

**AN ORDINANCE OF THE COUNCIL
FOR THE TOWN OF ABINGDON, VIRGINIA
TO ENACT CHAPTER 18 - BUSINESS
ARTICLE VI., §18-35 - §18-40
HOMESTAY REGULATIONS**

WHEREAS, online brokers/marketplaces for travel and hospitality platforms, such as Airbnb, Craigslist, HomeAway, *et. al*, have been in existence in the United States for nearly a decade and use of same has grown exponentially and has begun to affect both global and local short stay rental markets; and

WHEREAS, being aware of same, the Council of the Town of Abingdon, Virginia has become concerned that its local hotels, motels and bed and breakfast establishments are being treated unfairly by being subjected to collecting and remitting municipal lodging taxes as well as being required to meet demands for business licensure, safety and insurance requirements while affiliates of said hospitality platforms or HomeStays are not; and

WHEREAS, Town officials have identified a considerable number of active HomeStay properties which are available on marketplace sites, have collected a list of same and have begun the contact process to introduce the ordinance to those who will be affected with instructions on compliance; and

WHEREAS, the General Assembly of the Commonwealth of Virginia has finally settled with a satisfactory statute on this matter after working the past several sessions to come up with a legislative product that would guide, enable and authorize its local governments to better add equality to the hospitality playing field by devising and planning its strategy for organizing and managing local HomeStay operations in the interests of the health, safety and welfare of the citizens and tourists of the Commonwealth and localities, respectively; and

WHEREAS, the Council of the Town of Abingdon, Virginia desires to join and participate in imposing a statewide scheme to support its business model and to demonstrate to the General Assembly of the Commonwealth its ability to manage at the local level; and

WHEREAS, this local government ordinance, authorized through the passage of bills through the Virginia House and Senate (namely, HB 1268 and SB 1578) during the 2017 Legislative Session and signed into law by Governor McAuliff in March of 2017, has been drafted to add to the Code of Ordinances for the Town of Abingdon by its Council and shall be placed within Chapter 18 – Business, Article VI., §18-35 - §18-40.; and

WHEREAS, Virginia localities need to utilize this authority successfully because continued future attempts in the legislature will be made to pre-empt local authority to manage.

Section 18-35. - Definitions.

As used in this article, unless the context requires a different meaning, terms used herein shall be defined as follows:

- **Booking transaction** means any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.
- **Hosting platform** means any person or entity that is not a host but facilitates reservations or collects payments for any booking transaction on behalf of a host through an online digital platform, such as Airbnb, *et al.*
- **Guest or transient** means a person who occupies a HomeStay unit.
- **HomeStay** means the accessory or secondary use of a residential dwelling unit or a portion thereof by a host to provide room or space that is intended for short term transient rental purposes in exchange for a charge for the occupancy. The primary use of the HomeStay unit shall remain residential and owner inhabited. For each booking transaction, all applicable taxes must be collected and remitted to the Town of Abingdon as required by Article V, Lodging Tax, §66-146. by the host. Such accessory or secondary use shall not create a landlord/tenant relationship.
- **Host** means the person who is the primary resident of a HomeStay unit offered for HomeStay lodging. In determining compliance with these regulations, the host has the burden of demonstrating that the dwelling unit is owner occupied and is his or her primary residence.
- **Primary resident** means the owner of the HomeStay unit who occupies the property as his or her principal place of residence and domicile.
- **Residential dwelling unit** means a residence where one (1) or more persons maintain a household.
- **Short-stay rental** means the provision of a room or space suitable for sleeping or lodging for less than 30 consecutive days in exchange for a charge for the occupancy.
- **Type A rentals** means rentals where the host is present during the HomeStay and no more than two (2) bedrooms of the HomeStay unit are rented.
- **Type B rentals** means all other rentals, including ones where more than two (2) bedrooms of the HomeStay unit are rented or the host is not present during the stay.

Section 18-36. - Registration and other requirements.

