CITY OF WAYNESBORO PLANNING COMMISSION
Regular Meeting, Tuesday, April 16th, 2019
7:00 pm
Council Chambers, Charles T. Yancey Municipal Building
503 West Main Street

AGENDA

1. Call to order. Pledge of allegiance.

2. Review and approval of minutes of regular meeting held March 19, 2019.

3. Citizen comment period – limited to 4 minutes per speaker, for issues not listed as an agenda item.

4. Public hearing on a Conditional Use Permit application from Michael G Hamp, City of Waynesboro, for a water tower in the H-I (Heavy Industrial) district.

5. Public hearing on a Zoning Text Amendment initiated by the Waynesboro City Council to allow electronic changeable copy signs in all districts on publicly-owned property, subject to the restrictions found in Zoning Ordinance Section 5.6.6.

6. Public hearing on a Zoning Text Amendment and amendment to City Code Chapter 98 to add definitions of homestay and short-term rental, to allow both uses by-right in all districts where residential uses are permitted, to define standards of use, and to establish a registry of short-term rentals to be maintained by the Commissioner of Revenue.

7. Other Business/Commissioners’ Correspondence and Communication.

8. Adjournment.
The Planning Commission of the City of Waynesboro, Virginia, held a regular meeting on the 19th day of March, 2019, at 7:00 P.M., in Council Chambers, Charles T. Yancey Municipal Building, 503 West Main Street, Waynesboro, Virginia:

PRESENT: Commission Members: Shannon Boyle, Vice Chair
Stephen Arey
Michael Gibson
Noelle Owen
Bobby Henderson, Council Liaison

City Planner & Clerk of the Commission: Luke Juday

ABSENT: Commission Members: Andrew Kelly, Chair
Patrick McNicholas

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE: Meeting was called to order by Vice Chair Boyle who asked everyone to stand for the pledge of allegiance to the flag.

2. REVIEW AND APPROVAL OF MINUTES OF REGULAR MEETING HELD DECEMBER 4, 2018: Minutes were approved with a 5-0 vote as moved by Mr. Henderson and seconded by Mr. Arey.

3. CITIZEN COMMENT PERIOD- LIMITED TO 4 MINUTES PER SPEAKER, FOR ISSUES NOT LISTED AS AN AGENDA ITEM: None.

4. DISCUSSION OF UPCOMING ZONING TEXT AMENDMENTS: Mr. Juday briefed the commission about certain amendments to the zoning ordinance which will be coming up. Included will be reviewing regulations on Airbnb’s, transient lodging and electronic imaging copy signs, as well as anticipated changes to conditional use permit regulations. Mr. Juday mentioned the Waynesboro Library is anticipating having an electronic imaging sign installed and it was city council who initiated the zoning text amendment for such sign. The Commissioners discussed regulating timing of these type signs to prevent them for being illuminated at night especially if abutting residential neighborhoods. Mr. Juday asked for any suggestions from Commissioners for things they would like to see added to the zoning ordinance. He would also like to review the use tables and parking regulations.

5. PRESENTATION FROM STAFF ON NEIGHBORHOOD PLANNING: Mr. Juday presented aspects of neighborhood planning, including goals, description, needs and trends. (See the presentation is attached to these minutes.) Things to be considered in pursuing neighborhood planning would be determining public outreach strategies, what neighborhoods to concentrate on, and the desired final product (what matters to the neighborhood). Also presented were examples of other localities who have done neighborhood planning. Commissioners discussed locations of neighborhoods to consider.

6. DISCUSSION OF RECENT BASIC CITY NEIGHBORHOOD INPUT MEETING AND THE CITY’S NEIGHBORHOOD PLANNING STRATEGY: Mr. Juday briefly reviewed some of the discussions and issues addressed at this meeting which saw good attendance. Property maintenance/blighted buildings and homelessness issues were some of the matters addressed at the meeting.

7. OTHER BUSINESS/COMMISSIONERS’ CORRESPONDENCE AND COMMUNICATION: Mr. Juday presented a list of various transportation alternatives grant eligibilities for consideration.

Meeting adjourned at 8:40 pm.

________________________________________
Luke J. Juday, Clerk
SUMMARY SHEET

| Applicant: | Michael G Hamp II, City of Waynesboro |
| Address/Legal Description: | 1625 South Delphine Avenue and 51 South Oak Lane Waynesboro, VA 22980 |
| Tax Map Number: | Tax Parcel Map # 72-4-16-A1 and #72-4-16A3 |
| Area | 0.92 acres (tank site) |
| Real Estate Owner of Record: | City of Waynesboro, C/O Michael Hamp 503 West Main Street Waynesboro, VA 22980 |
| Current Zoning: | H-I Heavy Industrial and L-I Light Industrial |
| Comprehensive Plan Designation: | Mixed Use A (primarily industrial) |
| Attachments: | 1) Site plan and design excerpt 2) Visual simulation photos |
| Flood Plain: | No |
| Enterprise Zone: | Yes |
| Action Requested: | Conditional Use to allow a water tower |
| Authorizing City Code Section(s): | Section 2.4 (Use Table) |
| Summary Recommendations: | Staff recommends approval with no conditions |

1. Nature of Request

Working on behalf of the City of Waynesboro, Timmons Engineering has designed a water storage tank to serve the Nature’s Crossing Technology Center industrial park, located on Delphine Avenue and South Oak Lane south of Interstate 64. Construction of a water tower requires a conditional use permit. The Commission may recommend conditions with approval of the CUP.

