

# **Short-Term Lodging Proposal to City Council**

Third Draft – May 17, 2019 (Incorporating feedback from legal counsel - in RED)

## **Definition: Add to 235-13**

### **Short-Term Lodging or Lodging, Short-term**

A dwelling unit where transient lodging is provided for compensation for stays of between one and 184 consecutive nights, and where the dwelling unit would normally be considered a residential living unit not associated with regulated commercial activities such as a hotel, motel or bed-and-breakfast.

## **New Zoning Section**

### **235-41:M Residential Accessory Uses**

M. Short-term Lodging. The use is regulated to preserve the traditional character of residential neighborhoods that can be negatively impacted by this type of use and to help preserve the quality and quantity of the housing stock for year-round residential use. Permitted in all zones except IP, I, and AI, providing the following conditions are met:

1. A Short-Term Lodging application will be reviewed and approved or denied by the Planning Department as an Administrative Decision to determine suitability for this use in a particular dwelling unit, using the following criteria:
  - a. The owner of a proposed Short-term Lodging unit shall apply for the Administrative Decision and pay the review and abutter notification fees.
  - b. The owner of a proposed Short-term Lodging unit shall provide the same agent information as required by RSA 540:1-b.
  - c. As part of the application approval process the dwelling unit must pass a joint inspection by the Fire Department and the Building Code Enforcement Department which shall be limited to the following:
    - i. Smoke/CO detectors must be installed in areas defined by the City's adopted codes and must be functioning.
    - ii. All windows or doors designed to open must be able to be opened to provide emergency egress.
    - iii. No basement space shall be used as sleeping areas unless there is properly sized egress windows and doors conforming to the City's adopted codes.
    - iv. A functional fire extinguisher shall be visibly installed in any kitchen area.
    - v. To determine maximum occupancy of the dwelling unit, floor space square footage shall be confirmed to conform to the City's adopted codes.
    - vi. To determine maximum number of vehicles allowed per rental, driveway capacity shall be confirmed. On-street parking shall not be allowed.
    - vii. Safety concerns reported by lodgers or abutters may require another inspection.

2. The owner of a Short-term Lodging unit will be responsible for:
  - a. Removal of trash in accordance with the City's ordinance;
  - b. Ensuring that all parking of vehicles is on site;
  - c. Ensuring that occupancy limits are not exceeded;
  - d. Any other site specific conditions imposed as part of the approval.

3. Short term lodging applications shall be reviewed and approved or denied within 30 days of receipt of a complete application. Notice of the approval or denial will be mailed to the applicant and abutters as defined in RSA 672:3. An aggrieved party may appeal a decision granting or denying an administrative permit to the Zoning Board of Adjustment within 30 days of the decision. The ZBA may affirm, reverse or modify the decision appealed.

4. Approval for Short-Term Lodging use will be in effect for one year from date of approval and must be renewed annually from date of first approval according to fee schedule defined in section 235-92 of this chapter. **Approval is owner specific; change of ownership shall require a new application.**

5. Approved Short-term Lodging units may be rented for a maximum of 12 separate rentals or a maximum of 184 nights, whichever occurs first.

6. Approvals may be revoked for failure to comply with this Ordinance or with any conditions of approval imposed as part of the approval. In general, the first violation of a requirement will result in a warning; the second in a civil penalty of \$275; and the third in a revocation of the approval. If a revocation occurs, the owner may not apply for reinstatement for a period of one year.

7. Using a dwelling unit for Short-Term Lodging without an Administrative Approval, or after a previous approval has expired or was revoked, will subject the property owner to fines and penalties outlined in section 235-82 of this chapter.

## Planning Department Administrative Approval Form

The Planning Department will create a form specifically for Short-Term Lodging application/approval and will outline the process, fees, and inspection criteria and renewal process. It will also outline the enforcement process.

**Complaints MUST** be made to a proper authority and can NOT be anonymous. Noise to police, trash to DPW, parking (on city accepted streets) to police or (on private roads) to condo/homeowner's association. **Must be a record** of complaint as it was happening for noise or parking, or as soon as can be reasonably expected to DPW or associations. **This will be outlined to abutters when they are notified, and the form will indicate how they can appeal and how/when they need to file complaints.** Maybe notification to property the management company? Database shared between city departments (police/DPW).

**Trash** to be removed by property owner or a third party provider at checkout time. No curbside placement/pickup.

**Parking** to be determined. All parking must be in driveway or defined parking spaces. NO on-street parking.

**Occupancy** to be determined. Up to 200 sq ft max 2 people (cottage/motel units converted to condo?), each additional person requires additional 200 sq ft.(fire code)

**Contact Info** must be on file with Planning Department, as part of application.

Must be posted in unit with other "Rules of the House." Can be provided to abutters and other city agencies (Police/Fire/DPW etc). Define info for Rules of the House posting...parking restrictions, trash, noise, etc.

Planning Department to create and **manage a database** to manage renewal notices and for information to be shared with other city departments. Posted on-line. (Privacy issues?)

**NH RSA References:** *(important sections underlined for emphasis)*

**78-A:4-a Advertisements of Short-Term Rentals.** – Any advertisement for a short-term rental by print, display, publication, distribution, or online listing offering a short-term rental shall include the meals and rooms license number of the operator, as defined in RSA 78-A:3, IV. Violation of the provisions of this section may result in a warning from the department of revenue administration that the operator's license may be revoked, suspended, or denied. The warning shall include notification to the operator of his or her obligation to obtain a meals and rooms license and pay the meals and rooms tax under this chapter. Subsequent violations of the provisions of this section may constitute sufficient cause for revocation, suspension, or denial of license. Nothing in this section shall be construed to change or alter the nature of the use of a property for the purpose of determining compliance with a local zoning ordinance.

**Source.** 2016, 323:2, eff. Aug. 23, 2016.

## 78-A:3 Definitions

III. "Hotel" means an establishment which holds itself out to the public by offering sleeping accommodations for rent, whether or not the major portion of its operating receipts is derived from sleeping accommodations. The term includes, but is not limited to, inns, motels, tourist homes and cabins, ski dormitories, ski lodges, lodging homes, rooming houses, furnished room houses, boarding houses, private clubs, hostels, cottages, camps, chalets, barracks, dormitories, and apartments.

VII. "Permanent resident" means any occupant who has occupied any room in a hotel for at least 185 consecutive days. (*i.e. short term = 184 or less*) (*motor vehicles are 180 days or less*)

*RSA676:17 and RSA676:17-a. \$275 first offense, \$550 each subsequent offense with each day being a subsequent offense, right to collect filing fees and other legal costs including attorney fees. Must go to court.*

### **TO DO LIST:**

Update fee schedule for new Short-Term Lodging Administrative Review – Fee must reflect the city's actual costs in processing the application, i.e. staff time.

Create new STL Admin Form

Update Parking regulation to add category or note for Short-term lodging.