- (a) No host shall operate a HomeStay unit or advertise a residential property for HomeStay use without the host first having registered with the departments of Business; Planning/Zoning and Building in the Town of Abingdon Offices at 133 W. Main Street, Abingdon, Virginia. Upon the applicant's initial visit with the Town offices, he/she will be furnished with a packet which will contain registration materials and forms.
- (b) The registration form and packet shall require the following information/response from applicant:
- 1) The complete contact information of the host, including name, telephone number, address, and email address of the host;
 - 2) Proof of ownership of primary residence.
 - 3) Payment of \$25 administrative fee beginning October 1, 2017.
 - 4) State tax ID information and/or social security number;
 - 5) Completion of a Town's business license application;
 - 6) Complete information regarding physical description of space which will be made available for HomeStay use, including proximity to neighbors, shared driveways or parking, etc;
 - 7) Planning/Zoning and Building approval;
 - 8) Official insurance coverage information and proof with regard to the HomeStay unit, the host and the guests; and
 - 9) If the HomeStay unit shares a common wall or a common driveway with another property owner, proof of written notification to such neighboring property owner(s) prior to filing the registration application.
- (c.) Additional initial reminders/requirements shall include the following:
- 1) Signs, advertising, or any other exterior display on the property indicating that the HomeStay unit is being utilized, in whole or in part, as a HomeStay are not permitted;
 - 2) The host shall register with the Finance Department to collect and remit the Town's transient lodging tax as set forth in Article V, Lodging Tax, §66-146;
 - 3) **A host may register and operate only one (1) residential dwelling unit as a HomeStay in the Town;**
 - 4) The registration shall be valid January 1st (or from whatever date the registration first occurs) through December 31st of the calendar year, and shall be renewed annually, on or before March 1st;
 - 5) A valid registration will permit a maximum ninety (90) days of type A and type B rentals in each calendar year. Of these ninety (90) days of rentals, no more than thirty (30) days may be type B rentals. On each lodging tax return form filed with the Treasurer, the number of type A and type B rentals shall be listed
 - 6) Said current safety issues must be made available and convenient to every room made available to guests, in the path of either ingress or egress within the sleeping room, including basements;

- 7) Interior directional "EXIT" signs;
- 8) Any sleeping area must have one (1) other adequate method of egress or escape beyond the entrance point;
- 9) Posted information regarding proper trash/garbage disposal;
- 10) Posted placard with full contact information regarding owner;
- 11) For purposes of Alcohol Beverage Control Act, HomeStay certain property rented on a short-term basis is considered a bed and breakfast establishment for purposes of Alcohol Beverage Control licensing and that the exception from Alcohol Beverage Control licensing for serving alcoholic beverages to guests in a residence does not apply if the guest is a short-term lessee of the residence.

Section 18-37. - Safety.

- (a) Prior to opening to the public, each host shall comply with all current safety issues, including but not limited to Underwriters Laboratory standards for smoke alarms and carbon monoxide detectors as follows:
 - 1) In all sleeping areas;
 - 2) In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit;
 - 3) In each story within the sleeping unit, including basements;
- (b) Any/all sleeping areas must have one (1) other adequate method of egress beyond the entrance point.
- (c) As part of the registration process, the host shall certify that the HomeStay unit meets the requirements of this section. The registration forms shall also provide that, as part of the registration, the host is agreeing to permit annual inspections of the home (at reasonable times and after notice has been provided) to address complaints. The failure to permit such an inspection is grounds for registration suspension.

Section 18-38. - Use regulations.

- (a) No recreational vehicles, buses, or trailers shall be parked on the adjoining or adjacent streets in conjunction with the HomeStay use. No commercial event, weddings and/or receptions shall be held during the stay.
- (b) The dates for trash and recycling collection shall be posted prominently in the HomeStay unit.
- (c) During each stay at the HomeStay unit, a principal guest shall be designated as the contact person for town officials in the event of safety or behavioral issues at the unit. The host shall provide this information upon request to authorized town officials.

- (d) The host shall not permit occupancy of a HomeStay unit for a period of less than twenty-four (24) hours.
- (e) The name and telephone number of the host or the host's responsible party shall be conspicuously posted within the HomeStay unit. The host shall answer calls twenty-four (24) hours a day, seven (7) days a week for the duration of each short term rental to address any problems associated with the HomeStay unit.
- (f) The principal guest of a HomeStay unit shall be at least eighteen (18) years of age.
- (g) The maximum number of guests in a HomeStay unit is **limited to six (6)**.
- (h) Hosts, guests and third parties shall be subject to and shall adhere to all federal, state and local ordinances statutes and/or applicable laws.

