

**Special Meeting Minutes of the Town of Highlands Board of Commissioners Meeting with the Town of Highlands Planning Board of November 22, 2021, at the Highlands Community Building, 71 Poplar Street, Highlands, North Carolina**

Town Board Present: Mayor Pro Tempore Amy Patterson, Commissioner Brian Stiehler, Commissioner Marc Hehn and Mayor Pat Taylor

Town Board Absent: Commissioner John Dotson and Commissioner Donnie Calloway

Planning Board Present: Brad Armstrong, Darren Whatley, Rick Trevathan, Chris Wilkes, Helene Siegel and Nick McCall

Also Present: Town Manager Josh Ward, Town Attorney Jay Coward, Attorney Craig Justice Police Chief Andrea Holland, Officer Leah McCall, Planning & Development Director Assistant Michael Mathis and Town Clerk Gibby Shaheen

**1. Meeting Called to Order**

Mayor Taylor called the meeting to order at 5:33pm.

**2. Review Proposed Amendments to the Unified Development Ordinance Pertaining to Short Term Rentals**

Mayor Taylor announced there would not be a time for public comment and stressed that nothing was decided and this was a Draft Ordinance with two attorneys to review and discuss. Mayor Taylor introduced Town Attorney Jay Coward and he announced that he had been meeting weekly with Attorney Craig Justus, a two-member committee and Town Manager Josh Ward to address issues of the UDO that was revised a decade ago when Short Term Rentals were not a problem. The meetings have been addressing the issues as a working group with no decisions made. Town Attorney Jay Coward introduced Attorney Craig Justus who reviewed the proposed Amendments to the Unified Development Ordinance concerning short term rentals and discussion was held.

(DRAFT: 11/17/2021)

**EXHIBIT A: CHANGES TO THE UDO**

1. **Section 2.3 Definitions.** Particular terms, as hereinafter set forth, within the Section 2.3 Definitions are hereby amended or added to the list of defined terms to read as follows:

- **Building, Multi-Family:** Any building, other than a motel, hotel, tourist home or whole house short term rental as defined in this Ordinance, containing more than one (1) dwelling unit. This term includes single-family attached dwellings, duplexes, and apartments.
- **Duplex:** A building containing two (2) dwelling units located on the same lot or parcel.
- **Dwelling, Multi-Family:** A dwelling unit designed, intended or used by more than one (1) family for human habitation.
- **Lodging:** The use of a building, or any portion thereof, for someone to live or stay temporarily, often for periods of less than thirty (30) consecutive days in return for the payment of compensation. Lodging includes a hotel, motel, tourist home and whole house short term rental.
- **Multi-Family Residential Use:** The use of a lot or parcel for human habitation by more than one (1) family for periods that are not temporary guest occupancy within a multi-family building or a multi-family dwelling unit. This term does not include lodging uses such as a hotel, motel, tourist home or whole house short term rental.
- **Single-Family Residential Use:** The use of a single-family dwelling unit by a single family for human habitation for periods that are not temporary guest occupancy. This term does not include lodging uses such as a hotel, motel, tourist home, transient dwelling lodging or whole house short term rental.
- **Temporary Guest Occupancy:** The use of a dwelling unit in return for compensation where the occupancy of the structure by the paying guest or guests is for a period of less than thirty (30) consecutive days.
- **Tourist Home:** A building or part thereof, not including a motel, hotel or whole house short term rental, where sleeping accommodations or lodging of not more than four (4) rooms are provided to guests paying compensation, where the owner, operator or manager also stays on the same parcel during any period of guest occupancy. This term includes bed and breakfast homes, inns, rooming or boarding houses or homestays.
- **Transient Dwelling Lodging:** The use of a dwelling unit for lodging for compensation whereby the entire dwelling unit is rented or occupied by a



										6.3.3.C
	Exterior residential security & area lighting	L	L	L	L	L	L	L	L	Sec. 6.3.3.D
	Camping trailer, motor home, or similar recreational vehicle	L	L	L	X	X	X	X	X	Sec. 6.3.3.E
	Customary incidental home occupations	X	L	L	X	L	L	L	X	Sec. 6.3.3.F