2. Background

Industrial Parks

While industrial output has risen steadily in the United States, technological advances and global trade have caused industrial employment to decrease. Cities and towns across the country that were reliant on major manufacturing facilities have experienced a slow economic decline. Many of them have also experienced population decline. Many localities responded by taking a more active role in trying to attract investment for the remaining jobs. Attracting manufacturing jobs has thus become a highly competitive process, with major employers
expecting incentives and assistance from state and local governments when choosing locations for new facilities. Localities best positioned in the competition for manufacturing jobs offer desirable sites and quick timelines. They have sizeable municipality-owned properties offered at low or no cost, with road access and major utilities already in place.

Here in Waynesboro, manufacturing employment and machinery and tools tax revenue declined significantly from their peak in the late 20th century. The City remains an attractive location for industry, however, faring better than “Rust Belt” cities and most nearby localities. Waynesboro’s population is growing faster than the region’s and unemployment in the City is at 3.3%, below the national unemployment rate of 4%. Nearly 16% of jobs in the City of Waynesboro are still in the manufacturing sector and 12% of Waynesboro residents work in manufacturing, compared to 8% of jobs and workers nationally. Augusta County also continues to have strong manufacturing employment and has space available in its Mill Place Commerce Park.

Nature’s Crossing Technology Center

In 2011, the City of Waynesboro purchased 177 acres south of I-64 for $3.5 million. The site had the potential to be a valuable location for a major industrial facility, with direct access to an interstate on-ramp, on-site rail, and a significant workforce. However, the site is not served by public utilities and does not have road access. In the current site selection market, it is unrealistic to expect a manufacturer to make those investments or wait for them to be completed after a contract is signed.

The City has taken some steps towards improving the site. Road access will be provided through a cooperative agreement with VDOT, arranged in 2014. When the SMART Scale funded Southern Corridor is completed, the City will make a contribution to the project that will bring access to the site. Extending water and sewer service to the industrial park is a more difficult proposition and will involve major upgrades currently estimated to cost $21 million, including a new water tower to serve the area. These expenditures are currently in the City’s Unplanned Unfunded list and a tax increase would be necessary to bring them into the 5-year Capital Improvement Plan. These improvements would also create some additional capacity for water and sewer users in the surrounding area.

In 2017, the City received a $216,500 economic development grant from the state to complete engineering work on these utilities. The City contracted with Timmons Engineering to design the utility systems, obtain all necessary permits, and develop a shovel-ready set of drawings and estimates to allow construction to move forward whenever funding becomes available. Construction will have to be funded through the City’s Capital Improvement Plan.

There is no definite timeline for when this water tower might be constructed, but designing it and securing site plan approval will allow it to move forward quickly whenever Council decides to make funding available.
3. Location and Specifications of the Tank

Due to changes in elevation, water service to this area will require construction of a water tower. Working with the Economic Development department, Timmons sited this water tower at a location on Delphine Avenue. The site was chosen because of its elevation relative to the surrounding topography and because of its visibility from Interstate 64. The water tower will be branded with the Nature’s Crossing Technology Center logo and raise the profile of the industrial park for companies and site selection agents in the region.

The water tower will be 178 feet high at the most and the tank site will be 0.92 acres. An access entrance on Delphine Avenue will allow maintenance vehicles to reach the site. Because this will be a major landmark on the City’s most heavily trafficked corridor, Timmons has provided visual simulations to show what the tower will look like from the Interstate.

The tank will be located in the Red Top Pressure Zone of the City’s water system and will float at a high water level of 1,613 feet above sea level. Hydraulic water modeling will be performed (as required by the Virginia Department of Health – Office of Drinking Water) to determine how much additional storage the tank will supply.

The base of the tank will be fenced in for security reasons and a landscaping buffer between the fence and Delphine Avenue will be required as part of the site plan approval process.

**Surrounding Land Use**

The site is located on Delphine Avenue just south of Interstate 64.

North: Interstate 64, two parcels zoned H-B (Highway Business) owned by Moore Brothers Co Inc.

East: Delphine Avenue, vacant parcels zoned H-B (Highway Business) owned by Monkey Land LLC and vacant parcel zoned RS-12 owned by Ann Bryant.