Section 18-39. - Registration suspension or cancellation.

- (a) A registration may be suspended or cancelled for the following reasons:
 - 1) Failure to collect and/or remit the transient occupancy tax.
 - 2) Three (3) or more substantiated complaints (including, but not limited to, parking on grass, noise, excess trash) within a twelve-month period.
 - 3) The failure of any HomeStay host to maintain his or her principal place of residence or domicile at the dwelling unit used as a limited residential lodging.
- (b) Before any suspension or cancellation can be effective, a duly designated officer of the town shall give written notice to the HomeStay host. The notice of suspension or cancellation issued under the provisions of this chapter shall contain:
 - 1) A description of the violations constituting the basis of the suspension or cancellation;
 - 2) If applicable, a statement of acts necessary to correct the violation; and
 - 3) A statement that if no request for a hearing is made within ten (10) days from the date of the notice, the registration will be suspended or cancelled;
- (c) The notice shall be given to the host by delivering a copy of the notice in person. If the host cannot be found, such notice shall be sent by:
 - 1) Certified mail or e-mail to the addresses in the registration form; and
 - 2) A copy of the notice shall be posted in a conspicuous place on the premises.
- (d) If requested, a hearing shall be held before the Town Manager and/or his designee. It is the burden of the host to demonstrate, by a preponderance of the evidence, why the suspension or cancellation should not go into effect. The decision of the Town Manager and/or his designee may be appealed to the town council.

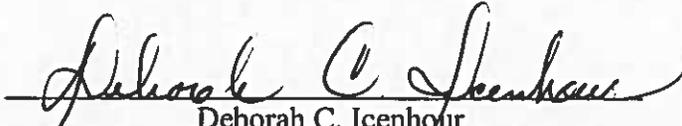
Section 18-40. - Penalty.

It shall be unlawful to operate a HomeStay without registering as required by this article, after a registration has been suspended or cancelled or in violation of any other requirement of this article; the penalty shall be a fine of Two-hundred and fifty dollars (\$250.00) for the first occurrence and Five-hundred dollars (\$500.00) for each subsequent occurrence thereafter payable to the Treasurer for the Town of Abingdon.

BE IT FURTHER ORDAINED that this Ordinance of adoption of Chapter 18 – Business, Article VI., §18-35 - §18-40, HomeStay Ordinance shall take effect on the 10th day of August, 2017.

CERTIFICATE

Pursuant to Section 2-100 of the Code of the Town of Abingdon, Virginia, I hereby certify that I have reviewed the foregoing proposed Ordinance proposing a HomeStay ordinance of the Town of Abingdon to reflect the foregoing amendments, modifications an additions and find it to be in the correct form this the 10th day of July, 2017.


Deborah C. Icenhour
Town Attorney for the Town of Abingdon, Virginia

This ordinance was adopted on the 10th day of July, 2017 and dispensed of second reading, to take effect on the 10th day of August, 2017.

/s/ Cathy Lowe
Cathy Lowe, Mayor
Town of Abingdon, Virginia

The undersigned clerk of the Town of Abingdon, Virginia (the "Town"), hereby certifies that the foregoing constitutes a true and correct copy of a resolution duly adopted at a meeting of the Council held on July 10, 2017. I hereby further certify that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing resolution, a quorum was present. I further certify that the minutes of such meeting reflect the attendance of the members and the voting on the foregoing resolution was as follows:

MEMBERS	ATTENDANCE	VOTE
Cathy Lowe, Mayor	Yes	Aye
Richard E. Humphreys, Vice Mayor	Yes	Aye
Robert M. Howard	Yes	Aye
Wayne Craig	Yes	Aye
Cindy Patterson	Yes	Aye

WITNESS MY HAND and the seal of the Town of Abingdon as of the 17th day of July, 2017.

(SEAL)

Cecilia M. Rosenbaum
Clerk, Town of Abingdon