5. **Section 6.2 Use Table** is hereby amended to replace the Use Category Section classifying "Overnight Accommodations" in its entirety with the following:

KEY: "P" = PERMITTED "S" = SPECIAL "L" = LIMITED X = NOT ALLOWED		RESIDENTIAL			NONRESIDENTIAL					
USE CATEGORY	SPECIFIC USE	R-1	R-2	R-3	B-1	B-2	B-3	B-4	G	NOTES:
<b>COMMERCIAL</b>										
OVERNIGHT ACCOMMODATIONS- <b>LODGING</b>	Hotels and motels	X	X	X	X	L	L	X	X	Sec. 6.5.9
	Tourist homes (bed and breakfast)	X	L	P	P	P	P	L	X	Sec. 6.5.10
	Transient Dwelling Lodging	X	X	X	P	P	P	X	X	Section 6.5.19
	Whole House Short Term Rental	X	L	P	P	P	P	L	X	Sec. 6.5.18

6. **Section 6.3.2 Multi-family Dwelling** is hereby amended to rename the heading "Multi-family building or dwelling" and to replace the first paragraph in its entirety with the following:

Multi-family buildings or dwelling are permitted in accordance with sec. 6.2, Use Table (with the added exception of being allowed as an accessory use for Golf and Tennis Clubs) with the following requirements:

7. **Section 6.3.3 Residential Accessory Uses and Structures** is hereby amended to replace subsection A in its entirety with the following:

- A. Customary Accessory Outbuildings: Appurtenant to single-family dwelling such as private garages, noncommercial buildings such as greenhouses and workshops. No residential or lodging use of any kind is allowed.

8. **Sec. 6.3.3 Residential Accessory Uses and Structures** is hereby amended to replace subsection E in its entirety with the following:

- E. Recreation Vehicle. Only one (1) camping trailer, motor home, or similar recreational vehicle may be parked on a lot or parcel within a designated approved parking space. No residential or lodging use is allowed, nor may it be connected to any water, sewerage, or power supply.

9. **Sec. 6.5 Commercial Uses** is hereby amended to replace Section 6.5.10 Tourist Homes in its entirety with the following:

6.5.10 Tourist Homes

The term Tourist Home may also mean Bed and Breakfast Home or Rooming/Boarding house.

A Tourist Home may be permitted in the Zoning Districts identified in Sec. 6.2, Use Table, and with the issuance of a Zoning Certificate.

No private home shall be converted to a tourist home until a Zoning Certificate has been issued by the Planning and Development Director. The following conditions must be met before such a Certificate may be issued:

1. The tourist home may be used only as an accessory use of property in the R-2 and B-4 Districts whereby any portion of a building (e.g., room) is rented out or occupied by a paying guest or guests for no more than 175 days a calendar year.
2. The tourist home must be occupied by either the owner, operator or a manager of the property during the periods when paying guests are also occupying the home.
3. No more than four (4) bedrooms may be provided for accommodations in any tourist home.
4. All parking areas shall conform to Article 9 of this Ordinance and Article IV of the General Code of Ordinances, Stopping, Standing and Parking.
5. The building serving as the tourist home shall be inspected by the Macon County or Jackson County Health Department to determine that it complies with N.C. Division of Human Services "Rules Governing the Sanitation of Bed and Breakfast Homes, Section .2200 of the N.C. Administrative Code, Title 10, Chapter 10.
6. The building serving as the tourist home shall be inspected by a building inspector authorized to perform building inspection under Volume I of the State Building Code, and certified by said inspector that it is of sound construction and has adequate exits.

10. **Sec. 6.5 Commercial Uses** is hereby amended to add a new subsection 6.5.18 for Whole House Short Term Rental use to read as follows:

6.5.18 Whole House Short Term Rental.

A. Whole House Short Term Rentals. Short term rentals of an entire dwelling unit known as Whole House Short Term Rentals (WHSTR) are hereby recognized as an authorized use within the planning jurisdiction of the Town of Highlands. Except as provided herein, on and after \_\_\_\_\_, it shall be a violation of these zoning

regulations to operate a WHSTR without a development approval from the Town (i.e., Zoning Certificate).