South and West: Balance of the Nature’s Crossing Technology Center industrial park owned by the City of Waynesboro.
Review with Respect to Zoning/Building Requirements

Zoning Requirements
The subject property is zoned H-I (Heavy Industrial). This is the zone allowing the most significant impacts to surrounding properties and is an appropriate location for a major utility structure.

Entrance Corridor
The subject property will be visible from two major entrance corridors, hence the consideration given to the tower’s visual impact. However, the site is not located within an Entrance Corridor overlay district and the rules of the corridor overlay district would not be relevant to this application.

Floodplain
The site is not located within a floodplain.

Site Plan Requirements
A site plan will be required and the proposed development will be required to meet the Site Development Standards of the Ordinance (Article 5). The applicant has already submitted a formal site plan along with the Conditional Use Permit. The site plan is currently in review.

4. **Purpose of the Conditional Use Permit**
The Conditional Use Permit allows for a case-by-case review of uses which may be, but are not necessarily, compatible with neighboring uses. In order to approve the Conditional Use Permit, Planning Commission and Council must find that the proposed use is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more detrimental, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted in the district. The City Council may attach conditions to the permit to ensure compatibility.

5. **Review with Respect to the Comprehensive Plan.**
The City’s 2008 Comprehensive Plan Land Use Plan designates the property as appropriate for large-scale industrial and commercial development. The water tank would be a necessary precondition for further industrial development and would have no more adverse impacts than other development proposed for this area.

6. **Conclusion and Recommendation:**
Staff recommends approval with no conditions. If the City wishes to continue the project of offering a major industrial development site south of the Interstate, a water storage tank will be necessary. Water towers are a common sight in cities and, when properly designed and creatively branded, do not need to be visually disruptive. Given the topography, this is the most appropriate location for the tank, which will not cause any more onerous impacts to surrounding areas than other types of development allowed in the district.

cc: James Shaw, Deputy City Manager  
    Todd Wood, City Engineer  
    Laura Martin, Zoning Administrator  
    Greg Hitchin, Director of Economic Development
NATURE'S CROSSING TECHNOLOGY CENTER
PROPOSED WATER TOWER VISUALIZATIONS
OVERVIEW
SUMMARY SHEET

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>City Council of Waynesboro, Virginia</th>
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<tbody>
<tr>
<td>Affected Properties</td>
<td>These provisions shall apply to all properties</td>
</tr>
<tr>
<td>Action Requested:</td>
<td>Amend Chapter 98, Section 6, Zoning Ordinance of the City of Waynesboro</td>
</tr>
<tr>
<td>Authorizing City Code Section(s):</td>
<td>Section 7.3.2.B (Initiation of a Zoning Text Amendment)</td>
</tr>
</tbody>
</table>
| Attachments:                   | A. Ordinance  
|                                | B. Chapter 78, Section 5.6.6, relevant page with change inserted. |
| Summary Recommendations:       | No recommendation |

1. Nature of Request

Electronic changeable copy signs are signs that have an electronic display with moving text or images. Currently, the Zoning Ordinance states: “Electronic signs are prohibited in residential districts.” The attached text amendment would add the following clause:

“Electronic signs are prohibited in residential districts, except as an accessory to publicly owned government facilities.”

This request has been initiated by resolution of the City Council on a 3-2 vote. There is an immediate desire to install an electronic changeable copy sign at the Waynesboro Public Library on South Wayne Avenue. The ordinance change would also allow such signs at other publicly owned government facilities in residential districts such as public schools, government offices, and community centers.

2. Background

Last year, staff proposed a text amendment to clarify the City’s position on electronic changeable copy signs. Previously, it was unclear whether these were allowed in residential districts or not, since the code only specified that these signs “are allowed in all commercial districts.” The City had, over the years, received requests to place these signs in front of churches, apartment complexes, and other buildings located in residential areas. Most recently, the Friends of the (Waynesboro Public) Library wished to place a sign on South Wayne Avenue.

Staff’s recommendation was to prohibit the signs in residential areas, judging the signs to be inappropriate in areas that are not designed for commercial activity. Objections related to changeable copy signs include light pollution, light trespass and driver distraction. On South Wayne Avenue specifically, staff expressed concern that a changeable copy sign would detract from the visual character and appeal of the street and the adjacent Tree Streets Historic District.
Purpose of the Sign Ordinance

According to the City Zoning Ordinance Section §5.6.1 (Signs), sign regulations are intended to protect health, safety, and general welfare by establishing standards for the design, construction, location, illumination, and maintenance of all signs and sign structures. Such regulations are necessary and desirable for the following reasons:

A. To protect public safety by ensuring that traffic signs and devices are easily visible and free from obstruction or other distraction caused by signs;
B. To ensure that signs are designed, constructed, installed and maintained in a way that protects life, health, property and the public welfare, especially during periods of high winds;
C. To support the desired character of Waynesboro, as expressed in adopted City plans and to promote an attractive visual environment;
D. To control the size, placement, and use of signs and other attention-gathering paraphernalia in order to preserve the right of citizens to enjoy Waynesboro’s natural scenic beauty; and
E. To address ongoing technological advancements in the sign industry that continue to result in new sign types.

