

**Homeshares and Short-Term Rentals
Proposed Amendments to the Zoning Ordinance
Draft – 10/17/2019**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

A. Amend Article 15 – Definitions, Section 10.1530 – Terms of General Applicability, as follows:

(1) Delete the definitions of “Bed and Breakfast”, “Bed and Breakfast 1” and “Bed and Breakfast 2”.

(2) Insert the following terms and definitions in alphabetical order:

Homeshare

The rental of up to 5 rooms in an owner-occupied dwelling unit for less than 30 consecutive days.

- **The rental of a room to the same individual(s) for 30 or more consecutive days is not considered a homeshare rental and is allowed provided that the total occupancy of the dwelling unit complies with the definition of “family” in this ordinance.**

Short-term rental

The rental of an entire dwelling unit for less than 30 consecutive days at a time and for no more than 120 total days in any 12-month period.*

- **Short-term rental does not include boarding houses or homeshares.**
- **The rental of a dwelling unit to the same household for 30 or more consecutive days is not considered a short-term rental and is allowed to the same extent that the dwelling unit is allowed.**
- **The rental of a dwelling unit for more than 120 total days in any 12-month period where more than one individual occupancy is for less than 30 consecutive days shall be considered a primary business use of the property rather than an accessory short-term rental use. †**

* The 120-day limit would allow rental of the unit for 2 days/nights every weekend during the year, or 20 week-long (Sunday to Saturday, 6 nights) rentals.

† This provision is intended to address the gray area between an accessory use of a residence and a business lodging use such as an inn, hotel or motel.

- (3) Amend the definitions of “boarding house”, “caretaker residence”, “dwelling unit”, “inn”, and “principal use”, as follows:

Boarding house

~~A residential structure, other than a bed and breakfast,~~ **A building, other than an inn**, in which rooms are rented, leased or otherwise made available for compensation to more than two but not more than 10 individuals, and where such rooms do not contain separate cooking or bathroom facilities.

Caretaker residence

A dwelling unit that is accessory to and on the same lot as a ~~nonprofit~~ **principal** use, and that is provided for and limited to occupancy by a person employed to provide maintenance and security 24 hours per day for the principal use.

Dwelling unit

A building or portion thereof providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. This use shall not be deemed to include such transient occupancies as hotels, motels, **inns**, ~~rooming~~ or boarding houses.

Inn

A building offering lodging for transient ~~boarders~~ **occupancy** with up to 15 sleeping rooms.

- An inn may have a ~~caretaker residence~~ **one dwelling unit for occupancy by the property owner or a manager**, but **the inn** does not have to be occupied by the owner **or a manager**).
- **An inn may provide meals to guests in a common dining area, but shall not provide cooking facilities for guests** and shall not serve food to the public. **A building that does not comply with these limitations may be regulated as a boarding house, hotel or motel, as appropriate.**

(See also: ~~bed and breakfast~~, hotel, motel, **homeshare, short-term rental**.)

Principal use

The primary use on a lot, which may have accessory uses. **A lot or building may contain more than one principal use: for example, one or more ground-floor businesses and upper-floor dwelling units.**

B. Amend Section 10.811.40 by inserting the following new subsection 10.811.41:

10.811.41 Accessory Dwelling Units, Garden Cottages, Homeshares, and Short-Term Rentals are regulated by the provisions in Sections 10.814, 10.815, 10.817 and 10.818, respectively.

C. Insert a new Section 10.817 – Homeshare, as follows:

10.817 Homeshare

10.817.10 A homeshare shall comply with all of the following requirements:

10.817.11 The owner of the dwelling unit shall occupy the unit as his or her principal place of residence and shall reside in the unit at all times that rooms are rented.

10.817.111 The owner shall provide documentation demonstrating to the satisfaction of the City that the dwelling unit is his or her principal place of residence.

10.817.112 When the dwelling unit is owned by one or more living trusts, the dwelling unit shall be the principal place of residence of the beneficiary(ies) of the trust(s).

10.817.12 If the dwelling unit is part of a condominium, the homeshare use shall require the assent of the condominium association.