B. Exceptions. The following activities and / or uses shall be excepted from the application of this Section.

1. Incidental whole house short term rentals, defined to mean no more than two such rentals in any calendar year where the total annual rental period for both rentals does not exceed two weeks.

C. Zoning Permits; Vested Status; Reporting Requirement. Every WHSTR not excepted above shall require a Zoning Certificate issued pursuant to the regulations contained herein. Anyone that can establish via Tourism and Development Authority tax records, written leases or other suitable proof that they were engaged in WHSTR activity at their home prior to the effective date of Ordinance \_\_\_\_\_ would have vested status, subject to continuing compliance with Article 7, Nonconformities and N.C.G.S. 160D-108 and except as provided below. This status is transferable; provided, however, a new Owner will be required to apply for an addendum to the Zoning Certificate with updated information including new Operator information. All parties seeking vested status must report such contention and submit to the Town an application for a Zoning Certificate along with proof of legal prior existence of WHSTR within one hundred twenty (120) days of adoption of Ordinance \_\_\_\_\_.

1. Application. In order to obtain a Zoning Certificate, the owner or the operator shall submit an application which complies with the requirements of the Town's zoning regulations and the additional requirements as found in this Section, and shall pay all applicable fees in accordance with the Town's adopted fee schedule.
2. Contents of Application. The application for a WHSTR Zoning Certificate shall contain the following information.
  - a. The address of the property.
  - b. Name and contact information for the owner of the property.
  - c. Name and contact information for the operator or manager if other than the owner.
  - d. A site plan showing the off-street parking area(s) for the property. Each car shall be parked in a designated approved parking space; no more than four (4) cars per lot are allowed. Parking areas shall not encroach into any road right-of-ways or neighboring private properties.
  - e. The number of bedrooms on the property intended to be used for occupancy.
  - f. A copy of the Macon County Revenue Department "Property Information Card" for the subject property.
  - g. A certificate from a qualified licensed sanitarian professional that the septic system serving the property is safe and adequate for the

occupancy density limits in subsection 5 and if public, that the connection to the Town's system is operational and free of detectable leaks.

- h. A copy of the standard rental agreement used for the WHSTR which contains information required by this section.
- i. An acknowledgment that the applicant is aware of the occupancy restrictions on the use of the property as a WHSTR and the applicant's agreement to abide thereby.
- j. A statement by the operator, under oath, that the information in the application is correct.

D. Inspections. In conjunction with an application for a Zoning Certificate, the Town shall conduct an initial inspection to confirm compliance with the requirements of this Section.

E. Use Conditions. The following requirements shall apply to any WHSTR.

- 1. Occupancy Limits. On those occasions when the property is being utilized for WHSTR activity, the overnight occupancy shall not exceed two persons per bedroom plus two additional persons. Provided, however, the number of bedrooms permitted for a WHSTR shall not exceed the number of bedrooms approved for the dwelling on the sewage permit issued for each property. For unpermitted properties, occupancy shall be the lesser of the total determined by the foregoing formula or twelve persons. Bedrooms used in calculating occupancy limits shall be taken from the application as affirmed by the owner/operator/manager and shall be the same as the number of bedrooms as listed on the Macon County Revenue Department's Property Information Card to also assure the sufficiency of the wastewater system on site.
- 2. Maximum number of weeks. In the R-2 and B-4 zoning districts, the maximum number of weeks that are allowed for WHSTR use on a lot is 25 weeks per calendar year. The intent of this provision is to only allow WHSTR as an accessory use within properties zoned R-2 or B-4.
- 3. Display of Contact Information. Operators of WHSTR shall prominently display on the exterior of the property the name and 24-hour per day, 365 days-per-year telephone number for the WHSTR operator who will take and resolve complaints regarding operation of the WHSTR and its occupants and guests. The Town will prescribe the form of this display which shall also include a telephone number to report violations of this section to the Zoning Administrator.
- 4. Parking. Occupants or guests of any WHSTR shall not park vehicles on the property other than within parking area(s) designated on the application for the WHSTR Zoning Certificate and in compliance with Article IV of the General Code of Ordinances, Stopping, Standing and Parking and Article 9 of this Ordinance. Vehicles parked in undesignated areas, or in the street so as to violate the Town's street or parking ordinances, shall be

subject to towing at the vehicle owner's expense. No more than four (4) cars shall be allowed to be parked on a lot being used as a WHSTR.