More generally stated, the City’s sign ordinance is meant to reduce sign clutter and create more appealing, safe and functional corridors. An overabundance of signs, overly large signs, or inappropriately lighted signs on major roadways create an environment that is potentially distracting to drivers, hostile to pedestrians, and visually degrading.

At the same time, signs are an important part of businesses’ and institutions’ ability to advertise their location, are helpful to drivers looking for destinations and may convey important public information. A good sign ordinance must strike a proper balance between these interests.

The Current Proposal

The Friends of the Library wish to install an electronic changeable copy sign to communicate information about programs and events to drivers and pedestrians on Wayne Avenue. The sign could also be used to convey general public information and messages of the City. City Council has expressed an interest in allowing the sign to be erected, but does not wish to allow further proliferation of these signs in residential areas. Council initiated, by resolution, this ordinance amendment to allow the signs only as an accessory to publicly owned government facilities. This ordinance change would potentially allow electronic changeable copy signs to be constructed at public schools and other City-owned buildings located in residential areas, but would not extend the same right to private property owners.
3. Approval Criteria

In evaluating any proposed zoning text amendment, Section 7.3.8 of the Zoning Ordinance requires the Planning Commission and the City Council to consider the following six criteria (provided in italic below).

A. Whether such amendment is consistent with good zoning practice;

B. Public necessity, convenience, and general welfare to the extent such factors are pertinent to the subject matter of the amendment;

C. The extent to which the proposed text amendment is consistent with the Comprehensive Plan and the remainder of this Chapter, including, specifically, the purpose and intent statements of Section 1.5;

D. The extent to which the proposed text amendment represents a new idea not considered in the existing ordinance, or represents a revision necessitated by changing circumstances over time;

E. Whether or not the proposed text amendment corrects an error in the chapter; and
F. Whether or not the proposed text amendment revises the chapter to comply with State or Federal statutes or case law.

4. Analysis and Recommendation

Staff has concluded that the proposed ordinance’s effects are mixed with respect to good zoning practice. Principle concerns related to electronic changeable copy signs are driver distraction, light pollution and light trespass. Depending upon community standards and preferences, energy consumption and general appeal may also be of concern.

Concerns may be mitigated by prescribing the hours of operation, duration of copy message and maximum illumination standards.

The City staff is not offering a recommendation in this instance. Staff concluded previously that electronic changeable copy signs were inappropriate for residential districts and maintains that position. However, allowing signs as an accessory to public buildings will not allow as significant a proliferation as allowing them in residential districts for buildings generally. Planning Commission and City Council must determine how important the informative capacity of the sign is relative to its effect on travelers and residents along Wayne Avenue.

Cc: D. James Shaw II, Deputy City Manager
Laura Martin, Zoning Administrator
ORDINANCE NUMBER 2019-

AN ORDINANCE AMENDING CHAPTER 98, ARTICLE V, SECTION 5.6.6(C) OF THE CITY CODE OF THE CITY OF WAYNESBORO, VIRGINIA

WHEREAS, electronic changeable copy signs are currently prohibited in residential zoning districts within the City of Waynesboro.

WHEREAS, the City Council for the City of Waynesboro desires to amend the City’s Zoning Ordinance, which is Chapter 98 of the City Code, to allow electronic changeable copy signs in residential districts as accessories to publicly owned government facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAYNESBORO, VIRGINIA THAT:

1. Chapter 98, Article V, Section 5.6.6(C) of the City Code is amended, as shown on Exhibit A attached hereto, to revise standard (d) pertaining to Changeable Copy Signs to state “(d) Electronic signs are prohibited in residential districts except as an accessory to publicly owned government facilities.”

2. All other provisions of Chapter 98, including Article V, Section 5.6.6(C), shall continue without alteration in full force and effect.

3. This Ordinance shall take effect immediately upon adoption by the City Council.

CERTIFICATE

The undersigned Mayor and Clerk of the City Council of City of Waynesboro, Virginia hereby certify that the foregoing constitutes a true and correct copy of an ordinance entitled An Ordinance Amending Chapter 98, Article V, Section 5.6.6(C) of the City Code of the City of Waynesboro, Virginia, adopted by the City Council at a meeting held on March __, 2019.

