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Chapter 235. Zoning

Article VII. Supplementary Provisions

§ 235-41. 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. A permit to use a unit of housing for short-term lodging must be obtained from the Planning Department using the criteria prescribed below, and the following restrictions and/or conditions apply:

(1) Permitted or prohibited in the following zones:

- (a) Permitted in the Commercial Resort (CR) and Shorefront Residential (SFR) Zones with no limitations on the number of separate rental periods.
- (b) Prohibited in the Industrial (I), Industrial Park (IP) and Airport Industrial (AI) Zones.
- (c) Prohibited in all other zones except when the property is owner-occupied.
 - [1] Short-term lodging in an owner-occupied property is considered an allowed accessory use only if the owner of the property resides on the property for not less than 150 days a year.
 - [2] In all zones, both an accessory dwelling unit (ADU) allowed by a special exception granted by vote of the Zoning Board of Adjustment, and the associated primary housing unit are prohibited from being used for short-term lodging.
- (d) Permitted in the Residential Single-Family (RS), Residential General (RG), and Residential Rural (RR1) Zones in a seasonal dwelling unit for a maximum of 15 separate rentals or a maximum of 120 nights, whichever occurs first. In a seasonal dwelling unit, short-term rentals are allowed in the above mentioned districts only from May 1 to October 31 of each year; short-term rentals are prohibited at any other time. A seasonal dwelling unit for this purpose is defined as:
 - [1] A dwelling unit that is occupied only between May 1 and October 31 of each year.
 - [2] The dwelling unit has less than 1,400 square feet of living space.
 - [3] There is only one dwelling unit on the associated lot.
- (e) Permitted in the Residential Single-Family (RS), Residential General (RG),

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Residential Rural (RR1), Residential Rural Corridor (RR2), and Urban Commercial (UC) Zones by special exception granted by the Zoning Board of Adjustment using the criteria specified in § 235-70C(2). Properties granted a special exception are also subject to all other provisions regulating short-term lodging specified below or elsewhere in the Zoning Ordinance.

- (2) 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:
 - [1] Smoke/CO detectors must be installed in areas defined by the City's adopted codes and must be functioning.
 - [2] All windows or doors designed to open must be able to be opened to provide emergency egress.
 - [3] No basement space shall be used as sleeping areas unless there are properly sized egress windows and/or doors conforming to the City's adopted codes.
 - [4] A functional fire extinguisher shall be visibly installed in any kitchen area.
 - [5] To determine maximum occupancy of the dwelling unit, floor space square footage shall be confirmed to conform to the City's adopted codes.
 - [6] To determine maximum number of vehicles allowed per rental, driveway capacity shall be confirmed. On-street parking shall not be allowed.
 - [7] Safety concerns reported by lodgers or abutters may require another inspection.
 - [8] If applicable, seasonal qualification of the unit will be confirmed.
- (3) The owner of a short-term lodging unit will be responsible for:
 - (a) Removal of trash in accordance with the City's ordinance.

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- (b) Ensuring that all parking of vehicles is on site.
- (c) Ensuring that occupancy limits are not exceeded.
- (d) Ensuring adherence to the Noise Ordinance (Chapter 167).
- (e) Any other site specific conditions imposed as part of the approval.

(4) 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 Zoning Board of Adjustment may affirm, reverse or modify the decision appealed.

(5) Approval for short-term lodging use will be in effect for two years from date of approval and must be renewed every two years from date of first approval according to the fee schedule defined in § 235-92 of this chapter. Approval is owner specific; change of ownership shall require a new application.

(6) Approvals may be revoked for failure to comply with this chapter 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 for each day of violation; 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 § 235-82 of this chapter.

Chapter 235. Zoning

Article XI. Zoning Board of Adjustment

§ 235-70. Powers and duties of Zoning Board of Adjustment.

C. Granting of special exceptions.

(2) The Zoning Board of Adjustment shall grant a request for a special exception only where it confirms in writing each of the following findings: [Amended 2-10-2020 by Ord. No. 2020-235-70]

- (a) For short-term lodging, the following is to be used:
 - [1] The use is specifically authorized in the chapter.

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- [2] The requested use will not increase demand for municipal services.
- [3] Any special provisions for the use as set forth in this chapter are fulfilled.
- [4] The requested use will not create hazards to the health, safety, or general welfare of the public.
- [5] The requested use meets one of the two following criteria:
 - [a] The applicant can demonstrate that the use in question has been common practice at this specific property and structure for a period of not less than five years prior to the enactment of the Short-Term Lodging Ordinance; or
 - [b] The applicant can offer convincing evidence that granting the special exception for this property includes a general community benefit that rises above the financial gains of the applicant.

(b) For all other special exceptions, the following is to be used:

- [1] The use requested is specifically authorized in this chapter.
- [2] The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
- [3] The requested use will not overload any public water, drainage or sewer system or any other municipal system, not will there be any significant increase in stormwater runoff onto adjacent property or streets.
- [4] The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.
- [5] Any special provisions for the use as set forth in this chapter are fulfilled.
- [6] The requested use will not create hazards to the health, safety, or general welfare of the public, not be detrimental to the use of or out of character with the adjacent neighborhood.
- [7] The proposed location is appropriate for the requested use.
- [8] The requested use is consistent with the spirit and intent of this chapter and the Master Plan.