10.817.13 The lot and structure shall conform to all dimensional standards of the zoning district in which they are located.

10.817.14 One off-street parking space shall be provided for each room rented, in addition to the number of off-street parking spaces otherwise required for all dwelling units in the dwelling or on the lot.

10.817.15 The dwelling unit shall at all times be covered by an insurance policy that permits rental of rooms in the unit.

10.817.16 The owner of a homeshare shall register for the State rooms and meals tax and shall pay all required taxes.

10.817.20 Where so indicated in Section 10.440, a homeshare shall require the granting of a special exception by the Zoning Board of Adjustment. In order to grant a special exception for a homeshare use, the Zoning Board of Adjustment must make the following findings:

10.817.21 The homeshare use will comply will all requirements of this Section 10.817.

10.817.22 The homeshare use, as well as the structure, will meet the standards for special exceptions in Section 10.232.20.

10.817.30 A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner-occupancy and principal residency requirements. Said certificate shall be renewed annually upon submission of such documentation as the Planning Department may require to verify compliance.

10.817.40 Violations *

10.817.41 Noncompliance with any requirement listed in this Section 10.817, or with any condition of the granting of a required special exception for the homeshare use, shall constitute a violation of this ordinance and of said special exception and shall result in the termination of said special exception.

10.817.42 The failure to submit any required documentation within 8 months after the expiration of the certificate of use shall constitute a violation of this ordinance and of said special exception resulting in the termination of said special exception.

10.817.43 Where a special exception has been terminated under either of the above provisions, the homeshare use shall be terminated until a new special exception has been applied for and granted.

* Because homeshares are proposed to be permitted uses ("P") in several zoning districts, the provisions on violations have to reference violations of the ordinance as well as the special exception, and a new section 10.818.44 is needed to require termination of the use when a special exception is not required.

10.818.44 Where a homeshare is designated in Section 10.440 as a permitted accessory use (“P”), a violation of this ordinance under sections 10.817.41 or 10.817.42 shall result in the discontinuance of the homeshare use until the noncompliance has been remedied to the satisfaction of the Code Official.

D. Insert a new Section 10.818 – Short-Term Rentals, as follows:

10.818 Short-Term Rentals

10.818.10 Where allowed by Section 10.440, the accessory short-term rental use of a single-family dwelling, or a dwelling unit in a two-family or multifamily dwelling, shall require the granting of a special exception by the Zoning Board of Adjustment, and shall comply with all of the standards and requirements in this Section 10.818.

10.818.11 On a lot containing an accessory dwelling unit, neither the principal dwelling unit nor the accessory dwelling unit may be used for a short-term rental.

10.818.12 A dwelling unit in a two-family or multifamily dwelling shall be a condominium unit, and not a rental unit in an apartment building.

10.818.13 The short-term rental use of a condominium unit shall require the assent of the condominium association.

10.818.20 A short-term rental shall comply with all of the following requirements:

10.818.21 The dwelling or dwelling unit shall at all times comply with all applicable requirements of the Building Code and other codes adopted by or applicable within the City.

10.818.22 The lot and structure shall conform to all dimensional standards of the zoning district in which they are located.

10.818.23 Occupancy of a short-term rental shall be limited to no more than the number of bedrooms, as determined by the Code Official, multiplied by two persons.

- 10.818.24 Off-street parking spaces shall be provided as follows:**
- 10.818.241 A dwelling or dwelling unit that is used as a short-term rental shall be provided with at least one off-street parking space in addition to the minimum required number of off-street parking spaces otherwise required for the dwelling or dwelling unit.**
 - 10.818.242 Notwithstanding the above, the Board may require the provision of additional off-street parking spaces based on existing congestion or anticipated occupancy.**
 - 10.818.243 All required off-street parking spaces shall comply with the standards for location and design of off-street parking facilities in Sections 10.1113 and 10.1114.**
- 10.818.25 A dwelling or dwelling unit that is used as a short-term rental shall at all times be covered by an insurance policy that permits such rental.**
- 10.818.26 The owner of a dwelling or dwelling unit used as a short-term rental shall register for the State rooms and meals tax and shall pay all required taxes.**
- 10.818.27 No recreational vehicle, travel trailer, tent or other temporary shelter shall be used on the premises for living or sleeping purposes.**
- 10.818.30 In order to grant a special exception for a short-term rental use, the Zoning Board of Adjustment must make the following findings:**
- 10.818.31 The short-term rental use will comply will all requirements of this Section 10.818.**
 - 10.818.32 The short-term rental use, as well as the structure, will meet the standards for special exceptions in Section 10.232.20.**
- 10.818.40 A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner-occupancy and principal residency**