Introduced: March __, 2019
Adopted: March __, 2019
Effective: March __, 2019

[SEAL]

ATTEST: ____________________________________________  ____________________________________________
Clerk, City Council                                    Mayor, City Council
City of Waynesboro, Virginia                          City of Waynesboro, Virginia
§5.6 Signs

§5.6.6 Signs Requiring Permits

### Maximum Aggregate Sign Area (SF)

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<tr>
<th>RS-12</th>
<th>RS-7</th>
<th>RS-5</th>
<th>R-MX</th>
<th>R-MF</th>
<th>R-O</th>
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**B. Exceptions**

The maximum aggregate sign area standards of subsection A, above, shall not apply to the following types of signs requiring permits, which are described in subsection C, below:

1. Wall signs, in nonresidential districts;
2. Public and non-profit signs; and
3. Subdivision or housing signs.

**C. Sign Types and Standards**

Upon issuance of a sign permit in accordance with §7.10, the following signs shall be allowed subject to the following requirements.

#### Changeable Copy Sign

Any sign that allows the copy to change. These signs may be lighted or unlighted, with detachable precut letters and figures, or the message may be electronic.

**Standards**

(a) Changeable copy signs may be included as a part of a permitted monument sign in any nonresidential district.
(b) The information displayed on a changeable copy sign shall remain static for a minimum period of four seconds at a time.
(c) No signs that are not permanently affixed to the ground may be considered eligible for consideration as changeable copy signs.
(d) Electronic signs are prohibited in residential districts, except as an accessory to publicly owned government facilities.

(Ord. No. 2017-43, 10/5/17)
SUMMARY SHEET

<table>
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<th>Applicant:</th>
<th>Planning Commission</th>
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<tr>
<td>Affected Properties</td>
<td>These provisions shall apply to all properties in districts where residential uses are permitted</td>
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<tr>
<td>Action Requested:</td>
<td>Amend Chapter 78, Article V, Transient Lodging, Sections 78-121 and 78-131 of the City Code of the City of Waynesboro, Virginia</td>
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<td></td>
<td>Amend Chapter 98, Sections 2, 4, and 10, Zoning Ordinance of the City of Waynesboro</td>
</tr>
<tr>
<td>Authorizing City Code Section(s):</td>
<td>Section 7.3.2.B (Initiation of a Zoning Text Amendment)</td>
</tr>
<tr>
<td>Attachments:</td>
<td>A. Proposed Ordinance</td>
</tr>
<tr>
<td></td>
<td>B. Enabling state legislation</td>
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<tr>
<td>Summary Recommendations:</td>
<td>City staff recommends approval of the ordinance as attached.</td>
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1. Nature of Request

The proposed ordinance would add definitions of several relevant terms which are commonly used in zoning ordinances. These include “homestay” and “short-term rental.” A homestay is a portion of a home rented for a period of less than 30 days, generally by an owner who also occupies the home as a primary residence. “Short-term rental” is defined as an entire dwelling unit rented out for periods of less than thirty days by an owner who may not occupy the home as a residence.

The proposed ordinance would allow short-term rentals and homestays by right in all districts where residential uses generally are permitted. The ordinance also establishes a registry of short-term rentals to be maintained by the Commissioner of Revenue and defines standards of use for short-term rentals and homestays.

A homeowner wishing to rent their property for periods of less than 30 days must obtain a business license from the Commissioner of Revenue, pay a $50 fee, and remit transient lodging tax to the City. The City’s current transient lodging tax rate is 7%. This will put short-term rentals on par with hotels.

Additional provisions of the ordinance include:

- Short-term rentals and homestays must be available for inspection by the Building Official once annually and must conform to the building code.
• Short-term rentals and homestays must have working smoke detectors, carbon monoxide detectors, and fire extinguishers accessible to occupants.

• The Zoning Administrator may revoke the license of a homeowner to use a property for transient lodging upon determination that the homeowner has been cited for multiple violations of law.

These provisions will help the City fulfill its mandate to protect the health, safety, and welfare of residents and visitors in the City of Waynesboro. If, due to the negligence of the operator, a short-term rental becomes a consistent nuisance, the City has the authority to revoke its license. This ordinance will add a low to moderate cost in time and money to the operation of short-term rentals, especially for operators renting their properties only occasionally, but this cost will ensure parity with the hotel industry and support the continued success of the program.

2. Background

In recent years, several websites have allowed homeowners to gain additional revenue from empty spaces in their homes by renting them out to short-term guests. The largest of these websites is AirBnB.com, leading many to refer to these short-term rentals as “AirBnbs.” The practice has become increasingly common across the country and is especially popular in areas catering to tourists.

While short term rental homes often have no more negative impacts than other residential uses, poorly managed short-term rentals may bring additional nuisances to surrounding neighborhoods. Additionally, AirBnB homes have increasingly cut into the hotel market by providing hotel services. Unlike hotels, however, they can do so without paying lodging tax, submitting to safety inspections, or obtaining business licenses.

Recently, Virginia passed enabling legislation allowing localities to regulate and establish registries for short-term rentals. In Waynesboro, the legal status of AirBnB rentals is unclear as the use is not addressed by the zoning code. This ordinance would clarify the City’s position.