5. Trash Disposal. Household trash must be bagged and disposed of in trash receptacles. Trash receptacles shall be the size and number authorized by existing refuse contracts and shall be animal resistant. The WHSTR use must comply with Chapter 12 of the General Code of Ordinances, Solid Waste Management.
6. Noise Ordinance. The WHSTR use must comply with the Town's Noise Ordinance, Article II of the General Code of Ordinances.
7. Nonconforming WHSTR Compliance with Restrictions. Notwithstanding anything to the contrary in the Town's ordinances, a vested or legal nonconforming use of property as a WHSTR must at all times comply with Section C and Section E, subsections 4, 5, and 6.

F. Contract Addendum. Every contract for a WHSTR shall contain an addendum, in a form prepared by the Town, setting forth the requirements of this Section and other applicable provisions of law. The operator shall obtain a signed acknowledgment from the renter(s) that they have received such addendum prior to delivering possession of the dwelling unit. This requirement shall be deemed satisfied if the provisions of the addendum are included as part of the rental contract.

G. Duties of the Operator to Respond to Complaints. To assure prompt response to complaints and issues concerning a WHSTR, the operator shall comply with the following:

1. Maintain a call center that is staffed by a live person and fully responsive at any time that the property is used as a WHSTR.
2. Continuously maintain on file with the Town the operator's current address, telephone number, and facsimile number and/or email address.

H. Non-Compliance with WHSTR Zoning Permit and Regulations.

1. Failure to comply with the standards and regulations as found in this Section shall be enforced by the remedies and penalties as provided in Chapter \_\_\_\_ of the Code of Ordinances of the Town of Highlands.

11. **Section 7.1.1 Purpose** is hereby amended to add a new sentence at the end that reads: "The provisions of this Section are intended and designed to limit substantial investment in nonconformities and to bring about eventual elimination or lessen their impact upon surrounding conforming uses in order to preserve the integrity of the area in which it is located."

12. **Sec. 7.2.1 Limitations on Nonconforming Uses** is hereby amended to add a subsection C. that reads as follows:

C. A nonconforming use may not be changed, enlarged or expanded, including expanding use into any part of a building or property not previously occupied or in use as of the date when the legal nonconformity was established. A nonconforming use of property that is an accessory use as a result of its frequency or duration of proven historical use cannot be changed, enlarged or expanded to become a principal use.

Section 2. SEVERABILITY. Should any section or provision of this ordinance be declared invalid by any court of competent jurisdiction, such declaration shall not affect the validity of any ordinance as a whole or any part thereof which is not specifically declared to be invalid. If any court of competent jurisdiction invalidates the application of any provision of this ordinance, then such judgment shall not affect the application of that provision to any other building, structure or use not specifically included in that judgment.

Section 3. EFFECTIVE DATE. This Ordinance shall take effect and be in force from the date of its adoption by Town Council.

READ, APPROVED AND ADOPTED this the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
TOWN CLERK

\_\_\_\_\_  
MAYOR

Approved as to form:

\_\_\_\_\_  
TOWN ATTORNEY

### **3. Adjournment**

AS THERE WERE NO FURTHER MATTERS TO COME BEFORE THE BOARD OF COMMISSIONERS, COMMISSIONER HEHN MOVED TO ADJOURN WHICH WAS SECONDED BY COMMISSIONER STIEHLER AND UPON A UNANIMOUS VOTE, THE TOWN BOARD ADJOURNED AT 6:37PM.

\_\_\_\_\_  
Patrick Taylor  
Mayor

\_\_\_\_\_  
Gilberta B. Shaheen  
Town Clerk