 2-1200), pursuant to Section 5-670, by Minor Special Exception
TR-2 (Minor) (Section 2-1600), pursuant to Section 5-670, by Minor Special Exception
TR-1 (Minor) (Section 2-1700), pursuant to Section 5-670, by Minor Special Exception
R-1 (Minor) (Section 3-100), pursuant to Section 5-670, by Minor Special Exception
R-2 (Minor) (Section 3-200), pursuant to Section 5-670, by Minor Special Exception

Permitted by SPEX in the following districts:

CR-4 (Section 2-800), pursuant to Section 5-670
R-3 (Section 3-300), pursuant to Section 5-670
R-4 (Section 3-400), pursuant to Section 5-670
R-8 (Section 3-500), pursuant to Section 5-670
PD-TC (Section 4-800), pursuant to Section 5-670
PD-MUB (Section 4-1350), pursuant to Section 5-670