3. Approval Criteria

In evaluating any proposed zoning text amendment, Section 7.3.8 of the Zoning Ordinance requires the Planning Commission and the City Council to consider the following six criteria (provided in italic below).

A. Whether such amendment is consistent with good zoning practice;

B. Public necessity, convenience, and general welfare to the extent such factors are pertinent to the subject matter of the amendment;

C. The extent to which the proposed text amendment is consistent with the Comprehensive Plan and the remainder of this Chapter, including, specifically, the purpose and intent statements of Section 1.5;

D. The extent to which the proposed text amendment represents a new idea not considered in the existing ordinance, or represents a revision necessitated by changing circumstances over time;

E. Whether or not the proposed text amendment corrects an error in the chapter; and
F. Whether or not the proposed text amendment revises the chapter to comply with State or Federal statutes or case law.

4. Analysis

Short-term rentals and homestays have numerous advantages for residents and visitors. They allow home owners to generate additional revenue from their properties, raising the value of homes in the City and incentivizing property owners to invest in the City’s housing stock. This contributes to creation of a firm floor in the housing market, a stated goal of the Comprehensive Plan. Likewise, short-term rentals provide a desirable option for visitors to the area and support the City’s tourism industry. This ordinance would ensure the continuation of these benefits by establishing transient lodging as an allowed use in residences.

The zoning ordinance currently contains no reference to short-term rentals despite the rapid growth of this use. The existing situation creates confusion for City staff and homeowners. The proposed amendment would clarify the legality of short-term rentals and provide regulatory certainty for buyers and operators.

The proposed ordinance also helps to mitigate the negative effects of allowing short-term rentals and homestays. By requiring operators to register and pay lodging tax, the ordinance will generate some additional revenue for the City and provide parity for the hotel industry. The ordinance will also allow the City to fulfill its obligation to protect health, safety, and welfare by requiring operators to resolve building code violations and ensure that adequate fire safety measures are taken. This will create a low barrier to entry to ensure that properties offered for transient lodging do not become a nuisance.

5. Recommendations

The City staff recommends approval of the ordinance as attached.

Cc: D. James Shaw II, Deputy City Manager
    Laura Martin, Zoning Administrator
    George Fitzgerald, Deputy Fire Marshal
ORDINANCE NUMBER 2019-

ORDINANCE AMENDING CHAPTER 98,
ARTICLES 2, 4, AND 10, ZONING ORDINANCES, OF THE
CITY CODE OF THE CITY OF WAYNESBORO, VIRGINIA

WHEREAS, pursuant to Section 15.2-2286(A)(7), Code of Virginia, the Planning Commission of the City of Waynesboro, initiated an amendment to the zoning ordinance, Article 2, section 2.4.4, Article 4, section 4.2.12, and Article 10.

WHEREAS, pursuant to Section 15.2-2285, Code of Virginia, the Planning Commission of the City of Waynesboro held a properly advertised public hearing and approved the amendment by motion on _______ __, 2019.

WHEREAS, the City Council for the City of Waynesboro desires to amend the City’s Zoning Ordinance, Chapter 98, 2, section 2.4.4, Article 4, section 4.2.12, and Article 10, of the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAYNESBORO, VIRGINIA THAT:

1. Chapter 98, Article 2, Section 2.4.4 Use Categories, of the City Code of the City of Waynesboro, Virginia is amended and readopted as follows:

   ARTICLE 2. – GENERAL ZONING DISTRICTS

   [Insert chart re: Household Living]

   2. Chapter 98, Article 2, Section 4.2.12, Use Categories, of the City Code of the City of Waynesboro, Virginia is adopted as follows:

   ARTICLE 4. – USE STANDARDS

   Section 4.2.12 Short-term Residential Rentals and Homestays

   Short-term Residential Rentals and Homestay Operators shall comply with the following standards.

   A. Operators must register in accordance with City Code section 78-131. Operators authorize city inspectors to enter the subject property, upon reasonable advance written notice to the operator, at least one (1) time during the calendar year for which the registration is valid, to verify that the homestay or short-term residential rental is being operated in accordance with the regulations set forth within this section.

   B. Operators shall provide evidence of a city business license (or a statement from the commissioner of revenue that no city business license is required), proof of
payment of taxes required by City Code Section 78-126, and a certificate of occupancy or other written indication from the city's building code official that use of the dwelling or accessory building for the home occupation or short-term residential rental business is in compliance with all applicable building code regulations.

C. Operators may enter into rental agreements with only one party per legal dwelling unit per 24 hour period. Operators offering two or more spaces for rent under separate contracts shall be considered a Bed and Breakfast or an Inn and shall be subject to the use standards and zones established by the Zoning Ordinance, sections 2.4.4, 4.4.4, and 4.4.6.