requirements. Said certificate shall be renewed annually upon submission of such documentation as the Planning Department may require to verify compliance.

10.818.50 Violations

10.818.51 Noncompliance with any condition listed in this Section 10.818, or any condition of the granting of a special exception for the short-term rental use, shall constitute a violation of the special exception and shall result in the termination of said special exception.

10.818.52 The failure to submit any required documentation within 8 months after the expiration of the certificate of use shall constitute a violation of the special exception resulting in the termination of said special exception.

10.818.53 Where a special exception has been terminated under either of the above provisions, the short-term rental use shall be terminated until a new special exception has been applied for and granted.

E. Amend Section 10.821 – Historic Preservation Buildings and Museums, by inserting the following new subsection 10.821.14:

10.821.14 By special exception, dwelling units or inns that are accessory to and supportive of the principal use. *

F. Amend Section 10.430 – Use Regulations by inserting a new subsection 10.434.50 as follows:

10.434.50 Except in a residential district, a lot or building may contain more than one principal use provided that all such uses are authorized in Article 4.

G. Amend Section 10.1112.32 – Parking Requirements for Nonresidential Uses, under use group 10 – Lodging Establishments, as follows:

* NOTE: The proposed short-term rental provisions require condominium ownership of a unit used for short-term rental in a two-family or multifamily dwelling (sec. 10.818.12). This would prohibit the short-term rental of dwelling units in Historic Preservation Buildings and Museums. Is this okay, or should an exemption be added?

10.10-10.20	Boarding house or Bed and breakfast	2 + 1 per room for rent
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H. Amend Section 10.440, Table of Uses, as set forth in Attachment A: “Proposed Amendments to Zoning Ordinance, Section 10.440 – Homeshares and Short-Term Rentals.”

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

Attachment A:
Proposed Amendments to Zoning Ordinance, Section 10.440 – Homeshares and Short-Term Rentals
Draft – 10/17/2019

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/M H	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	B CD4- W	WB	OR	I	WI	Supplemental Regulations
10. Lodging Establishments																		
10.10 Boarding house	N	N	N	N	N	N	N	N	N	S	S	N	S	N	N	N	N	
10.20 Bed and breakfast																		
10.21 Bed and Breakfast 1	N	N	S	N	N	S	S	P	P	N	S	S	P	N	N	N	N	
10.22 Bed and Breakfast 2	N	N	N	N	N	S	S	P	P	N	S	S	P	N	N	N	N	
10.30 Inn	N CUP	N	N	N	N	N	S CUP	S CUP	P	P	S CUP	S CUP	P	N	N	N	N	

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/M H	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	B CD4- W	WB	OR	I	WI	Supplemental Regulations
19. Accessory Uses																		
19.30 Homeshare																		
19.31 1 or 2 guest bedrooms	S	S	S	N	N	S	S	P	P	N	S	S	P	N	N	N	N	10.817 (homeshare)
19.32 3 to 5 guest bedrooms	S	N	N	N	N	S	S	P	P	N	S	S	P	N	N	N	N	
19.40 Short-term rental																		
19.41 Single-family dwelling	S	S	S	S	N	S	S	S	N	N	N	N	N	N	N	N	N	10.818 (short-term rentals)
19.42 Unit in two-family or multifamily dwelling	N	N	S	S	S	S	S	S	S	S	S	S	S	N	N	N	N	