D. Homestays and short-term residential rentals may not have any exterior signage.

E. There shall be no evidence or indication visible from the exterior of the dwelling that the dwelling or any accessory building is being utilized in whole or in part for any purpose other than residential occupancy.

F. No food shall be prepared for or served to guests of the homestay or short-term residential rental by the owner or the owner’s agent(s) or contractor(s).

G. Every homestay and short-term residential rental shall have working smoke detectors, carbon monoxide detectors, and fire extinguishers, and all such equipment shall be accessible to overnight guests of the homestay or short-term residential rental at all times. Every homestay and short-term residential rental shall comply with requirements of the applicable version of the Virginia Uniform Building Code, as determined by the City's Building Code Official.

H. Authorization to operate a homestay or short-term residential rental may be revoked by the zoning administrator (i) upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the rental within a calendar year, or (ii) for failure to maintain compliance with any of the regulations set forth within this section. An operator whose authority has been revoked pursuant to this paragraph, or City Code § 78-131, shall not be eligible to operate a homestay or short-term residential rental for the remaining portion of the calendar year in which the permit is revoked, and for the entire succeeding calendar year.

3. The following definitions are added and adopted as part of Chapter 98, Article 10, General Terms Defined, of the City Code of the City of Waynesboro, Virginia:

**ARTICLE 10. – GENERAL TERMS DEFINED.**

**HOMESTAY:** The provision of a room or space in a dwelling to a transient by an individual who owns the dwelling and uses the dwelling as his or her permanent residence that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

**OPERATOR:** The proprietor of any dwelling, lodging, or sleeping accommodations offered as a homestay or short-term residential rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.
SHORT-TERM RESIDENTIAL RENTAL: The provision of a dwelling, or a room or space within a dwelling, to a transient by an individual who owns the dwelling and does not use the dwelling as his or her permanent residence that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

TRANSIENT: Any person who, for a period of not more than 30 consecutive days, either at his own expense or at the expense of another obtains lodging for which a charge is made at an overnight accommodation, short-term residential rental, or homestay.

4. The City Manager is hereby authorized to take all actions reasonably necessary, including executing such documents as are reasonably necessary, to effectuate and carry out the purposes of this Ordinance.

5. This Ordinance shall take effect immediately upon adoption by the City Council.

CERTIFICATE

The undersigned Mayor and Clerk of the City Council of City of Waynesboro, Virginia hereby certify that the foregoing constitutes a true and correct copy of an ordinance entitled Ordinance Amending Chapter 98, Articles 2, 4, and 10, Zoning Ordinances, of the City Code of the City of Waynesboro, Virginia, adopted by the City Council at a meeting held on ____________, 2019.

Introduced: ____________, 2019
Adopted: ____________, 2019
Effective: ____________, 2019

[SEAL]

ATTEST: ________________________________  ________________________________
        Clerk, City Council                Mayor, City Council
        City of Waynesboro, Virginia       City of Waynesboro, Virginia
ORDINANCE NUMBER 2019-

ORDINANCE AMENDING CHAPTER 78, ARTICLE V, TRANSIENT LODGING, SECTIONS 78-121 AND 78-131 OF THE CITY CODE OF THE CITY OF WAYNESBORO, VIRGINIA

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAYNESBORO, VIRGINIA THAT:

1. Chapter 78, Article V, Sections 78-121 and 78-131 of the City Code, Transient Lodging Tax, of the City Code of the City of Waynesboro, Virginia are amended and readopted as follows:

   Article V. – TRANSIENT LODGING TAX

   Sec. 78-121. - Definitions.

   The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

   Commissioner means the commissioner of the revenue of the city and any of the commissioner's duly authorized deputies or agents.

   Homestay. The provision of a room or space in a dwelling to a transient by an individual who owns the dwelling and uses the dwelling as his or her permanent residence that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

   Hotel means any public or private hotel, inn, hostelry, tourist home or house, motel or rooming, boarding, or lodging house, homestay, short-term residential rental, or other lodging place within the city offering lodging to any transient as hereinafter defined for compensation and, except for homestays and short-term residential rental as defined in section 78-131, which can lodge four or more persons at any one time.

   Lodging means the rental of room or space to any transient for compensation, by a hotel, or the occupancy of such room or space by such transient. If the charge made by any hotel to such transient includes any charge for meals, parking or other services or accommodations in addition to lodging or the use of such room or space, then such portion of such total charge as represents only room or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

   Operator. The proprietor of any dwelling, lodging, or sleeping accommodations offered as a homestay or short-term residential rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.
Short-term residential rental. The provision of a dwelling, or a room or space within a dwelling, to a transient by an individual who owns the dwelling and does not use the dwelling as his or her permanent residence that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

Transient means any person who, for a period of not more than 30 consecutive days, either at his own expense or at the expense of another obtains lodging for which a charge is made at a hotel or homestay.

2. Chapter 78, Article V, Transient Lodging Tax, Section 78-131, Short-term residential rental registry, of the City of Waynesboro, Virginia is adopted as follows:

Sec. 78-131. - Short-term residential rental registry.

(a) Registry. There is hereby established a registry for homestays and short-term residential rentals. Upon offering any homestay or short-term residential rental, all operators shall register with the commissioner of revenue annually. This registration shall be ministerial in nature and shall require the operator to provide the complete name of the operator and the address of each property in the city offered for homestay or short-term residential rental by the operator. The commissioner of revenue is directed to request contact information from each operator that includes a person or agent designated to respond to calls and complaints received by the city.

(b) Other requirements. Operators shall acquire a business license and remit transient lodging tax in accordance with the provisions of section 78-126.

(c) Costs. For the purpose of defraying the costs of establishing and maintaining the registry set forth in section (b), the commissioner of revenue shall collect a fee of $50.00. The commissioner of revenue may request the fee be adjusted to reflect current costs.

(d) Registry exemptions. Registration is not required if the operator or short-term rental is exempted from registration pursuant to Code of Virginia § 15.2-983(B)(2).

(e) Penalties. Failure to register a property within 30 days of being offered for rental shall result in a penalty to be paid by the operator in the amount of $500 per violation. Each day a property is offered for rental that is not registered in accordance with this section is a separate violation. The commissioner of revenue may waive such penalty if the failure to register was due to no fault of the operator. Unless and until such time as the operator pays the penalty and registers such property, the operator may not offer such property for rental. Upon repeated violation of the registration requirement as it relates to a specific property, and upon notice, the operator shall be prohibited from registering that property and from offering that property for a homestay
or short-term residential rental. The prohibition is effective on the date the notice is received or 3 business days after the date the notice was mailed, whichever is sooner. Such prohibition may, for good cause, be appealed to the commissioner of revenue.

(f) Multiple violations of other laws. An operator required to register a property may be prohibited by the city from offering a specific property for a homestay or short-term residential rental within the city upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the rental. The notice of prohibition shall be sent in the same manner as the notice in subsection (e).

(g) Non-contravention. Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the homestay or short-term residential rental of property through general land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants; the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§ 55-79.39 et seq.) of the Code of Virginia, 1950, as amended; the declaration of a common interest community as defined in § 55-528 of the Code of Virginia, 1950, as amended; the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.) of the Code of Virginia, 1950, as amended; or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55-508 et seq.).

(h) Administration. Notwithstanding any other provision of this article, the commissioner of revenue may enter into agreements, subject to local law, with computer platform hosts of homestays or short-term residential rentals, and with data-analytic vendors for rentals, to facilitate the efficient collection of the transient lodging tax pursuant to this article.

2. The City Manager is hereby authorized to take all actions reasonably necessary, including executing such documents as are reasonably necessary, to effectuate and carry out the purposes of this Ordinance.

3. This Ordinance shall take effect immediately upon adoption by the City Council.

CERTIFICATE

The undersigned Mayor and Clerk of the City Council of City of Waynesboro, Virginia hereby certify that the foregoing constitutes a true and correct copy of an ordinance entitled Ordinance Amending Chapter 78, Article V, Transient Lodging, Sections 78-121 and 78-131 of
the City Code of the City of Waynesboro, Virginia, adopted by the City Council at a meeting held on __________ __, 2019.

Introduced: __________ __, 2019
Adopted: __________ __, 2019
Effective: __________ __, 2019

[SEAL]

ATTEST: ____________________________________________  ____________________________________________
Clerk, City Council                  Mayor, City Council
City of Waynesboro, Virginia         City of Waynesboro, Virginia
§ 15.2-983. Creation of registry for short-term rental of property.

A. As used in this section:

"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

"Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

B. 1. Notwithstanding any other provision of law, general or special, any locality may, by ordinance, establish a short-term rental registry and require operators within the locality to register annually. The registration shall be ministerial in nature and shall require the operator to provide the complete name of the operator and the address of each property in the locality offered for short-term rental by the operator. A locality may charge a reasonable fee for such registration related to the actual costs of establishing and maintaining the registry.

2. No ordinance shall require a person to register pursuant to this section if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

C. 1. If a locality adopts a registry ordinance pursuant to this section, such ordinance may include a penalty not to exceed $500 per violation for an operator required to register who offers for short-term rental a property that is not registered with the locality. Such ordinance may provide that unless and until an operator pays the penalty and registers such property, the operator may not continue to offer such property for short-term rental. Upon repeated violations of a registry ordinance as it relates to a specific property, an operator may be prohibited from registering and offering that property for short-term rental.

2. Such ordinance may further provide that an operator required to register may be prohibited from offering a specific property for short-term rental in the locality upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

D. Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental of property through general land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§ 55-79.39 et seq.), the declaration of a common interest community as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55-508 et seq.).

2017, c. 741.